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PLASTICITY, JURISDICTION AND THE INTERRUPTION OF SOVEREIGNTY:
A RESPONSE TO CATHERINE MALABOU VIA JOSÉ SARAMAGO'S *SEEING*

This is not a place of words... This is a place where bodies are their own signs (J. M. Coetzee)¹

Introduction

Some years ago, Hilary Mantel caused much consternation in certain corners of the British press when she described Kate Middleton – the Duchess of Cambridge – as appearing committee-designed and machine-made, in possession of nothing but a plastic smile and a doll's jointed-limbs on which 'certain frocks could be hung'.² Writing at a time before the birth of her children, before the royal line had been secured, Mantel presents Middleton as uncannily doubled: eerily lifeless, little more than a shop mannequin, dead behind the eyes and utterly content-less, she appears to be defined only by the clothes she wears. But another life inheres this automaton. At the time Mantel was writing, the Duchess was the mother-to-be of the sovereign-to-be, the most vital of all the royals. Middleton is 'breeding stock... a collection of organs' that will give life to the next monarch.³ This dual life as both national-zombie and national-procreator is a striking image and with it Mantel presents Middleton's 'two bodies', a bifurcation between symbolic and biological life that has haunted depictions of royalty for centuries.

This binary was once thought to be the exclusive preserve of the monarch; a division between the body 'politic' and body 'natural' famously examined in Kantorowitz's seminal study of medieval kingship.⁴ As Eric Satner has compellingly argued, the modern transfer from monarchical to popular sovereignty suggests that we are all now left grappling with an uncanny 'symbolic' remainder, a poetic excess to our biological

¹ J. M. Coetzee, *Foe* (London: Vintage, 2010), 157.

² Hilary Mantel, 'Royal Bodies' *London Review of Books* (2013) 35(4), 3.

³ *Ibid.*

⁴ Ernst Kantorowitz, *The King's Two Bodies: A Study in Medieval Political Theology* (Princeton: Princeton University Press, 1997).

reality.⁵ If Satner is right and the 'king's two bodies' is now a matter for the citizenry at large, the following account of Mantel's encounter with the Queen speaks as much of Mantel's own 'life' as it does the sovereign's:

such was the hard power of my stare that Her Majesty turned and looked back at me, as if she had been jabbed in the shoulder; and for a split second her face expressed not anger but hurt bewilderment. She looked young: for a moment she had turned back from a figurehead into the young woman she was before monarchy froze her and made her a thing, a thing which only had meaning when it was exposed, a thing that existed only to be looked at.⁶

In an ironic reversal of the biopolitical paradigm, it is the symbolic rather than biological body that reifies Elizabeth, transforming her into an object simply to be observed. As Foucault describes it, the capacity to transform citizens into 'things' that can be managed and measured is a product of the biological sciences that, since the eighteenth century, have given rise to a suite of new disciplines that augured a new form of political control. The discovery of 'life' as something measurable, programmed and determined gave birth to the biopolitical age.⁷ And following Agamben, we can claim that the biological/symbolic division has a longer history still, stretching back to Aristotle's efforts to delimit the political by reference to *bios*, that form of life that exceeds the unqualified 'life' of *zoe*.⁸ The striking image that Mantel gives us, then, of a bifurcated Duchess presents us with a form of life – at once biological and more than the biological – that has animated the political history of the West. For Kantorowitz, as much as for Foucault and Agamben, this division is central to the theorisation of sovereignty. It is the significance and tenability of this conception of a 'doubled life' that gives rise to sovereignty that is my focus in what follows.

In a series of recent essays, Catherine Malabou proposes possibilities for overcoming this account of 'life'.⁹ Malabou's innovative philosophical project draws on Hegel,

⁵ Eric Satner, *The Royal Remains: The People's Two Bodies and the Endgames of Sovereignty* (Chicago: Chicago University Press, 2011).

⁶ Mantel, 'Royal Bodies', 6.

⁷ See Michel Foucault, *The History of Sexuality Vol. 1: The Will to Knowledge* (London: Penguin, 1998) and Michel Foucault, *The Birth of Biopolitics: Lectures at the College de France 1978-1979* (Basingstoke: Palgrave Macmillan, 2010).

⁸ Giorgio Agamben, *Homo Sacer: Sovereign Power and Bare Life* (Stanford: Stanford University Press, 1998).

⁹ Catherine Malabou, 'Will Sovereignty Ever be Deconstructed?' in Bhandar and Goldberg-Hiller eds., *Plastic Materialities: Politics, Legality and Metamorphosis in the work of Catherine Malabou* (Padstow: Duke University Press, 2015), 35-45; Catherine Malabou, 'The King's Two (Biopolitical) Bodies' *Representations* (Summer 2014) 127(1), 98-106; Catherine Malabou, 'One Life Only: Biological Resistance, Political Resistance' *Critical Inquiry* (2015), ISSN (online) 1539-7858, accessed March 2016.

Heidegger, Derrida and – less conventionally – contemporary biological science, particularly epi-genetics. Malabou is not an expressly ‘political’, and much less a ‘legal’, philosopher but her recent interventions on sovereignty engage one of the most hotly debated areas in legal and political thought and are therefore worthy of careful examination in this context. Pursuing what she calls a ‘plastic reading’ of sovereignty¹⁰ Malabou argues that celebrated ‘deconstructions’ of the concept offered by Agamben, Derrida and Foucault have all failed to transcend the division between the biological and symbolic that constitutes sovereignty. Malabou argues that by insisting on a dimension to life that is irreducible to the biological, Agamben *et al* in fact manage to re-inscribe the very structure of the concept that they seek to deconstruct. In short, the division between biological and symbolic life, that uncannily doubled life that Mantel encounters in Middleton, remains operative within their efforts to move beyond sovereignty. Malabou engages recent developments in epigenetics to revise the reductive account of biology on which these three thinkers rely and seeks, paradoxical though it may seem, to develop ‘a biological resistance to biopolitics’.¹¹ In reimagining ‘life’ beyond the biological/symbolic binary, Malabou suggests that we can glimpse a life – and hence a form of politics – beyond sovereignty.

In her recent interventions, Malabou follows Foucault in insisting that the ‘juridical structure’ of sovereignty must be superseded. Despite the transformation of sovereignty from a ‘monarchical’ to a putatively ‘popular’ form in the West, the enduring force of this political form is explicable through the sovereignty of democratic institutions that ensure that state law is the only expression of authority.¹² But having underscored the significance of the juridical, Malabou does not return to it; indeed, her discussion of sovereignty pays no attention to the juridical techniques implicated in the production and maintenance of sovereignty. In this article I argue that we need to approach sovereignty not only through an interrogation of the politico-biological nexus (as Malabou does) but also the politico-juridical one. I seek to supplement Malabou’s

¹⁰ In brief, a ‘plastic reading’ focuses on the form of a concept or text that is left in the wake of its deconstruction. Drawing on neuroscience, Hegelian dialects, Heidegger’s *Destruktion* and Derridian deconstruction, Malabou’s philosophical project seeks to develop an innovative hermeneutics that, whilst indebted to these approaches, moves beyond them by foregrounding a materialist attention to *form*. Malabou’s work is not well known within legal studies. However, a recent collection of essays examines Malabou’s thinking of plasticity specifically in relation to politics and law; see, Bhandar and Goldberg-Hiller eds., *Plastic Materialities: Politics, Legality and Metamorphosis in the work of Catherine Malabou* (Padstow: Duke University Press, 2015). For a more general, autobiographical account see Catherine Malabou, *Plasticity at the Dusk of Writing* (New York: Columbia University Press, 2010).

¹¹ Malabou, ‘One Life Only’.

¹² Malabou, ‘Will Sovereignty Ever Be Deconstructed’, 35-36.

account of sovereignty by pursuing a 'plastic reading' of sovereignty within the *juridical* not the *biological* domain. I do this by examining two 'jurisdictional technologies' that give form to sovereignty. I argue that without an account of these juridical techniques, Malabou's critical reading of sovereignty remains impoverished. As I set out below, it is precisely the techniques of jurisdiction that are implicated in the production of the division between the symbolic and the biological that so animates Malabou.

By seeking to transcend the division between the 'biological' and the 'symbolic', Malabou foregrounds a 'life' that is, as our epigraph has it, always already *its own sign*; that is, a 'life' that need not be mediated through symbolic forms that supposedly confer its value. My argument suggests that it is only by attending to the juridical techniques that intervene in 'life' that we can appreciate how life, within the paradigm of sovereignty, precisely *fails* to appear as its own sign. I argue that it is law – specifically certain jurisdictional technologies discussed below – that disavow the presence of a singular 'life', insisting instead on the existence of bodies that are bifurcated between an affective, biological reality and a juridical form; with an uncompromising emphasis placed on the latter. The critical intervention that I wish to make through José Saramago re-orientates the relation of 'life' and 'form', underscoring how an affective, biological life always remains refractory in relation to the juridical forms that sovereignty demands of it. However, Saramago's foregrounding of 'life' is quite distinct from Malabou's own efforts in this regard. Where *cerebral life* comes to dominate Malabou's thinking, through Saramago we can gesture towards a *collective life* that interrupts sovereignty. Through a reading of the novel I also want to question the position articulated by Foucault, and endorsed by Malabou, that ultimately we need to transcend sovereignty *tout court*. In our current conjuncture, rather than 'cut off the king's head' I argue that we need to be somewhat more circumspect and 'test the plasticity of sovereignty', in ways that Saramago's novel points to, rather than hope to do away with it once and for all.

The article begins by briefly unpacking Malabou's methodology of a 'plastic reading', a hermeneutic strategy that informs my own argument, before moving to assess some points of dissonance and resonance between Malabou and Agamben's reading of sovereignty. Putting Malabou into conversation with Agamben helps appreciate the importance of Malabou's own intervention. In the second section of the paper I engage with two 'jurisdictional technologies' in order to re-assess the relation between law, life and sovereignty before turning, in the third and final section, to Saramago's novel.

I Plasticity, sovereignty and form-of-life

Malabou's work is part of a relatively recent return in continental thought to a concern for materiality, objects and form. The 'master concept' that orientates Malabou's own materialist philosophical intervention is 'plasticity'. Put simply, 'plasticity' refers to a general condition of mutability or change in a given context. The focus of Malabou's thought is the way in which the *form* of a given text or concept has an essentially plastic quality that itself testifies to a more fundamental 'plastic ontology' which asserts an essential mutability to being. Malabou's ambitious project foregrounds notions of change and metamorphosis in an effort to expose a fundamental plasticity to texts, concepts and, indeed, life itself. From Hegelian dialectics to Heideggerian *Destruktion* and recent discoveries in epi-genetics, Malabou's work seeks to reveal an originary 'plasticity' inhering a series of different discourses. Beyond the specific arguments that Malabou develops in relation to Hegel, Heidegger, Derrida and beyond, lies a more fundamental methodological development that she describes as a 'plastic reading'. This 'new method of reading'¹³ amounts to a distinctive hermeneutics developed in conversation with, but clearly moving beyond, deconstructive strategies of reading and interpretation. The strategy of 'plastic reading' animates the full range of Malabou's interventions and is the methodology that shapes my present intervention; let us briefly elaborate this.

Drawing on Derrida's insistence that concepts are doubly marked from their inception with a metaphysical and an 'ultra-metaphysical' or 'deconstructed' sense, Malabou suggests that a 'plastic reading' examines how a concept can change form through interpretative and creative philosophical practice. In particular, Malabou seeks to account for how a given concept can be transformed from having a metaphysical to having a post-metaphysical or deconstructive sense. To be clear, her aim is to explain *how*, within the economy of a text or body of work, such a transformation is made.

Let me give a couple of examples. As is well known, the novelty of Heidegger's thought rests on his ability to shift the focus of metaphysics away from 'beings' (the ontic), to an account of 'Being' (the ontological). The ontology of western philosophy, Heidegger tells us, has never grappled with 'Being' as such, instead it has remained wedded to an account of particular instantiations of Being in the form of objects in the ontic realm. In

¹³ Malabou, *Plasticity at the Dusk of Writing*, 51

her 'plastic reading' of Heidegger, Malabou focuses on three often underplayed concepts in Heidegger's oeuvre – *Wandeln*, *Wandlungen* and *Verwandlungen* – that, she claims, are crucial if we are to understand how Heidegger was able to transform metaphysics from an ontic to a truly ontological discourse.¹⁴ What therefore concerns Malabou is the question of *how* 'being' is transformed by Heidegger and in so doing she seeks to account for the fundamental transformability or *plasticity* of 'being', itself. Malabou approaches Derrida's philosophy of 'writing' in a similar vein. Derrida, particularly in the *Grammatology*, radically expands the meaning of 'writing' (*écriture*), moving away from an everyday or 'vulgar' notion of writing that refers to marks on the page, to refer to writing as 'arche-writing', a generalised play of difference and deferral that is the condition of possibility for communication as such. Again, what interests Malabou here is what allows for this expansion of the concept of 'writing' to take place. In short, Malabou argues that Derrida's transformation of 'writing' testifies to a form of mutability that is irreducible to arche-writing and must be understood in terms of a generalizable plasticity of form. As she claims, there is at work in the economy of Derrida's philosophy a 'game of donation and reception of form that is more original than arche-writing, that permits the construction of the concept of arche-writing itself'.¹⁵ This anterior malleability, Malabou names 'plasticity'.

A plastic reading, then, focuses on that which allows for transformations (i.e. changes in from) to take place. Where a deconstructive hermeneutics gestures towards an unforeseeable future or *à venir* for a given text or concept, a plastic reading examines how, as Malabou puts it, a text 'lives its deconstruction', exploring the form left in the wake of the withdrawal of the metaphysics of presence.¹⁶ In this way, a plastic reading is engaged with questions of *form*, concerned with accounting for what both gives and receives form in a given context, and in examining the form that persists through a deconstructive reading of a text. As Malabou describes it, a plastic reading will reveal the form that emerges in the wake of a deconstruction.¹⁷

It is this methodology of a plastic reading that informs Malabou's recent engagement with sovereignty. Her aim in these essays is to account for that which produces the from of sovereignty, and to pose the question of what might remain in the wake of

¹⁴ Catherine Malabou, *The Heidegger Change: On the Fantastic in Philosophy* (New York: SUNY Press, 2004).

¹⁵ Catherine Malabou, 'The End of Writing? Grammatology and Plasticity' *European Legacy* (2007) 12(4), 437.

¹⁶ *Ibid.*, 52.

¹⁷ Malabou, *Plasticity at the Dusk of Writing*, 51-57.

sovereignty's deconstruction? As alluded to above, Malabou answers these questions by focusing on the conception of 'life' that has been instrumental to Western political thought. It is the operative division between two forms of life (biological/symbolic) that gives sovereignty its form. And it is this very division that must be overcome if we are to abandon a politics still beholden to sovereignty and finally 'cut off the king's head'. Malabou's plastic reading of sovereignty evokes a new account of life, life as no longer divided between a biological determination and a political qualification, but a 'life' into which the symbolic and biological collapse. It is this account of 'life' that 'lives' the deconstruction of sovereignty.

Centrally important for Malabou is the need to challenge a form of 'biological reductionism' that associates the biological with nothing more than an operation of sovereign power and control. Agamben, Derrida and Foucault all posit a form of life in excess of the biological precisely because the biological is associated with a programmatic and calculating rationality and reductionism. This approach is perhaps most succinctly captured in Derrida's claim that the value of life must be 'more than' the bio-zoological definition of life.¹⁸ In this notion of an 'excess' to life, life is doubled: there is a biological, material and programmable body and a symbolic and poetic body in excess of the biological. It is as if there is something 'more than' or at least parasitic upon biological life that is irreducible to it. This excess or supplement to life is the very thing that Kantorowitz describes in his study of medieval kingship: a body natural, mortal and 'subject to infirmities' and a body that 'cannot be seen or handled'; a body that is purely symbolic.¹⁹ In contrast, Malabou approaches 'life' as being wholly reducible to the biological but nonetheless political or poetic for this reduction. She presents political life, not as a supplement to *zoe*, but simply as *life as such*. As she emphatically declares: 'there is but one life, one life only'²⁰ and this 'one life' is a cerebral and material life, where the only transcendental to be found is 'in the brain' not in some uncanny remainder or poetic excess to it.²¹ Drawing on work in epigenetics, the field that studies those factors that allow for a genetic code to be 'expressed' or 'interpreted' in different ways,²² Malabou argues for an originary imbrication of the biological and the

¹⁸ Jacques Derrida, 'Faith and Knowledge' in Gil Anidjar (ed.) *Acts of Religion* (Abingdon: Routledge, 2010), 87.

¹⁹ Kantorowitz, *The King's Two Bodies*, 7

²⁰ Malabou, 'One Life Only'.

²¹ Catherine Malabou, 'Can We Relinquish the Transcendental' *The Journal of Speculative Philosophy*, (2014) 28(3), 253.

²² Referring to Thomas Jenuwein, Malabou suggests that the difference between epigenetics and genetics can best be understood by analogy between the reading and writing of a book. If the

symbolic 'that never requires a transgression of the biological itself'.²³ From within the biological, the division between biological and symbolic life is rendered inoperative: if the biological and the experiential form a dialectical couplet *within biological life itself*, there can be no form of life that is irreducible to the biological and therefore no 'bare life' that is produced in the formation of sovereignty.²⁴ Rather than abandon the biological, Malabou seeks to integrate it into new forms of political resistance, expanding the scope of political thought to embrace a biological critique of biopolitics. I want to turn briefly to Agamben's account of 'form-of-life' to examine how Malabou's intervention both resonates with and diverges from Agamben's thinking of how the syntagm 'form-of-life' opens new (non-sovereign) political possibilities.

Much of Agamben's work seeks to theorise a political life which no longer depends on a disjunction between 'forms of life' (citizen, worker, refugee) and 'life' itself. By rendering inoperative this division, Agamben seeks to undo sovereignty and open the possibility of a political life that is 'a life that can never be separated from its form, a life in which it is never possible to isolate something such as bare life'.²⁵ Agamben calls this 'form-of-life'. This construction has been given a recent book-length study in which Agamben finds a prototypical account in the cenobitic communities of the medieval Christian church where 'what was in question in the movements [of monastic life] was not the *rule*, but the *life*, not the ability to profess this or that article of faith, but the ability to live in a certain way, to practice joyfully and openly a certain form of life'.²⁶ Importantly for Agamben, the power and innovation of the Franciscans was in resituating *life* ahead of *rule* or *form*. In these ascetic communities, 'the form is not a norm imposed on life, but a living that in following the life of Christ gives itself and makes itself a form'.²⁷ In this evocation of a quasi-plastic notion of 'life' that gives and makes a form of life for itself, Agamben and Malabou appear very close indeed. However, the 'life' revealed in a form-of-life, such as that pursued by the medieval Franciscans, is not strictly 'biological' but emerges as a 'third thing' *between* life and form.²⁸ In the same way that Malabou

genetic code is written and fixed, this code will be 'read' or 'interpreted' in different depending on environment, experience and other non-genetic factors; see Malabou, 'One Life Only'.

²³ Malabou, 'Will Sovereignty ever be Deconstructed', 44.

²⁴ Malabou makes it clear that her argument does not diminish the symbolic or poetic dimension to life, rather it calls on us to reject the sense that such a poetic or symbolic dimension to life is *irreducible* to biological life.

²⁵ Giorgio Agamben, *Means without End: Notes on Politics* (Minneapolis: University of Minnesota Press, 2000), 3-4.

²⁶ Giorgio Agamben, *The Highest Poverty: Monastic Rules and Form-of-life* (Stanford: Stanford University Press, 2013).

²⁷ *Ibid.*, 105.

²⁸ *Ibid.*, xi.

underlines how Agamben's 'bare life' is irreducible to biological life, 'form-of-life' is clearly an addendum to the biological and so seems to sustain the very bifurcated structure to life that underpins sovereignty. Agamben's reticence about the biological sciences is based on the belief that they remain resolutely on the side of biopolitical control; it is precisely the medicalization of life under the auspices of biology that reduces forms of life to bare life, naked before the 'dull witted masks of the powerful'.²⁹ It is here that Malabou and Agamben diverge. It is this out-dated account of the biological that Malabou argues needs to be rejected. Biology is not simply an instrument of sovereign power that reduces life to the merely measurable and calculable but offers an account of life that might, in fact, fulfil the political aspirations traced in Agamben's work. Unlike Agamben, Malabou wagers on a liberatory role for the biological sciences. For Malabou 'form-of-life' must be wholly biological, it cannot be some 'third thing' *between* form and life; as she makes clear: 'there is one life only'.

The challenge of Malabou's thought is to develop an account of form-of-life that embraces, rather than jettisons, the insights of biological science. Rather than approach form-of-life as exceeding or resisting the reductionism of biology, Malabou's thinking urges us to construct an account of life in which neuroplasticity takes on an essentially political function. The brain can no longer be reduced to a physical substrate on which certain 'political forms' can be hung rather it should be viewed as the site of a dialectic between fixity and creation, *zoe* and *bios*. This conceives the material and cerebral self as itself a political being with inherent value and an immanent potentiality. Such a life would be 'its own sign', a life that no longer 'resort to a realm beyond the real to give meaning to its reality'.³⁰

Malabou undoubtedly offers an important criticism of contemporary critical theory that has been slow to adjust its account of the biological. Notwithstanding this, I find Malabou's insistence on the centrality of the biological, and more specifically 'the cerebral', to be a rather jarring counterpoint to her efforts to transcend sovereignty. The brain and a care for the cerebral becomes the centrepiece of Malabou's politics, with an image of 'our brains to come' forming the basis of a non-sovereign politics aimed at fostering an 'alter-globalism'.³¹ In the wake of a challenge to sovereignty it is all too easy to fall into the trap of asserting a new centre or foundation in sovereignty's stead. In

²⁹ Agamben, *Means Without End*, 8.

³⁰ Malabou, 'The King's Two (Biopolitical) Bodies', 103.

³¹ Malabou, *What Should we do with our Brain* (New York: Fordham University Press, 2008).

Malabou's account, is it not the cerebral that appears to fill the gap left by sovereignty's deconstruction, fulfilling the role of *summum supremus* once occupied by the sovereign? As James Martel has described, the resistance to sovereignty reveals a 'trap': that empty place that we desperately seek to fill with some new supposedly 'post-sovereign' panacea.³² Malabou's privileging of the cerebral as a site in which a dialectic between the biological and the experiential is played out goes some way in challenging the structure of sovereignty in refusing to posit the cerebral as an *essence*. But it is ultimately the brain which becomes the fundamental *ground* for her thinking. It is precisely a turn *within* that Malabou advocates, hoping that her readers will 'imagine the brain as an image of the world to come'.³³ Is an alternative gesture not possible? One that does not seek to ground the deconstruction of sovereignty on cerebrality and instead makes inoperative this desire for a sovereign ground? Can we live with that lacuna that a deconstruction of sovereignty exposes?

Malabou's disciplinary focus prompts further questions. As suggested at the outset, by approaching sovereignty through a theorisation of 'life' in a philosophical and biological register, Malabou ignores the function of the juridical in giving voice and material form to sovereignty. In this sense, Malabou's plastic reading of sovereignty remains incomplete because it fails to account for how juridical techniques are implicated in the production of the sovereign form. As we discussed above, a plastic reading privileges the question of *form*, seeking to account for the 'game of the donation and reception of form' in a given context. In what follows I remain committed to Malabou's methodological concern with form approach but I turn my attention to the techniques that produce sovereignty's form within juridical sphere. This, I argue, necessitates an encounter with 'jurisdiction'. Beyond expanding Malabou's plastic reading strategy into a sphere that she conspicuously avoids, this focus on the juridical is, I argue, a necessary component to any critical reading of sovereignty. By examining two jurisdictional technologies in the following section, we can account for the bifurcation of life that animates Malabou's intervention. This allows us to return with greater clarity to the relation between life and the sovereign form in the final section as we turn to Saramago's novel.

³² James Martel, *Divine Violence: Walter Benjamin and the Eschatology of Sovereignty* (Abingdon: Routledge, 2012).

³³ Malabou, *What Should we do with our Brain*, 82.

II Jurisdiction giving form to sovereignty

In the burgeoning literature on sovereignty discussion of jurisdiction has been largely absent. Not only in Malabou but also Agamben, Derrida and Foucault's engagements with sovereignty there is no mention of jurisdiction. In this section I pursue a plastic reading of sovereignty from within the juridical sphere through an exploration of the theoretical and political implications of this seemingly innocuous and technocratic term.³⁴ Rather than see jurisdiction as a product or depository of sovereignty, I approach jurisdiction as the technique through which the form of sovereignty is itself given shape. There can be no sovereignty without jurisdiction because it is jurisdiction that reveals the form of sovereignty itself. This sense of jurisdiction has been largely overlooked because the term is too-readily associated with procedural technicalities. Indeed, the 'technical' view of jurisdiction that focuses on matters of standing, procedure and the scope of juridical authority allows the source of law's power to appear precisely as *technical* rather than *political*.³⁵ Shaunnagh Dorsett and Shaun McVeigh have sought to challenge many of common-place assumptions about jurisdiction by highlighting how various 'jurisdictional technologies' – from forms of legal writing like writs to cartographic techniques that represent legal space – are central to producing the legal form and are the means by which bodies are caught within the ambit of the law.³⁶ Jurisdictional technologies bring bodies, spaces and actions into lawful relation, attaching life to a sovereign authority and delineating the limits of a legal community. In what follows, I want to focus on two jurisdictional technologies unexamined by Dorsett and McVeigh – the constitutional declaration and the decision on the state of exception – in order to assess the complicities between legal technique and the form of sovereignty. The declaration and the exception are techniques typically associated with an assertion of *sovereignty* and are usually read as being quintessentially *political*. But both are concerned precisely with the limit point of the juridical as much as they are with the foundation or maintenance of the polis. By reading these two technologies through the lens of *jurisdiction* rather than sovereignty *per se*, I hope to offer a more nuanced account of the relation between sovereignty, life and law, supplementing Malabou's plastic reading of sovereignty.

The political piquancy of jurisdiction can be most acutely sensed in the act of constitution-making, in the moment when a community declares its presence and grants

³⁴ In this sense I am following Kaushal in moving the growing theoretical literature on jurisdiction towards political rather than literary or ethical concerns.

³⁵ Asha Kaushal, 'The Politics of Jurisdiction' *Modern Law Review* (2015) 78(5), 782.

³⁶ Shaunnagh Dorsett and Shaun McVeigh, *Jurisdiction* (Abingdon: Routledge, 2012).

itself the authority to make the law. This takes us towards the etymological underpinnings of jurisdiction (*ius dicere*, 'to speak the law') found in the *Digest* (2.1.1) and Benveniste.³⁷ It is through this performative speech act that a collective circumscribes its borders and thus forms a political community. In Douzinas's terms, this act of 'juris-diction' (a speaking of the law) rests upon the existence of 'bare sovereignty', a logical presupposition of a political collective willing and able to give itself authority to rule.³⁸ This sovereignty is *bare* in the sense that it is not yet actualised or announced, its sovereignty is latent or undetermined. The function of jurisdiction – by virtue of an act of 'fabulous retroactivity'³⁹ – is to confer on this collective a sovereign and unified status. In the performative declaration through which the presence of the community is both *described* and *performed* jurisdiction creates an abstracted, singular and closed political form. As Douzinas notes, this is achieved through the elision of two distinct speaking positions: the subject of enunciation, the authors of the declaration *stricto sensu*, and the subject of statement, those attributed with its authorial power: 'the people', 'God', or 'humanity'. Following Jean-Luc Nancy,⁴⁰ Douzinas describes how the jurisdictional event 'mirrors the individuality of the jurisdictionator (he who speaks the law), [by fashioning] a unified body which... wills the law singularly and speaks through its foil and representative, the sovereign, legislator or judge'.⁴¹ Through the sleight of hand provided by the rhetorical device of the synecdoche – through which the part represents the whole – jurisdiction appeals to a universal, abstracted and sovereign figure (humanity, God, 'the people') as a veiled countersignatory to the particular affirmation of a given community. The jurisdictional moment performs this ellipsis, whether it's Moses, Solo or a modern constitutional assembly, jurisdiction allows us to act *as if* the particular and concrete speaks on behalf of the general and abstract.

It is the *as if* that opens a space for an interruptive critique that we will pursue below through a reading of *Seeing*. At this stage, however, let us note that in this reading jurisdiction achieves two things. Firstly the declarative announcement retrospectively converts a 'bare' and 'a-legal' collective into something sanctioned and determined by

³⁷ See Shaunnagh Dorsett and Shaun McVeigh, 'Questions of Jurisdiction' in McVeigh ed., *Jurisprudence of Jurisdiction* (Abingdon: Routledge, 2007), 3.

³⁸ Costas Douzinas, 'The Metaphysics of Jurisdiction' in McVeigh ed., *Jurisprudence of Jurisdiction* (Abingdon: Routledge, 2007), 21-32.

³⁹ Jacques Derrida, 'Declarations of Independence' in Rottenberg ed., *Negotiations: Interventions and Interviews 1971-2001* (Stanford: Stanford University Press, 2002), 50.

⁴⁰ Jean-Luc Nancy, 'The Jurisdiction of the Hegelian Monarch' *Social Research* (1982), 481-516.

⁴¹ Douzinas, 'The Metaphysics of Jurisdiction', 26.

law. This allows a putatively *political* act to be captured by the juridical. It is at this moment that sovereignty can be given a determined form by virtue of jurisdiction's delineation between inside/outside, perhaps most importantly distinguishing between illicit violence that challenges that newly created order and licit violence that created that order and now serves to protect it. Secondly, the jurisdictional moment re-presents the 'bare' political collective in the image of the juris-dictator; that is, as a whole, unified and singular being that speaks with one voice. The sovereign community, then, is united – even if momentarily – in a single speech act to which all members must submit.⁴² Without this function, sovereignty is nothing more than a mythological and formless assertion, abstracted from the real and without a claim to complete authority. Jurisdiction, gives form to sovereignty, determining its shape, limits and efficacy by attaching the life of the collective to the law of the sovereign.

Let's turn now to our second jurisdictional technology: the decision on the exception. Central to Schmitt's reading of sovereignty is that the decision on the exception is not political or factual matter but juridical.⁴³ To understand this claim we can refer back to the constitutional moment described by Douzinas in which an informal or 'bare' constituent power becomes constituted, formalised and juridified. In the same way that constituent power is connected to every juridical order as its founding (but as yet 'un-constituted', 'bare' or 'formless') authority, so too is the exception (itself equally formless because its limits cannot be determined in advance by a norm) bound to the juridical. In this sense, the state of exception is the obverse of the founding constitutional moment, both act without direct legal sanction but the preservation or creation of the legal order itself is the act's ultimate justification. Agamben captures the indeterminacy of the law in this context by describing the decision as having the 'force of law',⁴⁴ suggesting that in the state of exception the law is present but not in force. In this way we can see how the exception describes law's pure potentiality – a *fiction*, as Agamben has it⁴⁵ – that allows for anything that appears to fall outside the law to be caught within its ambit through the operation of the exception. In this way, the

⁴² Following the biblical account of the Tower of Babel, Hobbes makes a similar point. In asserting that there is no divine order governs the correspondence between language and the world, the sovereign, whose voice is law, emerges as he who can maintain this relation. The sovereign's voice establishes an 'authoritative vocabulary', as Loughlin puts it, that can guarantee both the social and linguistic orders. See Thomas Hobbes, *Leviathan*, ed. Richard Tuck (Cambridge: Cambridge University Press, 1991), 24-26 and Martin Loughlin, *Sword and Scales: An Examination of the Relationship Between Law and Politics* (Oxford: Hart, 2000), 132.

⁴³ Carl Schmitt, *Political Theology: Four Chapters on the Concept of Sovereignty* (Chicago: Chicago University Press, 2005).

⁴⁴ Giorgio Agamben, *State of Exception* (Chicago: University of Chicago Press, 2003), 32-40.

⁴⁵ *Ibid.*, 39.

exception allows for all of life to be captured by the law because, by virtue of the exception there is nothing in principle to which the law cannot apply. In the same way that the jurisdictional declaration captures the heterogeneous, undetermined, 'bare' collective within the juridical, the decision on the exception is an act that attaches law to a bare factuality, 'juridicizing all politics'⁴⁶.

The technique of the exception, in which life is brought into a lawful relation with sovereign power, reveals that the form of sovereignty emerges by virtue of a jurisdictional delimitation. Schmitt dismisses jurisdiction as an 'irrelevant technicality'⁴⁷ associated with the failed efforts to constitutionally circumscribe in advance of an emergency the scope of an exception. But we need to think of jurisdiction beyond the purely technical. It is precisely a threshold between law and non-law and a question of law's applicability that is at issue in the state of exception; and as Kaushal rhetorically queries:

What lives between law and non-law if not jurisdiction? What concept governs whether law is applicable if not jurisdiction? What polices the limits of the legal order if not jurisdiction? If jurisdiction amounts to the delimitation of a sphere that is the precondition for the juridical as such, then surely this is its work. This jurisdiction is not apolitical, it does not only manage technical legal rules. It is robustly implicated in politics and sovereignty, part of the original constitution of the *polis* as well as its ongoing reconstitution.⁴⁸

Not only is jurisdiction 'robustly implicated' in sovereignty it is what gives sovereignty its very form, it is what prevents the exception from descending into chaos or anomie, it guarantees the integrity of the polis despite the suspension of a norm in the name of an 'emergency'. But on this point Kaushal errs. For her, it is jurisdiction that 'rests on sovereignty'⁴⁹ but isn't the key insight here that sovereignty is utterly formless without jurisdiction? The 'juristic order' that remains in the wake of the suspension of law is guaranteed by a delimiting, jurisdictional force that allows for the state to remain even though the formal legal order has been suspended. It is the jurisdictional technology of the exception that allows for sovereignty to intervene in the world, capturing life within a delimited and 'lawful' order, allowing sovereignty to be more than a formless or

⁴⁶ Jessica Whyte, *Catastrophe and Redemption: The Political Thought of Giorgio Agamben* (New York: SUNY Press, 2013), 61.

⁴⁷ Kaushal, 'The Politics of Jurisdiction', 786.

⁴⁸ Ibid.

⁴⁹ Ibid.

anomic assertion of power. As Dorsett and McVeigh suggest: 'sovereignty... [follows] in jurisdiction's wake'.⁵⁰

Jurisdiction attaches life to sovereignty through the instantiation of lawful relations: in both examples above, jurisdiction re-presents the factual as juridical and brings bodies into the law's ambit. This key insight returns us to the bifurcation of 'life' that is the focus of Malabou's reading of sovereignty. Let us return to the technology of declaration to make this point clear. In our discussion of the declaration above we suggested that 'the people' is inadequate to itself. There is an irreducible gap between the incorrigibly plural fact of people who gather to demand change or claim their right to self-rule and 'the people', juridified and unified by the juris-dictator who gives them form. It is jurisdiction that allows for life to be attached to the sovereign by making visible a *separation* between a concrete and particular 'life' and an abstract 'legal category' *at the very moment that it elides this very distinction*, presenting 'law' and 'life' as entering a zone of indistinction whereby life *in toto* is captured by law. It is this that is the true mark of sovereignty's claim over its subjects. It is jurisdiction that makes possible this constitutive split between an affective, material and biological 'life' and a symbolic 'form of life' that exceeds the biological. As Malabou describes it, sovereignty is 'the result of a *transformation* of [a] floating signifier into a rigid figure, that of the king or of the law'.⁵¹ It is precisely jurisdiction that facilitate this transformation. Jurisdiction bears witness to the division of life and law *at the same moment* it reattaches life to a rigidly determined legal form. It is, then, jurisdiction that is doing the work of mutability or change here, it is jurisdiction that allows 'life' to be re-formed as split between biological and symbolic. Put differently, the jurisdictional moment attests to an affective and non-representational 'life' at very moment it denies the political force of that 'life' by transforming it into some staid, symbolic legal category – 'citizen', 'subject' or some other 'legal person' – that owes its existence to the sovereign.

But surely we cannot so easily give over to sovereignty what it desires. An intervention is possible, indeed it is already walled up within this very moment: this gap between 'life' and 'law' is what allows for the interruption of sovereignty. A critical questioning of sovereignty intervenes within this lacuna and asks, who is silenced in this moment, who is excluded, occluded or elided in the re-presentation of 'the people'? Such questions implicitly seek to foreground those non-representational forces that are the condition of

⁵⁰ Dorsett and McVeigh, *Jurisdiction*, 64.

⁵¹ Malabou, 'Will Sovereignty Ever Be Deconstructed?', 42, my emphasis.

possibility for the assertion of a sovereign claim, foregrounding the 'life' that precedes the 'form' that jurisdiction constructs. This mode of critical engagement is not so much a matter of being 'for' or 'against' sovereignty but about seeing how the claim to sovereignty always harbours forces that undo it, challenge it and render it more fragile than we often like to think. In *Seeing* Saramago intervenes precisely in the gap that we have identified between life and law and refuses to allow 'the people' to attain a sovereign form, underscoring instead the non-representational forces that are the conditions of possibility for some future declaration of, or claim to, sovereignty.

Saramago's approach involves shifting attention away from the dominant units of political and legal discourse – the community, the subject, the state – and allows us to examine a political ontology that appears beyond or beneath the logic of representation on which sovereignty depends. As I discuss below, however, this does not disavow the need for a sovereign claim *per se*. As is well known demands for *popular sovereignty* are used by many seeking to resist hegemonic forces, whether colonial or – as recent events in Greece tell us – capitalist and technocratic. In many contexts popular sovereignty remains a valuable bulwark against the forces of imperialism and a *cri de coeur* in the face of a creeping technocracy. As Judith Butler has recently examined, it was the claim of popular sovereignty, the performance of 'we the people' in the streets of New York, that gave life to the 'Occupy Wall Street' movement of 2011.⁵² In this sense, I doubt whether we can follow Malabou in seeking to supersede *all* assertions of sovereignty *tout court*. The critical task here is not to somehow 'transcend' sovereignty but to understand the contexts in which it is claimed and the techniques deployed that give it form. My point, contra Malabou, is that perhaps we need to temper the desire to finally 'cut off the king's head' and construct a political theory that is no longer mediated by sovereignty. Perhaps, this ultimate regicide is too much to ask in the contemporary conjuncture. As Agamben suggests, the possibility of a new, post-sovereign politics in which life is lived as a 'form-of-life' will only begin 'when all the West's forms of life have reached their consummation'.⁵³ Clearly we're not there yet. In an age in which politics in the West still operates within axes determined by the state and juridical power, strategic assertions of *popular sovereignty* are surely necessary. Rather than hope to transcend sovereignty, then, my reading of *Seeing* seeks to reveal how Saramago occupies that gap between life and law that the declaration hopes to elide and in so

⁵² Judith Butler, *Notes Towards a Performative Theory of Assembly* (Cambridge MA: Harvard University Press, 2015), 154-192.

⁵³ Agamben, *The Highest Poverty*, 143.

doing offers an account of sovereignty, if not ‘deconstructed’, then at least ‘interrupted’. And perhaps sovereignty, with interruptions is the best our current political dispensation will allow.

III Saramago’s interruption of sovereignty

What amazes me is that there isn’t a single shout, a single long live or down with, not a single slogan saying what it is the people want, just this threatening silence that sends shivers down your spine (José Saramago)⁵⁴

First published in 2004, Saramago’s novel follows the fate of an unnamed capital city in the wake of a shock election. By lunchtime on polling day only a smattering of voters have cast a ballot. Heavy rain, an apathetic electorate and barely distinguishable political parties seem the immediate cause of this political dis-engagement but by mid-afternoon, without warning or instigation, residents pour into the streets and head for the polling stations. The cut-off hour for casting ballots is extended and queues form throughout the capital bearing witness to an unexpected upsurge of civic virtue. The results, announced the next day, tell a different story. Valid votes do not even reach twenty-five per cent, the right wins thirteen per cent, the left two per cent, and the ‘party in the middle’ nine; seventy per cent of the votes cast are blank. A swiftly arranged re-run reaches an even more devastating conclusion when eighty-three per cent cast a blank ballot. In a clear reference to the West’s reaction to 9/11, Saramago presents the state as bewildered, desperate and very quickly willing to suspend normal juridical procedure as a result of this unprecedented event. Widespread surveillance is deployed, a state of emergency is declared, five hundred citizens are detained and subject to polygraph-assisted interrogations, and finally a state of siege is announced which sees the entire state apparatus withdraw from the city. The state vainly asserts that there must be a leader to this ‘movement’, a conspiracy, an organised plot to overthrow the government or at least some external agents pulling the strings. But none exists. Saramago’s blank voters collectively, silently, and without warning, simply *withdraw* from the existing political domain. And, by and large, life carries on as normal.

Throughout, the novel shifts perspective between the state’s increasingly authoritarian responses and the lives of the various actors who remain in the city: a council leader grappling with his conscience in a changing political climate, a police superintendent

⁵⁴ José Saramago, *Seeing [Ensaio sobre a Lucidez]*, trans., Margaret Jull Costa (London Vintage: 2007), 128. All subsequent references will be given in brackets in the main body of the text.

charged with discovering (and in lieu of this, inventing) a cause for the blank votes, and a doctor and his wife who find themselves at the heart of the state's conspiracy theories.⁵⁵ Strikingly, none of these characters is given a name, instead they are referred to by title, epithet or character-trait. This poses the question of identity and the nature of representation as one of the novel's key concerns and serves, through the use of *litotes*, to position 'the people' of this unnamed city as the story's hero. The state deploys all the techniques to which, in the ever-intensifying paradigm of security, emergency and exceptionalism, we have all grown accustomed. And in the face of such techniques, Saramago imagines 'the people' as an agent of uncanny force that can only be sensed *in withdrawal*. In an important sense, whilst a hero of the narrative, 'the people' do not exist in this novel. The legal form of a delimited collective identity is never posited and is never given voice; the jurisdictional technology of the declaration is disavowed. Indeed, it is precisely a non-sovereign, non-juridified collective that Saramago allows to appear in the city's streets. As outlined above, the state's use of the exception seeks to capture all actors within the ambit of the law and attach all life to the sovereign form. The city's inhabitants render inoperative this claim and in their act of withdrawal reveal modes of belonging and solidarity that are – temporarily at least – not mediated by sovereignty.

Crucial to this gesture of 'withdrawal' is the privileging of those affective forces that both *precede* and *exceed* the titles, categories or offices that the state confers on its citizens. For instance, striking refuse collectors, strong-armed into withdrawing their labour by a government hoping to cause disruption, return to work in plain clothes claiming that 'their uniforms were on strike... not them' (93). Likewise, the city's council leader quits his post and joins the people in the streets, unexpectedly moved to act in solidarity with his fellow citizens. And the super-intendant tasked with uncovering the source of the blank voting, exposes the farce of the state's conspiratorial theories by leaking condemning information to the press. Throughout, the 'forms of life' that the state constructs for its citizens – including the category of 'citizen' itself – are confronted by a 'life' that overflows the given 'form' that it supposedly represents.

This foregrounding of a 'life' that interrupts the techniques that the state deploys in an

⁵⁵ The latter are the focus of *Blindness*, Saramago's companion piece to *Seeing*, in which the same very same city is struck by an unexplained plague of blindness, four years previous. The doctor's wife – the only resident of Lisbon who did not succumb to the plague – is now considered the prime suspect for a leader of blank votes movement. For a reading of both novels through a Lacanian lens, see Maria Aristodemou, 'Democracy or Your Life! Knowledge, Ignorance and the Politics of Atheism in Saramago's *Blindness* and *Seeing*' *Law Culture and Humanities* (2011) 9(1), 169-187.

effort the control its citizens is introduced early in the novel as we follow the state's interrogation of a group of five hundred citizens. Statistically speaking, of the five hundred detainees, there should be around three hundred and thirty blank voters. But not one confesses to casting a blank. As Saramago explains:

That clear response [of "I cast a blank"], shorn of ambiguities, of presumption or prudence, would be the only one that their inflexible, honest natures, that of the computer and the machine, would have allowed themselves, but we are dealing here with human beings, and human beings are known universally as the only animals capable of lying, and while it is true that they sometimes lie out of fear and sometimes out of self-interest, they also occasionally lie because they realise, just in time, that this is the only means available to them of defending the truth (40).

What, then, is this 'truth' that can only be defended in lying? In his description of the interrogations, Saramago stages a complex encounter between truth-telling, representation, affect and the mechanistic. Significantly, these interrogations are conducted with the use of a 'lie detector' that senses automatic, affective and non-representational responses that are then interpreted by a technician as confirming or denying the statements of those under interrogation. The refusal to affirm that one cast a blank vote is in part a refusal to submit to state power but perhaps more importantly it is a refusal to enter into a game of representation in which the subject's will is supposed to be wholly reducible to choices made in the voting booth. By refusing to submit to a representational account of truth, in which 'truth' is reduced to a binary pre-determined by the state (either you cast a blank or you did not), the detainees allow the lie detector to reveal another 'truth': the affective life of the body, that both precedes and exceeds the linguistic and cognitive 'truths' that the state desires. It is the 'truth' of these 'mechanical' responses – the 'twitching muscle', the 'unwanted sweat', and the 'blinking eyelids' (45) – captured by the polygraph machine, that affirms a life that is not reducible to the forms and categories that the state constructs. The following passage illustrates the point:

They'll connect you up to the machine again and it will be even worse, they'll ask you if you're alive and you'll say, Of course I am, but your body will protest, will contradict you, the tremor in your chin will say no, you're dead, and it might be right, perhaps your body knows before you do that they are going to kill you (45).

The state thinks it can do with the body what it wills, transforming the living detainee into a 'dead body' with the assistance of a machine supposedly able to subvert the patently true. But the 'truth' that the state wants to extract, or construct, belies another 'truth' that it cannot bear, the truth of an alive and affective body that presciently

“‘knows’ that it will soon be killed’,⁵⁶ a body that “‘knows” more than the lie detector can confirm or deny. It is the fact, as one detainee puts it, that ‘we cannot entirely trust our bodies’ (49) that Saramago wants to underscore here: the biological, material and strangely mechanical fact of a *living being* is the very thing that undoes the forms of life that sovereign power hopes to impose.

Like Malabou, Saramago finds a resistance to sovereignty in the biological and material stuff of life. But for Saramago, this is not a matter of cerebrality or a *turn within* to contemplate the life of our ‘brains to come’ but prompts an experimentation with a form of *collective life* that challenges the state’s juridico-political categories. It is an affirmation of an affective and material life of *bodies in relation* that animates the streets in *Seeing*. This is captured in the following, and I think rather extraordinary, passage in which Saramago describes the reaction to the state’s latest efforts to force the city to return to voting ‘normality’ in which a bomb is set off in a train station, killing twenty-seven people:

The burials were therefore, purely secular, which is not to say that, here and there, a few private, silent prayers did not rise up to the various heavens to be welcomed there with benevolent sympathy. The graves were still open, when someone, doubtless with the best of intentions, stepped forward to give a speech, but this was immediately repudiated by the other people present, No speeches, we each have our own grief and we all feel the same sorrow. And the person who came up with this clear formulation of feelings was quite right. Besides, if that were the intention of the frustrated orator, it would be impossible to make a funeral oration for twenty-seven people, both male and female, not to mention some small child with no history at all... To those punctilious readers, showing a praiseworthy concern for the good ordering of the story, who want to know why the usual, indispensable dna [sic.] tests were not carried out [in order to determine the identity of the dead], the only honest answer we can give is our own total ignorance, allow us, however, to imagine that the famous and much-abused expression, Our dead, so commonplace, so much part of the routine patter of patriotic harangues, were to be taken literally in these circumstances, that is, if these dead, all of them, belong to us, we should not consider any of them exclusively ours, which would mean that any DNA analysis which took into account all the factors, including, in particular, the non-biological ones, and however, hard it rummaged around inside the double helix, would only succeed in confirming a collective ownership which required no proof anyway... the earth was shovelled back into the graves, the flowers were shared out equally, those who had reasons to weep were embraced and consoled by others, if such a thing is possible

⁵⁶ Erin Graff Zivin, ‘Seeing and Saying: Towards an Ethics of Truth in José Saramago’s *Ensaio sobre a Lucidez*, *SubStance* (2012), 41(1), 114.

with such a recent grief. The loved one of each person, of each family, is here, although one does not quite know where, perhaps in this grave, perhaps in that, it would be best of we wept over all of them, as a shepherd once said, although heaven knows where he learned it, One can show no greater respect than to weep for a stranger (123-124).

In this affecting description, Saramago offers an account of collective life interrupting sovereignty. Those who stymie the mourners that are moved to offer a eulogy for the dead, do so in the name of the non-representational: how could any speech do justice to these lives, how could one re-present them, in any meaningful way? In lieu of such a speech, Saramago radicalises the claim that the dead might somehow be 'ours', exploring the way in which these lost lives might somehow belong to all of us. He posits a 'collective ownership' that implicates all but is irreducible to one, evoking what Jean-Luc Nancy has described as the 'singular plurality of being'; an ontology in which we *are*, only in relation to others, that we can only *be* by *being-with*.⁵⁷ The rather gruesome notion that body parts are shared out between graves – resting 'perhaps in this grave, perhaps in that' – is transformed into an account of a collective life in which all life is similarly shared out, a 'life' whose ontology is essentially 'unlocatable', it only appears *between* self and other. Saramago describes this sharing out of being as a form of 'collective ownership' that, significantly, *needs no proof anyway*. There are no title deeds, constitutions or other juridical forms that correspond to the sense of 'social being' that Saramago evokes; it is a political ontology that is without ground, without representation and without sovereignty.

The juridical techniques implicated in giving form to sovereignty; the ensiled, sovereign 'self' beloved by the liberal constitution; and the logic of representation on which sovereignty rests are all rendered inoperative in this short passage. By intervening in the gap between life and law, Saramago privileges a *life* that persists without the juridical, a life that, through its material and emotional *affects*, reveals a shared sense of being that undoes the claims that sovereignty makes of subjects. Where Malabou turns *within* to the self, Saramago turns *without*, towards others. Where Malabou seeks to ground her deconstruction of sovereignty on the cerebral, Saramago exposes the groundlessness of being as a *being-with* that exceeds representation.

Saramago's interruption of sovereignty is powerful and effective. However, the novel ends by suggesting that the *withdrawal* that the people perform is ultimately futile in the face of overwhelming state power. The doctor's wife and the super-intendant, whose co-

⁵⁷ See, Jean-Luc Nancy, *Being Singular Plural* (Stanford: Stanford University Press, 2000).

implicated stories dominate the latter stages of the novel, are unceremoniously killed in the last chapter, with the novel's final scene depicting the assassination of the doctor's wife by a government sniper: her dog 'sniffs and licks his mistress's face' before letting out 'a terrifying howl which another shot silences' (307). This howl, prefigured by the novel's epigraph – 'let's howl, said the dog' – is a rallying cry for a concerted resistance to the violence now unleashed by the state. As Wall rightly points out, whilst the reader's final attention rests on the wife's murder, elsewhere in the city at this time the people are in the streets and 'are now beginning to speak once more, to exercise their sovereign power to decide'.⁵⁸ A claim to popular sovereignty as a resistance to the state, though placed 'beyond the bounds of the novel'⁵⁹ is surely coming. As the novel closes, we leave the city with its heroes dead, the people in the streets and a demand for a new popular sovereignty able to resist the state, waiting in the wings. In this sense, it is quite right to read the devastating and unremittingly bleak conclusion to the novel as revealing Saramago's ultimate pessimism about the enduring force of the gesture of withdrawal that animates *Seeing*. The dog's howl is a call for a return to speech and action, a movement from *withdrawal* to an *enagagé* attitude.

This animal 'howl', however, also points elsewhere, indicating something more than a simplistic return to an orthodox assertion of popular sovereignty. The 'howl' touches on what Simone Weil has called the 'infallibility' of the ethical demand.⁶⁰ It is an affective and non-representational 'cry', beyond the cognitive and linguistic that is the condition of possibility of the juridified forms that a claim to sovereignty requires. This condition of possibility of the sovereign demand is a 'truth' that can never be captured within the juridical. Like the affective life of detainees under interrogation and the 'collective ownership' of the city's dead that 'needs no proof anyway', the novel's final 'howl' foregrounds the affective forces that precede and exceed the closure and delimitation that sovereignty requires. In this sense, Saramago ends the novel in a state of tension or aporia: he both affirms the necessity of a new popular sovereignty that can resist the state's unchecked violence at the very same time he underscores the infallibility of an affective 'life' that will overflow the juridical determinations that such a claim requires.

Conclusion

⁵⁸ Illan rua Wall, 'Tunisia and the Critical Legal Theory of Dissensus' *Law and Critique* (2012) 23(3), 219-236.

⁵⁹ Ibid.

⁶⁰ Simone Weil, 'Human Personality' in Panichas ed. *The Simone Weil Reader* (New York: Moyer Bell, 2007), 334.

We opened this discussion with Hilary Mantel's controversial description of Kate Middleton's strangely bifurcated body, a body that was both resolutely biological *and* symbolic. It is this doubled life that Malabou's interventions on sovereignty seek to challenge. Drawing on recent discoveries in neuroscience Malabou posit a singular 'life' into which the symbolic and biological division collapses. In Foucault's account of biopolitics it is the biological sciences, relying on the measurability and calculability of the human, that are instrumental in establishing the binary that Malabou deconstructs. A reductive biological 'life', wholly determined and programmable, is posited onto which various political forms, like so many designer frocks, can be hung. Malabou argues that resistance to this account of life can be found within the biological itself because today's understanding of biological life describes life in terms of 'plasticity', 'malleability' and 'change', rather than as something strictly 'programmed' or 'determined'.

Notwithstanding the force and importance of Malabou's insights, I have argued that there is a missing element from her 'plastic reading' of sovereignty. By avoiding any meaningful engagement with the juridical, Malabou ignores the techniques that both produce and maintain the very division between symbolic and biological life that is the focus of her critique. In my account of two jurisdictional technologies above, the force of law's intervention within 'life' is made clear. With a focus on jurisdiction I have sought to situate juridical technique at the heart of an account of the sovereign form. It is by attending to the jurisdictional technologies discussed above that we can describe the practices that divide 'life' and its 'form', thereby instantiating a division between symbolic and biological lives. Through a reading of *Seeing* I have intervened within this logic, insisting, with Saramago, that the affective and material life of the body always interrupts juridical determinations. Though Saramago we can also raise critical questions concerning the supposed centrality of the brain in the new discourse of 'life' that Malabou's thought promises, making room for a *collective* not simply *cerebral* life in this context.

Let me return briefly to Mantel to conclude. For a moment, as Mantel looks at the Queen with an unrelenting stare, the division between symbolic and biological forms of life is lost. The Queen is transformed, she becomes young again, strangely vulnerable, precarious even, her face marked by 'hurt bewilderment'. She is momentarily unencumbered by the trappings of her office. What Mantel attunes us to here, and it is this to which our reading of Saramago has hoped to point, is the truth of an affective, material and precarious life that interrupts the juridical forms that modernity imposes

on its unwitting subjects. As Saramago reminds us, we are *always already* bodies as our own signs despite the state's best efforts to think otherwise.

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