

Hosting the Stranger Seminar: Scapegoating the Outsider

Before “First Words”

To whom or to what do we open our door? What is the nature of the fundamental non-knowledge by which we know that this life before us is that of a stranger, an outsider who is not one of us? What are the laws of the threshold—what rights, duties, and obligations are prescribed in this indeterminate space between the inside and the outside, the strange and the familiar, the private and the public? Does the host have the prerogative of uttering the first words? And must these words always be in the nature of a question such as: What is your name? Who are you? Why are you here? Where are you from? How did you find my door?

Must borders always be places of questioning?

Speaking of questions, it was around the age of seven that I learned my first lesson in hospitality when I happened to ask our newly arrived guests how long they would be staying. For this, I was later admonished. Never ask someone when they will leave. My mother explained that a guest *Atithi* means the one without a proper date [*a-tithi*] and that he or she must always be honored as a god—*Atithi Devo Bhava*. She asked me: Would you ask a god when he arrives the date of his departure? Would I? Listen: *Atithi Devo Bhava*: God is not manifested through the guest; rather the guest by being a guest manifests God. [*Bhava* is usually translated as being, but is more precisely the taking place of being, a coming into being.] Hospitality means not asking questions. I was asked to reflect.

In Of Hospitality, Derrida too invokes a similarly hyperbolic law of hospitality. He distinguishes between the laws of hospitality mandated by rights, duties, and obligations towards the legitimate foreigner (here the foreigner *xenos* is not an absolute other, rather he or she is one with whom a pact *xenia* is made) versus the singular law of hospitality. This singular law that demands the transgression of the laws of hospitality opens itself to the absolute other—the one with whom we have no pact, can have no pact, the one who is beyond rights. No question. Acknowledging that “language *is* hospitality,” Derrida writes:

Nevertheless, we have come to wonder whether absolute hyperbolical, unconditional hospitality doesn't consist in suspending language, a particular determinate language, and even the address to the other. Shouldn't we also submit to a sort of holding back of the temptation to ask the other who he is, what his name is, where he comes from, etc? Shouldn't we abstain from asking another these questions, which herald so many required conditions, and thus limits, to a hospitality thereby constrained and thereby confined into a law and a duty? ... It is true that this abstention ("come, enter, stop at my place, I don't ask your name, nor even to be responsible, nor where you come from or where you are going") seems more worthy of the absolute hospitality that offers the gift without reservations; and some might also recognize there a possibility of language. Keeping silent is already a modality of possible speaking. (Derrida 2000, 135)

Earlier in the same text, Derrida says:

Let us say *yes to who or what turns up*, before any determination, before any anticipation, before any *identification*, whether or not it has to do with a foreigner, an immigrant, an invited guest, or an unexpected visitor, whether or not the new arrival is the citizen of another country, a human, animal, or divine creature, a living or dead thing, male or female. (77)

To ask no questions, especially those that pertain to identity and proper belonging, to say Yes to the strange, the unknown, the absolute other with whom we have no pact, can have no pact is to open the possibility of a community-- a coming community—where there are no presuppositions either about oneself or another whatsoever.

Yes, but who is this other to whom hospitality can be rendered only through the flouting of every existing law of hospitality? Who is this other that demands an absolute hospitality, this other who has been abandoned by every law, is expelled from every city, against whom no crime can be recognized as crime? What language does this creature speak? And how does this creature continue to persist as an exile from the law, as one who has been abandoned by the law, for whom no law speaks, to whom no law is addressed?

To turn from the host to this singular guest is perhaps also to turn from a consideration of obligations, duties, and rights, in other words the successes and failures of the laws of hospitality

to the possibilities for community that open up in the absence of law and identity where host and guest are infinitely substitutable. As Giorgio Agamben puts it in his brief meditation titled “Ease,” the community where members are infinitely substitutable does not mean “compensating for what the other lacks, nor correcting his or her errors, but *exiling oneself to the other as he or she is* in order to offer to Christ hospitality in the other’s own soul, in the other’s own taking-place. This substitution no longer knows a place of its own, but the taking-place of every single being is always already common—an empty space offered to the one, irrevocable hospitality” (Agamben 1993, 24).

Let us consider this notion of hospitality as substitution by turning briefly to D.H. Lawrence’s poem “Snake.” Perhaps it is such hospitality as substitutability that the “voice of education” makes impossible for Lawrence, perhaps even beyond his declared awareness. The tone of the poem is striking: there is the famous Lawrentian voice of self-conscious masculinity whose deep and robust baritone occasionally slips and betrays itself. And this slip is not at all the “pettiness” that he believes he must expiate, rather it is there like a sharp shrill fiddle accompanying the lines that testify to his confused egoism, which, despite his limited self-questioning and every given “chance,” he seems profoundly unaware.

“A snake came to my water-trough” he says, and he’s “in pyjamas for the heat”—in other words, he is not quite dressed for the world. Why does Lawrence feel the need to tell us this? Not being dressed when a guest arrives is to be caught off guard; one cannot receive a guest in dishabille. Already, the fiddle sounds—Lawrence unquestioningly assumes that he is the host and the snake a guest. He is vulnerable in the heat. He needs water but finds he must wait. What may have been shock, impatience or surprise then gives way to a feeling of pleasure. He feels “honoured” he says, but he is also afraid. He is not sure if his sense of gladness at the snake’s arrival is a sign of his cowardice, perversity, or humility. Which is it? Lawrence suggests that the voices of education prohibited his pleasure, but the fiddle tells us that Lawrence is not just afraid of himself and his deepest desires (he knows this)¹ but that blaming the voices of education for his repression is itself a part of his education. Lawrence may imply that by the end of the poem he had recognized his educated repression and by regretting it, he had also in a sense overcome or rejected it. But the exit that he thought the poem marked from repression is nothing if not a confirmation that his outside is still very much inside.

At the end of the poem, it is clear that the feeling that prevails is the sense of honor. Reflecting on the snake after its undignified departure, Lawrence discovers that he quite admired the creature. It was like a king in exile who was due to be crowned again. And having felt honored, Lawrence now feels regret: he has missed his chance (for what?) with one of “lords of life.” He wishes the snake would come back: “my snake.” The snake has now transformed not only from an unexpected and uninvited guest into a creature of power and potency (his coronation is imminent after all) but has now been granted all the rights of being a member of Lawrence’s household. It is now “my snake” and of course, my snake has every right to slake its thirst at “my water trough.” What will Lawrence do the next time, the snake comes around? How will he use the “chance?” He will give it its right to drink and not harm it. Not doing harm to the (my) snake guest, Lawrence suggests is to free oneself from repressive discourses of education. Hospitality of course always implies friendship, but can the idea of not doing harm serve as a dictum of hospitality let alone friendship? I shall not attempt to answer this question. But perhaps we can trace the source of such a dictum to the idea of a pact, or to the laws of hospitality that govern borders founded on a sense of self autonomy, more properly sovereignty as absolute ownership, with attendant rights, duties and limits. We find ourselves back in the realm of the laws of hospitality that we were trying to extend ourselves beyond.

To reopen the question again: what would “substitutability” mean in a situation such as Lawrence’s in our encounter with the strange, stranger and strangest? Agamben speaks of “*exiling oneself to the other as he or she is* in order to offer to Christ hospitality in the other’s own soul” to the extent that there is “no place of its own.” Agamben suggests that there is an empty place beside each one of us making substitution possible. Here, the substitution is not to be in the place of. That would assume that we can be the other, or fully experience what the other does. That this is impossible is almost self evident. Substitution is not to be in the place of, but to hold and give room to the other. It is a supplement not in the sense of compensating for what the other does not have, but it is a supplement in the sense that it is in excess of what the other has. For the other has an empty place as well beside itself. In other words, the empty supplement frees every boundary so that there is no place of one’s own. The space beside one is the common condition of being somewhere. Thus one gives one’s adjacent place for the other to use freely—in fact, one gives what one does not actually have, it is a fully negative capability, and one uses what one does not own or have legal rights over. In other words, hospitality would be very akin to the Franciscan creation of a space of free use rather than consumption.² Thus, when a snake is

at the water trough—it simply is. There is water, there is the snake and here I am, and we have in common is our thirst and the water beside each of us to slake our thirst. Just as I every day in my daily living and doing “thanklessly” occupy and use numerous (ostensibly) empty spaces beside my neighbor—be he or she a human being, animal, reptile, bird, or insect, so I too acknowledge the snake as my neighbor who comes to drink at the water trough, and I stand by for him to “depart peaceful, pacified, and *thankless*” (1.29) Far from a one is to one reciprocity, hospitality as substitutability is always a plus one.³ I am here because this vast space accompanies me all around and because I am here, this space can only be for the other.

In the following, I offer seminar participants a much abbreviated version of my introduction to HumAnimal: Tales of the Bio-Poltical. My emphasis here falls not on hospitality as a theme but on the stranger, more properly humAnimal as the intimate experience of the outside, the site of species trouble, the indeterminate zone between human and animal where the forsaken, the abandoned, the wretched continue to persist, continue to live. The following can be read as an attempt to follow the trail of that which is absolutely beyond the pact of the law —more a site of de-humanization and de-subjectification than an identifiable entity or figure. To welcome this place of absolute arrival, where as Derrida says “keeping silent is already a modality of possible speaking,” I attempt to locate humAnimal by raising three themes (in relation to de-subjectification): silence or muteness and its relation to language; the relation of law to language and silence; and the redeeming possibilities of silence. I am guided throughout by the following sentence: “Only the word puts us in contact with mute things” Agamben, Idea of Prose, 113

First Words

“Our age does indeed stand in front of language just as the man from the country in [Kafka’s] parable stands in front of the door of the law.”

Giorgio Agamben, Homo Sacer (54)

Many have observed that research within the humanities has recently turned towards the question of the animal. There has been a great proliferation of analyses of animality, most of which seek to interrogate the anthropocentrism of our ethical and legal presuppositions. Since

Peter Singer's Animal Liberation, there has been a plethora of work treating species bias or what has come to be termed speciesism⁴ But insofar as the speciesism approach has evolved most fully within the purview of animal rights advocacy, it belongs, as many others have noted, to the major political lineage of liberal rights discourse that runs counter to the perspective that questions rather than calls upon law to redress the violent effects of power. Most studies on animality justifiably focus their attention on our relations with non-human animals and contribute to our thinking about race and its political effects by way of analogy.⁵ The general premise is that we can discover the origins of the practice of (racial) dehumanization in our long history of managing the non-human animal world of other species. We are invariably led to posit a strict colonialist homology between our exploitation of nature and animals and of inferior peoples. Interestingly though, concern with species difference and animality does not necessarily entail an analysis of what Giorgio Agamben underscores as the practice of animalization,⁶ i.e. the actual and strategic deployment of the fundamental separating border founded on the ability for language as the nucleus of contemporary power. On the other hand, inquiry into the political effects of race is even less impacted by questions about animality, often confining itself within the purview of human rights. Though important questions are raised in both arenas, under what rubric can we inquire into the limits of that universal presupposition regarding human beings and their unique capacity for language?

My sense is that to focus on species impropriety would be to attend to a space that is in a fundamental relation to language and law, language as law. This equivocal space between human and animal testifies to the political effects of race discourse as (de)subjectification, or the loss of one's status as human, where one is neither properly human nor animal, neither having nor lacking language. Entering this indeterminate space, which I shall term humAnimal, demands that we integrate our thinking about animality and race (in relation to the role of language) rather than stacking them only in a relation of analogical similitude or even continuity based on degree of exploitation.

Within race discourse, de-subjectification is usually understood as a species of cultural invisibility. For instance, George Orwell writing about Marrakech in 1939 had this to say:

All people who work with their hands are partly invisible, and the more important the work they do, the less visible they are. Still, a white skin is always fairly conspicuous. In northern Europe, when you see a labourer

ploughing a field, you probably give him a second glance. In a hot country anywhere south of the Gibraltar or east of Suez, the chances are that you don't even see him. I have noticed this again and again. In a tropical landscape one's eyes takes in everything except the human beings. It takes in the dried-up soil, the prickly pear, the palm tree and the distant mountain, but it always misses the peasant hoeing at his patch. He is the same colour as the earth, and a great deal less interesting to look at. (Collected Essays, 184)

I suggest that it is not useful to assimilate humAnimal to this familiar notion of invisibility where there is a dissolving of boundaries, of becoming effaced or faceless where one falls into a back-ground, where ground and figure begin to merge—where one is a part of the landscape, or the furniture. However, as Ralph Ellison reminds us in his “Working Notes for Invisible Man,” invisibility can also be a condition of “extreme complexity,” (343)⁷ where the invisible become “to an extent invincible” (NIM, 344). Ellison writes that ‘Invisibility’ emerges from the signs of racial inferiority and also the “great formlessness of Negro life wherein all values are in flux...Its tempo of development... is so rapid that it throws up personalities as fluid and changeable as molten metal rendered iridescent from the effect of cooling air. Its class lines are fluid, its values unstable, and it is in conflict with the white world to which it is bound. Out of this conflict personalities of extreme complexity emerge, personalities which in a short span of years move from the level of the folk to that of the sophisticate, who combine enough potential forms of Western personality to fill many lives, and who are ‘broad’ in the sense of which Ivan Karamazov spoke.” (NIM, 343) In other words, there can also be a surplus of invisibility that is beyond the individuated, de-individuated opposition. My goal in this project is to begin an inquiry into what I call the fundamental resistance of humAnimal by pursuing muteness as possibility that is immanent to language and discourse. Rather than parsing the actual sociology of power and its strategies of subordination and subjugation (which have by now been exhaustively charted) can we now ask: what persists? What persists despite the discourses of animality and race, and can we honor the ‘whatever’⁸ that persists as a point of departure for...redemption?

Resistance-Muteness: In the context of de-subjectification and species trouble, whatever persists also in effect resists. Through an (unorthodox) inquiry of some of the figures that hover at the margins of language I suggest that humAnimal is that equivocal site that marks not only a living being's expulsion from norms but also an inherent refusal, a withdrawal from the

dominant discursive regime through a species of silence or muteness. But, in what sense can muteness be a form of resistance? Does not resistance usually imply speaking back to power, acting against power? Seeking to transform power turn it back against itself, overthrow it? This is of course the case if resistance is conceived only as opposition. But resistance etymologically also implies to stand, to withstand, (from the Latin *re-sistere* or *stare* to stand) a posture of impermeability, a certain imperviousness. Resistance not as a challenge, a will to overthrow, but a capacity to opt out, to reject *in toto*, to refuse, absolutely but silently the terms, the discourse, the language, the very grammar of power. However, it must be acknowledged that resistance as standing—(still standing)—insofar as it does not appear as immediately effective *vis a vis* power, seems weak and powerless. Insofar as it manifests first and foremost as a suffering, it is certainly not a triumphal or even a defiant position. Rather, such muteness can be confounding. If it has the capacity to affect power, it is one that does not so much change or overthrow it, but to make it stop. Power is confounded or stopped in its tracks. But perhaps even this is not intentional, as in a pre-meditated strategy. As a mode of sufferance, humAnimal simply goes on. It persists, as does a mad vagrant, a mongrel—human, animal—chased everyday on the streets, a squatter, a stray under the bridge, the wild bear, the tramp in the park who risks the police, the hungry that cannot be fenced out, the illegal who mole across the border every single day, a refugee who refuses to leave, the tired beast that will not be moved, and perhaps even the poor who get by—in short humAnimal also refers to that minimal whatever that persists in all those who do not have a right to be but however do persist dogged and undaunted. Insofar as they continue to remain, and haunt the borders of legality and decency they indicate the possibility of living beyond the reaches of power and thereby remind us of the limits of power. Their silence refers to that which remains non-totalizable. Always there is a witness.

Between Tongues: As a paradigm of such muteness, which I interpret as the resistance of humAnimal, I refer to a story by the turn of the century African American writer Charles Chesnutt entitled “The Dumb Witness” probably written around 1900.⁹ The story is one of Chesnutt’s “Conjure” stories set in North Carolina that utilize a layered framing device. Our narrator is a white Northerner John who pieces together what he hears told to him in black dialect by Julius an ex-slave. Chesnutt’s tale is of interest here as it pertains to a particularly resonant scene of subjection. It begins with our narrator who, during a visit to what was once a very prosperous plantation, observes a strange interaction between an old white man seated on a grand oak armchair and a black woman, his servant but obviously related to him in some way.

The old man seems to be questioning the woman in tones alternating between desperation and violence about the whereabouts of some papers. The woman seems unable to speak—and then rails incoherently at the man in a babbling and outlandish jargon. The narrator describes her ‘speech’ thus:

She rose from her seat, and drawing herself up to her full height—she was a tall woman, though bowed somewhat with years—began to speak. I thought at first in some foreign tongue. But after a moment I knew that no language or dialect, at least none of European origin, could consist of such a discordant jargon, such a meaningless cacophony as that which fell from the woman’s lips. And as she went on, pouring out a flood of sounds that were not words, and which yet seemed now and then vaguely to suggest words, as clouds suggest the shapes of mountains and trees and strange beasts, the old man seemed to bend like a reed before a storm... (160).

The narrator subsequently discovers through Julius a local ex-slave who now works for him that the woman, Viney, had been the old man Malcolm Murchison’s slave housekeeper. Murchison managed the plantation and the estates for his wealthy, childless, freewheeling uncle and did so with authoritarian zeal knowing full well that he stood to inherit the property at his uncle’s death. However, when the avaricious Murchison contracts to marry a rich widow and threatens to sell Viney unless she submits to being displaced by the soon to be wife and her no doubt tyrannical rule of the household, Viney approaches the would be mistress secretly and tells her something—Julius does not know what this something is and the text keeps it a secret from us—that results in the white woman breaking off her engagement with Murchison. Murchison, who discovers Viney’s betrayal punishes her by cutting off her tongue and banishing her from the house to a shack on the grounds. Meanwhile, Murchison receives a letter from his uncle announcing his own imminent death and affirming that Murchison as heir should retrieve the papers that include the will and other securities and mortgages that he had placed in a safe and secret place. The uncle’s letter instructs Murchison to ask Viney where these are kept as she is the only person (“of our blood”) that he had trusted with the secret. When Murchison approaches Viney lying in pain in her shack, he begins first with an apology. Chesnut writes that tears rolled down her face and she gestures at the pain in her mouth. Murchison, however makes it clear that he has only one interest and that is to learn the secret hiding place of the papers. Thus ensues a scene of mute resistance that unfolds over years and decades. Murchison tries everything in his

power to extract the secret from Viney—from threatening to pampering, as well as trying to teach her to read and write. But Viney, though she appears to want to communicate, is unable to speak. Steeped in her own loss she is also unable to grasp the rudiments of reading and writing as imparted to her by an ex-slave who has been hired for the purpose. She can only babble incoherently nodding negatively to Murchison’s barrage of questions about the place of hiding—somewhere in the house, the barn, the fields, etc. She cannot lead him to the place either, she seems to need words. Murchison meanwhile loses portions of his estate to other claimants and gradually loses his grip over the finances as well as his own mind. When the narrator sees them, they are two old and demented combatants locked together in a lethal battle over an unspeakable secret.

The story ends a year or so later when the narrator visits the plantation again to discover that Murchison has died and the property is now in the hands of Murchison’s nephew. The door is opened to the narrator by Viney. When the narrator asks for the master of the house, Viney replies in words that are not inarticulate that he is within. The astonished narrator discovers through Julius that Viney had never truly lost her power of speech and that upon Murchison’s death she had revealed the secret hiding place to the nephew. The papers were under the great oak armchair—grand as a throne that old Murchison had sat upon all his life even as he ruled the estate with violence and authority.

I regard this story as a paradigm for the mute resistance of humAnimal—an example of silence as a possibility, a potentiality of language to withdraw itself from the law. However, I would like to set aside some of the more obvious ways in which we can interpret Viney’s silence. Julius himself suggests through his expressions of glee that Viney had engaged in a deliberate and clever strategy of subversion and resistance. Another reading related to this interpretive tenor may also suggest that the story demonstrates the mutual dependence of master and slave, and that insofar as Murchison becomes obsessed with the papers, the possibility of the tables being turned on the master-slave relationship are ever present. After all Viney does “win” insofar as she effectively destroys the master in the lethal game of violence and deception that is slavery. While I would not dispute this line of interpretation, I would suggest that it elides some of the most interesting aspects of the story, the first and foremost being the word “witness” in the title. Witness to what? Surely, Viney is not merely a legal witness to Murchison’s inheritance? Her relation to the law is more complex insofar as through her silence she is the witness to the law’s own undoing. The story, I suggest is a proliferation of secrets that are centered on the very

structure of the secret as such and its necessary relation to silence and muteness.¹⁰ My interest in the story revolves around Viney's wounded tongue, her silence and her non-semantic jargon, and in her discovery of a possibility within language that is less an index of her will to vengeance than it is a manifestation of language in its relation to power—its power to generate and annul the law. I suggest that Viney's silence should be read in reference to a linguistic state of exception where the law is rendered inoperative. Let us take up this theme of silence, and the structure of the secret that accompanies it by briefly considering silence as a singular way of being in language that can disengage language from the law.

In other words, it is imperative that we do not valorize silence at the expense of speech, or in opposition to speech. While thinkers such as Michel Foucault and others have interrogated the technologies by which modern society exercises control over speech and what is sayable—i.e. what we could ever imagine saying—thereby silencing and excluding certain perspectives, the same thinkers also enjoin upon us a healthy skepticism towards what we can term as the politics of silencing. This dual task entails on one hand that we recognize the limits of the familiar ideology that aims only to restore the silenced to discourse; and on the other that we remain skeptical of the ideology of the ineffable as the plenitude of silence. In one case, speech is valued as freedom as opposed to powerless silence; in the other, silence is valued as pure presence opposed to the banal worldliness of speech. What would it mean to not oppose speech and silence, but to see each as immanent in language and to each other? More specifically, if dehumanization is always accomplished through multiple procedures of silencing, what would constitute an effective form of resistance other than restoring the subject to speech and meaning? What are some reasons for repudiating the presumption that putting everything into speech and breaking every silence is necessary for freedom? What are some alternatives to the great counter tradition of (what can be termed as) the politics of silencing?

In an essay entitled “In the folds of our own discourse’: the Pleasures and Freedoms of Silence,”¹¹ Wendy Brown addresses the dominance of confessional modalities of speech in feminist discourse. Critiquing what she aptly phrases as “compulsory feminist discursivity and the presumed evil of silences” (187) and venturing to open a fresh perspective on the relations among “silence, speech, and freedom,” Brown offers an insightful reading of a well known passage from Foucault's History of Sexuality (Volume I) and makes the following observation:

Silence, as Foucault affirms it, then, is identical neither with secrecy nor with not speaking. Rather, it signifies a relation to regulatory discourses, as well as a possible niche for a practice of freedom *within* those discourses. If, as Foucault insists, freedom is a practice (as opposed to an achievement, a condition, or institution), then the possibility of *practicing* freedom inside a regulatory discourse occurs in the empty spaces of that discourse as well as in resistance to the discourse. Moreover, silence can function as speech in both ways at once... (188)

Insofar as silence, as Brown suggests, is not identical with itself, but is something that is practiced within discourse, we must inquire as to what it is and how we can identify it. It may be more apropos to say, following Brown's observation, that though refraining from speech can itself be discursive and function as speech (pro and contra power), perhaps what silence is, is that which is not identical with not speaking. In other words, it is whatever remains in discourse that is neither simply speech nor taciturnity and is in an oblique relation to regulation and resistance as opposition. If it is indeed the very possibility of the practice of freedom, surely we must ask how we can effect silence as "the empty space" within discourse, how we can proliferate silence as silence not as a signifier of defiance or abstinence, but as empty spaces, condensed moments of a futurity that are immanent within the present spaces and moments of discourse? In fact, let us affirm that insofar as power is by nature loquacious, it can be taciturn but cannot be really silent—surely, we must also ask if the difference between taciturn resistance and silence does not also refer us to the difference between emancipation and freedom?¹² For surely, if we equate freedom not only with free speech but also with the "right to remain silent" then we invariably inscribe freedom as possible only within legal discourse, guaranteed to someone who is a legal entity, a modern subject of rights. Considering that the dehumanized are precisely those for whom the law does not function, and who have neither the right to speak nor to remain silent, who, in Arendt's words do not have "the right to have rights," it makes no sense to circumscribe freedom to the guarantees of the law. The law can grant taciturnity and thereby make available a place for refusal even opposition, but perhaps silence is not merely the deployment of resistance as opposition and though it is engendered by the law, it is that which also renders it ineffective.

Can we then think of the grey zone of silence between human and animal as a *linguistic* state of exception?

Law-Life-Language:

The concept of the state of exception refers to a political situation that in English and American law is called a state of emergency—a state that can be summarily understood as the suspension of the law (i.e. the constitution) or the norms of law. This concept has an important place within the history of political and juridical thought as it raises central questions in relation to the very nature of political power, such as the nature of legality, the nature of the absolute sovereign right by which a given authority declares a state of emergency, the relation of sovereign power to law as constituted, the contingency of norms and rights as such, etc. Debates around the state of exception center necessarily on the constitutionality of suspending the constitution. There are those who see this as entirely within the purview of the law—i.e. a suspension of the constitution in order to protect the constitution, versus those who see the suspension of the constitution as the revolutionary moment when a constituting power comes to the fore. What is important in either case is the paradoxical location of the sovereign. Paradoxical in the following sense: insofar as the kernel of sovereignty as the final juridical authority is this absolute right to suspend the constitution, it is itself outside the law. In other words, as Giorgio Agamben puts it in the opening pages of Homo Sacer: “The paradox of sovereignty consists in the fact the sovereign is, at the same time, outside and inside the juridical order.”¹³

What interests Agamben about the state of exception is how power is exercised here through its own suspension as the sovereign ban. In fact, all modern power, he suggests, works not through its direct punitive capacity, but rather by its power to create zones of lawlessness or anomie through a variety of methods such as suspension of all legal codes (basic civil and human rights, including homicide and habeas corpus), deliberate neglect of people abandoning and exposing them to arbitrary violence, and denationalizing citizens, as for instance in a concentration camp, or internment camps for refugees. In the state of exception, the law is not in effect, i.e. it is suspended, but it is in force as de-facto power. Every so-called outside of the law is inside the law’s purview. Agamben’s main point about the law (which he derives from Benjamin) is that given the anomie at its heart, its capacity to ban or expose the very life of human beings beyond every political, social, and civil identity, by utterly depoliticizing and consigning them to an absolutely minimal, animal, or inhuman state of survival or non survival, the secret nucleus of the law is disclosed. And what is this nucleus? It is the ancient trajectory of sovereignty to not merely capture, but found itself on that aspect of a human being that is

ostensibly excluded from the polis—life, mere life at its barest, most animal, inhuman, biological, and private, and impersonal level. More graphically, we can say that the law has the capacity to skin or gut human beings—to separate political skin from one’s animal or inhuman flesh. In modernity—as epitomized by the concentration camp—there is a total eclipse of life by the law, or to phrase it differently, there is a total union of life and law. Borrowing from Foucault, Agamben terms this unconditional union biopolitical. According to Agamben, the concentration camp is the paradigm of contemporary politics insofar as the law is increasingly experienced as inert but in force as de-facto power. The fundamental political task then would be to address this lethal juridicization and capture of a bare life stripped and isolated from its political form. This task as Agamben conceives it (mediated through Benjamin) would be not to reactivate the law, to restore it to its original efficacy, but to deactivate it, so that it is suspended and no longer in effect. In other words, it is to seize the *political state of exception* as a means of bringing about a “*real*” *state of exception* when the law is rendered inoperative. Agamben then envisions in a series of meditations moments when human being may exit this condition of sovereignty, when law releases its grip over bare life, and life [flesh] as such remains fundamentally inseparable from its form [skin] thereby delivering man to his potentiality.

Coming back to Viney’s silence (and bypassing for now detailed clarification of the theoretical issues that arise in the relation of language to law and the ways in which language can be peeled away from the law) in what sense is her silence a nullification of the law? Undoubtedly, slavery is paradigmatic of a state where the law does not address the slave as a subject and where the slave stripped of his/her political existence is reduced to a state of nature, exposed to an arbitrary and de facto law.¹⁴ Therefore, Murchison may cut off Viney’s tongue without being culpable in any way, and Viney has no recourse to a law that treats her as property. As the narrator says: “there was no one to say him nay. The law made her his. It was a lonely house, and no angel of mercy stayed his hand” (165). Slaves in general were denied the benefits of reading and writing thereby making it impossible for them to enter into contracts. But Viney’s punishment goes even further to deny her language itself—to deprive her of speaking—to condemn her to a living death where she is effectively shut up inside herself unable to communicate to another. But it will be protested that in fact she does not lose her capacity for speech but merely dissimulates muteness. And given her successful strategy of revenge she renders Murchison as much an exile as she herself is. But that in itself does not tell us anything about her silence.

It is clear from what Julius tells the narrator that no one knew that for all those years Viney still had the ability for speech. What we know is what Julius says, and that is for years Viney has not spoken except to babble and rave incoherently every now and then. However, if in fact she chose for her own reasons to stay mute despite her ostensible ability to speak, her silence acquires greater significance as something she could do. Her silence then is not imposed from without as a sign of her weakness, it is assumed by her as agency. But we also know that not only did Viney not speak or communicate for years on end, but it was suspected that she too was mad, quite mad. At best, we can surmise that at Murchison's death she is released from the bondage of her own self-imposed silence. But, is not her choice to remain mute and to stay on with Murchison after her manumission itself a sign of her madness? Also, how can we understand the idea that her silence was effectively a nullification of the law? If as the narrator puts it "the law made her his" then the law in effect suspends itself with reference to the master-slave relation, or more precisely, it invests the master with absolute sovereign authority. For Viney, he is the final law. If the force of law that accrues to Murchison is in good part owed to his wealth (his ability to own himself and others) and if this de-facto power is granted de jure by inheritance laws—laws of property which render her mute as subject, then Viney effectively through her muteness nullifies the law's capacity to grant him this power. Through her silence she renders the law entirely powerless and unenforceable. The law is suspended (the inheritance laws are ineffective) and also not in force insofar as Murchison can do nothing about her. In other words, the true secret of her silence exceeds factual knowledge of the papers. Her silence should be read not as a silence about something, but her capability for silence which manifests as simple persistence—where by accessing the place where she can and can-not have language, she withholds herself from power. Viney is a witness not so much to a legal secret, but to the secret of her silence. In a sense, Viney's discovery of her ability to be mute is effectively to grant herself a holiday from the law—to not just live outside, or at the door of the law, but to succeed in closing the door, if not permanently then at least for a short while to live in a pure "anomic" non-relation to the law.¹⁵

Returning then to our opening theme of hospitality and substitutability, what is the relation between silence as the nullification of the law and hospitality? In what sense is hospitality something that can begin only with the silence that closes the door of the law? How can true hospitality begin with a closed door?

Rather than try to answer this impossible question with a proposition, I offer a story:

The Mute Prince

Once, a much longed for heir was born to the powerful and wealthy king Sakka of Benares. There was great rejoicing throughout the kingdom. When the baby was one month old, he was dressed in fine clothes and was fed sweetened milk, was given the name Temiya for he was born on a rainy day, and was placed on the king's lap to witness his great power as he held court. Four criminals were presented to him. The king ordered the first to be put to death, the second to be imprisoned for life, the third to have his body impaled and the fourth to have his eyes put out. The babbling baby was speechless with horror at the king's power. Later as he lay in his crib, wondering how he could avoid the fate of becoming a cruel king himself, he heard a voice advising him to be mute, to use his capability to not move or speak. And so it was that the little infant prince, to repudiate his inheritance and his father's power, gathered his own within himself and resolved to remain speechless and unmoving. As he grew up, many were the devices some clever, some stupid, and some outright cruel that were used to rouse the prince from his infancy. But to no avail. Exasperated, the king called in the soothsayers for an answer, who to cover their ignorance, said: the prince is a danger to you and your kingdom. Have him taken out by the western gate, out of the kingdom and once outside, dig a grave, have him killed and throw him into it. The king, believing in this threat to his body and his kingdom called his old servant Sunanda and entrusted him with the duty to take the boy out of the kingdom and kill him. The servant with a heavy heart escorted the prince to the city gates and once they were outside the kingdom stopped in a quiet place and began to remove all of the prince's royal clothes and insignias. Temiya the prince felt as though a great rock had fallen from his back. He was at last banished from the kingdom and had lost all rights to his inheritance, and to the city itself. Thereupon he rose up for the first time in his life, flexed his arms and legs, turned to Sunanda and spoke in a hitherto unheard language that like the clear rain rang of speechlessness and silence. The humble Sunanda was astonished by this miracle, but fully grasping from the brilliance radiating from Temiya's face that he was not other than *such as he was*, the servant hurried back to the city and informed the king. Sick to his heart of his own bloody right, powerful Sakka wept for his own law and his subjects. In the end, the king and the city came to think that they too should learn to find a way out of the city towards that form of life beyond the law and its power. Thus began the hope of an exodus from sovereignty. But Sunanda could not trace the road he had taken, and they could not find their way to that place where the prince had gone. To this day, the king and the city are yet seeking that way to a coming community.

¹ In “The Reality of Peace” Lawrence writes in his famous pop psychology vein: “If there is a serpent of secret and shameful desire in my soul, let me not beat it out of my consciousness with sticks. It will lie beyond, in the marsh of the so-called subconsciousness, where I cannot follow it with my sticks. Let me bring it to the fire to see what it is. For a serpent is a thing created. It has its own *raison d’être*. In its own being it has beauty and reality. Even my horror is a tribute to its reality. And I must admit the genuineness of my horror, accept it, and not exclude it from my understanding. . . I must make peace with the serpent of abhorrence that is within me. I must own my most secret shame and my most secret shameful desire” and so on. Reprinted in Phoenix: The Posthumous Papers, 1936, NY: Penguin, (677-678)

² In both The Time That Remains as well as Profanations, Agamben refers to the Franciscan creed of use without property or consumption. In The Time that Remains, he writes of this creed with reference to the messianic vocation: “To live messianically means “to use” *klēsis*; conversely, messianic *klēsis* is something to use, not possess...[T]o conceive of the order as a messianic community and dissolve the rule that was conceived of as a form of life in the gospel. . . for Olivi as for Angelo Clareno, what mattered was to create a space that escaped the grasp of power and its laws, without entering into conflict with them yet rendering them inoperative” (26-27). Again in “Praise of Profanation”, Agamben writes: “the Franciscans asserted the possibility of a use entirely removed from the sphere of law [*diritto*], which, in order to distinguish it from usufruct and from every right [*diritto*] to use, they called *usus facti*, de facto use (or use of fact). (Profanations, 82)

³ See Derrida Of Hospitality p.81

⁴ See for instance, Peter Singer Animal Liberation : A New Ethics for Our Treatment of Animals NY: Avom, 1975); Tom Regan The Case for Animal Rights (Berkeley: University of California Press, 2004) Paola Cavalieri, and Peter Singer The Great Ape Project: Equality Beyond Humanity NY: St Martin’s 1993).

⁵ In Animal Rites: American Culture, the Discourse of Species, and Posthumanist Theory Chicago UP: 2003, Cary Wolfe writes: As long as this humanist and speciesist *structure* of subjectivization remains intact, and as long as it is institutionally taken for granted that it is all right to systematically exploit and kill nonhuman animals simply because of their species, then the humanist discourse of species will always be available for use by some humans against other humans as well, to countenance violence against the social other of *whatever* species—or gender, or race, or class, or sexual difference. . . .[T]he humanist discourse of species not only makes possible the systematic killing of many billions of animals a year for food, product testing, and research but also provides a ready-made symbolic economy that overdetermines the representation of women, by transcoding the *edible* bodies of animals and the *sexualized* bodies of women within an overarching “logic of domination”—all compressed in what Derrida’s recent work calls “*carnophallogocentrism*.” (8)

⁶ Giorgio Agamben, The Open: Between Man and Animal Trans. Kevin Attell Stanford UP, 2004, p. 36.

⁷ In The Collected Essays of Ralph Ellison edited John F. Callahan, NY: The Modern Library, 1995 (343-345) Henceforth cited in the text as “NIM”.

⁸ See Agamben’s piece “Qualunque” in La Comunità Che Viene Torino: Bollati Boringhieri, 2001 translated as “Whatever” in The Coming Community (1-2) by Michael Hardt, Minneapolis: University of Minnesota Press, 1993. Agamben writes: “The Whatever in question here relates to singularity not in its indifference with respect to a common property...but only in its being *such as it is*”(1).

⁹ According to Werner Sollers in his Note to the Library of America edition of Chesnut’s works, the story “was not published during Chesnut’s lifetime. The version that appears in The Conjure Woman and Other Conjure Tales, edited by Richard Brodhead (Raleigh-Durham: Duke University Press, 1993), is based on two drafts of the story in the Charles Waddell Chesnut Papers at Fisk University Library. The earlier and more complete of these drafts is a 21-page typescript which is missing its second page; the other typescript version, comprised of eight pages, represents a later stage of revision but is fragmentary and incomplete. The Duke edition is a composite text based on these typescripts, following the later typescript wherever it exists and using the first typescript for the remainder of the story. “The Dumb Witness” was revised and incorporated with an altered ending into Chapters 19 and 35 of Chesnut’s novel The Colonel’s Dream (1905)” (927).

¹⁰ But again, these secrets cannot be assimilated merely to the omission of facts about which we can pose questions such as the following: what is the true relation between Viney and Murchison? What is the unspeakable secret that Viney and Murchison share, the price of which when broken is the tongue itself? What are Viney’s true motivations? Was she really mad or was she pretending to be so? After the civil war and the liberation of the slaves, why did Viney, who was free to depart, choose to remain in the oppressive relationship with Murchison? And so on.

¹¹ Wendy Brown “In the ‘Folds of our own Discourse’: The Pleasures and Freedoms of Silence” University of Chicago Law School Roundtable (1996) 3:185–97.

¹² Hannah Arendt’s On Revolution is perhaps devoted to the question of the difference between these two terms. In this context, I propose that we read Viney’s decision to stay at the plantation with Murchison after her manumission as her refusal to accept mere emancipation, thereby pushing with her silence all the way to freedom.

¹³ Further, he writes: “If the sovereign is truly the one to whom the juridical order grants the power of proclaiming a state of exception and, therefore, of suspending the order’s own validity, then “the sovereign stands outside the juridical order and, nevertheless, belongs to it, since it is up to him to decide if the constitution is to be suspended *in toto*” (Schmitt, *Politische Theologie*, p.13). The specification that the sovereign is “at the same time outside and inside the juridical order” (emphasis added) is not insignificant: the sovereign, having the legal power to suspend the validity of the law, legally places himself outside the law. This means that the paradox can also be formulated this way: “the law is outside itself,” or: “I, the sovereign, who am outside the law, declare that there is nothing outside the law”. (Homo Sacer, 15)

¹⁴ See for instance George M. Stroud’s A Sketch of the Laws Relating to Slavery in the Several States of the United States of America (1856), NY: Negro Universities Press, 1968.

¹⁵ I allude here to Agamben’s reading in Homo Sacer (49-57) of Kafka’s legend “Before the Law” where the man from the country who seeks admittance to the law is denied entry by the doorkeeper and eventually languishes to death. Agamben writes: “Significantly, in the last analysis all the interpreters read the legend as the tale of the irremediable failure or defeat of the man from the country before the impossible task imposed upon him by the Law. Yet it is worth asking whether Kafka’s text does not consent to a different reading. The interpreters seem to forget in fact, precisely the words [of the doorkeeper] with which the story ends: ‘No one else could enter here, since this door was destined for you alone. Now I will go and shut it.’” If it is true the door’s very openness constituted, as we saw, the invisible power and specific “force” of the Law, then we can imagine that all the behavior of the man from the country is nothing other than a complicated and patient strategy to have the door closed in order to interrupt the Law’s being in force. And in the end, the man succeeds in his endeavor, since he succeeds in having the door of the Law closed forever (it was, after all, open ‘only for him’)... (55)