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A Body Worth Having?

Or, A System of Natural Governance

Ed Cohen

Is the body the vessel which holds the true self locked within it? Is the skin the frontier between ‘inside’ and ‘outside’? What in man is the capsule, and what the encapsulated? (Norbert Elias, *The History of Manners*)

The Body is Not a Defensible Boundary

When John Locke famously avowed in *The Second Treatise on Government* [1689] that: ‘Every Man has a Property in his own Person. This no Body has any right to but himself’ (II § 27), he established a philosophical axiom that affirmed the rights of citizens. From the Lockean perspective – a perspective which has profoundly informed much discussion about political and economic rights since then – we enter into the public domain as owners of our bodies and the labor of those bodies and this property-in-ourselves cannot be taken from us without due process of law. Indeed, according to Locke, the right to own property itself derives from this fundamental proprietary self relation: ‘though the things of nature are given in common, yet man, by being master of himself, and proprietor of his own person, and the actions or labour of it, had still in himself the great foundation of property’ (II § 44). In so far as they incorporate this Lockean perspective, our legal and economic notions of individualism and individual rights (such as the right to property) rest on the premise that as embodied persons we possess ourselves.¹ It seems a simple enough formula: *to be* a (legal) person means *to have* a body.² Starting from this proprietary premise, we derive the most basic concepts that organize our political and economic lives. For example, our prevailing notions of freedom, on the one hand, or wage labor, on the other, both owe their significance to Locke’s seminal formulation. Framing our most basic forms of social and personal engagement, these concepts saturate our self-understanding about how we live, both as humans among other humans and as organisms in the world. Indeed, the imaginary

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equivalence between 'being a person' and 'having a body' has long since passed over into our daily lives, so that 'having a body' now makes us known to ourselves in very immediate and intimate ways.

Quite likely, this being/having a body formula *feels* familiar enough to most of us who live within the ambit of Western political rationality, or indeed Western political ontology.³ Taking care of our bodies has become the cultural equivalent of maintaining our capital. The body is a kind of property that we invest in – psychically and financially – because 'it' gives us back to ourselves. We can exercise 'it', we can liposuction 'it', we can work 'it', we can neglect 'it', because 'it' is ours to control. Conversely, whatever we do, or do not do, with and to 'it' seems to tell us something profoundly true about who we are. If our bodies are fit and 'well defined', we seem healthy, energetic and productive; if our bodies are under-exercised and overweight, we are self-loathing, lazy and depressed. But what exactly do we mean when we say: 'I have a body'? Who or what is this 'I' that 'has' 'a body' anyway? And how and why does this 'having', this possessing, of 'a body' confer legal and psychological personhood on us? Does such bodily possession necessarily define a mode of 'self ownership'? Is distinguishing between the notions of 'being an organism', or even 'being alive', and 'having a body' just a matter of semantics? Or are there pragmatic, bio-political consequences to the ways we construe our vitality and embodiment? Can thinking about 'the body' as a (or even, *the*) matter of 'self possession' tell us something interesting about how 'personhood' informs our lives? After all, what is 'the nature' of 'the body', if it can be possessed in such a manner? And does this proprietary way of thinking exhaust the possibilities for how we can imagine what it means to be an organism, a person, a citizen or a human?

Consider for a moment a rather different way of conceiving embodied personhood: translating the worldview of her native people, the Okanagan First Nations (an indigenous people who claim descent from the lands of western Canada now called British Columbia), for a non-native readership, Jeanette Armstrong, a member of the traditional council of the Penticton Indian band, lyrically describes the Okanagan understanding of 'physical self' (one of the four 'capacities of the self').

Okanagans teach that the body is the Earth itself. Our flesh, our blood, and bones are Earth-body; in all cycles in which Earth moves, so does our body. We are everything that surrounds us, including the vast forces that we only glimpse. If we cannot continue as an individual life form, we dissipate back into the larger self. Our body-mind is extremely knowledgeable in that way. As Okanagans we say the body is sacred. It is the core of our being, which permits the rest of the self to be. It is the great gift of our existence. Our word for *body* literally means 'the land-dreaming capacity'. (1996: 463–4)

Armstrong's translation of the Okanagan sense of 'body' emphasizes characteristics that diverge from the dominant Western understanding of 'having a body'. 'Body', for the Okanagan, derives from and participates in the being

(and the well-being) of the planet; in this cosmological ontology we *are*, literally and materially, pieces of the earth. In Armstrong's account, body names a 'capacity' not an object; thus, it evokes a set of potentialities that endure only so long as they are viable, or perhaps 'dreaming'. 'Individual' refers neither to an intrinsic quality of personhood, nor to a way of being a person, but rather specifies a 'form' of aliveness that is both contingent and temporary. 'Body' then does not denominate a possession that we have, but rather embraces 'the great gift of our existence' which we *receive* – perhaps with gratitude – for a limited duration of time.

Lest you think that I am romantically appropriating the Okanagan worldview for my own purposes, let me assure you that this critical assessment does not emerge only from the non-modern domains shaped by indigenous personhood. It also appears, for example, within the consummately Western, high-tech provinces of contemporary bio-science. Theoretical biologist Dorian Sagan has recently elaborated the political implications arising from the recent bio-scientific perception that organisms evolve not just by competition and 'survival of the fittest' but also by cooperation and symbiosis. In this project, he draws on the germinal insights of evolutionary biologist and bacteriologist Lynn Margulis, whose work has radically recast the basic understanding of cellular life, affirming that all nucleated cells represent the successful fusion of two or more bacterial lineages (see Margulis, 1970, 1981; Margulis and Sagan, 1986, 1997, 2002). Sagan describes the multi-cellular organisms that arise from such bacterial combinations as 'chimeras', and notes:

The human body is an architectonic compilation of millions of agencies of chimerical cells. [. . .] These cells themselves appear to represent the latter-day result, the fearful symmetry, of microbial communities so consolidated, so tightly organized, that they have been selected together, one for all and all for one, as societies in the shape of organisms. [. . .] The body can no longer be seen as single and unitary. It is a multiple, even if orchestrated by vicissitudes and harmony over evolutionary time. We are all multiple beings. [. . .] *The body is not one self but a fiction of a self built from a mass of interacting selves.* A body's capacities are literally the result of what it incorporates; the self is not only corporal but corporate. (1992: 368–70)

Here Sagan asks us to refigure the unit of analysis that we take as the foundation of our self conceit. Drawing our attention to the biological complexity that multicellular organisms necessarily incorporate, he calls our attention to the '*fiction*' that we invoke when we apprehend 'the body' as a singularity, which seems to naturalize our status as individuals. Instead, he suggests that we disrupt this modern worldview and embrace a non-modern perspective, which he labels 'medieval-microcosmic', in order to affirm a fundamentally different political ontology:

We are metametazoans, metazoans whose industrial pollutants, ecological impact, and telecommunications have not only altered the shape of life on

Earth but forced us to recognize the environment of life as a totality with shared destiny, as a single, integrated, sensitive, and sensing system. (1992: 380)

Like Donna Haraway (1992) who affirms the ‘promise of monsters’ as offering a critical ontology that de-stabilizes the anthro-centric hubris of human agency, Sagan challenges our economic, epistemological, psychological and political investments in the singularity of ‘the body’ in so far as it has come to serve as a metonym for a type of person who can be interpellated as a qualified subject. ‘The body’, figured as a kind of being that can be ‘had’ by those who live though the multiple agencies localized within ‘it’, unconsciously and unwittingly gives shape to the forms of subjectivity and belonging that define the ambit of modernity. Moreover, it does so by situating the modern way of being human that we call liberal personhood within this bodily fiction as if this were its ‘natural’ home.

I begin my discussion of modern ‘liberal’ personhood with these two ‘non-modern’ examples – of which there are obviously myriads – in order to remind us that there is no necessity or inevitability behind our commitment to ‘having a body’ and its various sequels (including the presumption that ‘the worth’ of the body defines ‘the worth’ of the person, the logical and political basis for biologized forms of racism, sexism, homophobia, xenophobia, class oppression, etc.). But even apart from these culturally or theoretically distinct possibilities for conceiving human embodiment, the *logic* which underlies the concept of ‘the body’ as a thing-to-be-possessed itself may no longer make complete sense. For, if we reflect for a moment on what we actually refer to when we say ‘the body’ or ‘my body’ – as in ‘my body is totally out of shape’ or ‘I wish that my body looked like one of those models in the magazines’ – we might find that, rather than manifesting a thing-like substantiality, or well-defined appropriability, corporeal being unfolds in time as a concatenation of bio-molecular transformations of matter and energy localized in space. This time-space localization forms both what we call ‘a body’ and what we call ‘a life’. Moreover, such a ‘life form’ can only exist in contexts that sustain its aliveness, a context-dependence that disturbs any essential distinctions between ‘the body’ and ‘the environment’.⁴ Hence, we might argue that our common understanding of ‘the body’ as both formally discrete and politically, socially and/or psychologically fundamental poses something of a paradox: how do evanescent, contingent and continuous processes get construed as a separate and distinct ‘individual’?⁵ And why are we so invested in separation and distinction anyway?

Obviously, such reflections on the context-dependent transitivity of embodiment do not necessarily impugn the ‘body-as-property’ formula *per se*. In fact, as we will find below, it was precisely in order to encompass such incessant mutability that Locke founded his notion of ‘man’ so explicitly on a transitory phenomenon that he called ‘the same body’. Nevertheless, in order to imagine the ‘sameness’ of ‘the body’, let alone to imagine

‘the body’ as a thing, a possession or a kind of property, one must first take another conceptual leap and imagine ‘the body’ as circumscribed within a well-defined perimeter. This boundary condition underlies all acts of appropriation since, in order for property to exist at all, it must be defined. The unbounded or the infinite cannot be owned as such. The basic difference between an expanse of the earth’s surface and a ‘piece of property’ inheres in the imaginary (and yet oh so material) work that first delimits the ‘piece’ as a coherent, separable part and then distinguishes this piece from all others by assigning its immanent potential to an owner. The boundary that defines land as property does not emerge from the land itself. Rather, it enters the world through a human decision (in the etymological sense of a violent cutting or rending) that renders the particularity of this part of the planet ‘ownable’, or indeed owned, by conceptually dividing it – both spatially and temporally – from the continuous unfoldings and enfoldings of planetary processes.⁶

In order for something – or some *thing* – to be someone’s – or some *one’s* – property, the boundary that has been drawn around it must be defensible. In ‘owning’ property, in making it sensible and tangible as our ‘own’, we lay claim to it though a duration of time. Property ownership necessarily entails a disposition which enables us to act as agents or subjects in relation to whatever we possess for however long we possess it. Property ownership constitutes a form of dominion and dominion manifests a force or power that resists and repels all opposing forces or powers within its domain. If a boundary does not contain the domain within which this force or power – this agency or subjectivity – can freely act, then the distinctiveness of the property is lost. Applying this proprietary principle to ‘the body’, then, we assume that the absence of the body’s well-defined boundary results either in death or servitude.⁷ All challenges to the boundedness of ‘the body’ must appear as threatening, if not life-threatening, and must be repelled, even at great cost, since the possibility of peaceful coexistence is foreclosed by the exclusivity that property ownership implies. Thus, we find, underlying the logic which (mis)takes the human body for a kind of property, the assumption that ‘the body’ forms a defensible boundary. Such proprietary and defensive assumptions take us far from either the Okanagan belief that ‘the body is the Earth itself’ or Sagan’s claim that ‘we are metametazoans’. Yet these assumptions circumscribe the world in which we live, in so far as we live ‘in’ our bodies. So how did we come to dwell in this world? And is this the only possible world that can sustain our lives?

***Habeas Corpus*, or Embodying a Ground to Stand On**

During the 17th century, Western Europe was a fairly tumultuous place to live – to say the least. Religious and political conflict immersed much of the continent in wars of one sort or another for much of the period. Transformations wrought by the economic effects of colonialism, as well as by the changes in state policy designed to capitalize (literally) on the new forms of wealth flowing in (or taken) from Africa, Asia and the Americas,

gave rise both to new forms of conflict between and to new conflicts within nations. The gradual disaggregation of feudal relations between people and land challenged traditional notions not only of social relations among people but of personhood itself. New classes of citizens began to benefit from the circulation of wealth and to achieve greater social and geographical mobility. Religious dissent, and especially new sects of Protestantism, shifted perceptions about God's place in human lives and hence about the place of humans in the world. These shifts in religious perspective also underwrote challenges to the political legitimacy of the monarchs who previously claimed their authority by divine right. Religiously motivated conceptions of royal prerogative became increasingly untenable in contexts where God's immanence was available to all. Thus, as the rationality of states shifted from political theology to political philosophy, traditional organizations of power and control were challenged if not re-imagined. While the shifts throughout Europe were not synchronous or homogeneous, and indeed took quite divergent paths (as in the cases of England, France and the German states), the processes of political, economic, religious, philosophical and social change instigated widespread reconsiderations of how the world organized itself. Indeed, the names of the thinkers associated with this period (Descartes, Galileo, Leibniz, Newton, Spinoza, Hobbes, Locke, etc.) serve as a convenient shorthand for such radical reconsiderations.

Certainly this summary does little justice to the complex unfolding of events that transpired during the 1600s and early 1700s; nevertheless, it does gesture toward the horizon within which 'the body' came to replace 'the soul' as the founding locus for political subjectivity. The primal scene for this profound imaginary metamorphosis was England. Here in the bloody crucible of civil war and revolution – from the beheading of one king to the expulsion of another and the subsequent importation of a third – coalesced new theories of political allegiance and subjectivity which continue to serve as the basis for political and economic thinking about personhood even today. One such enduring theoretical precipitate was Thomas Hobbes's *Leviathan* (1651), the infamous tome in which Hobbes conjured a political ontology 'geometrically' derived from the physics of 'bodies' (meaning objects with mass) and motion. Following a rigorous path of logical exposition from this initial material premise, Hobbes affirmed what he took to be an indisputable basis for securing the cohesion of the commonwealth. Written on the cusp of the English Civil War (Hobbes fled to Paris after its publication, fearing reprisal from a Parliament that might construe him as a Royalist), the *Leviathan* sought to establish a rational ground for political sovereignty that had no need of divine authority either to assert its legitimacy or to command obedience.⁸ In fact, though Hobbes nowhere foreswore religion per se,⁹ his perspective was perceived to be sufficiently 'god-less' to warrant (almost) his official castigation as an atheist in 1666.¹⁰ Grounding his theory of state in a political ontology – or indeed natural philosophy – of bodies, Hobbes's infamous text underwrote the invention of a new

secular political imaginary that no longer needed or wanted the divine to sanctify its aims.

The manifestations of this secular rendering of the state or ‘commonwealth’ reverberated throughout the political and philosophical mutations which transpired during this era. By imagining national cohesion as deriving not from God *per se* but from ‘reason’ and ‘natural law’ (albeit both given by God), Hobbes refigured the ‘body politic’ as material and immanent rather than immaterial and transcendent. This shift in the political terrain from theology to philosophy, from soul to body, proved to be radical, for it recast politics as a matter *of* human rationality and thus *for* human intervention and change (despite Hobbes’s intention to found a polity that was invulnerable to upheavals). Until the mid 17th century, European monarchs claimed, and were largely understood, to derive their authority and sovereignty from divine dispensation. As a consequence of this divine investment, earthly power organized itself vertically – from the top down – flowing out from the God-head onto the crowned heads (by way of the angels and other disembodied beings) and from there down to the various anointed potentates, nobility, gentry and so on, down to the lowliest peasants, women, animals and plants. This explicitly hierarchal ranking, which Arthur Lovejoy (1936) famously described as ‘the great chain of being’, definitively ordered one’s soul according to the ‘degree’ of one’s birth.¹¹ Within this hierarchical ordering, the monarch had an exemplary provenance for he (or rarely she) embodied not just the divinely anointed sovereign, but as such also the nation, its territory, and its people itself. This sacralization of the crowned prince (who was needless to say also a mortal organism) as the incarnation of the body politic produced a peculiar dualistic doctrine that Ernst Kantorowicz (1957) denominated ‘the king’s two bodies’.¹² Within this political theology, the sacred body of the nation cohabited with the mortal body of the sovereign for as long as the monarch’s body lived.¹³

One of the many consequences of this two-body doctrine was that everything in the nation (land, dwellings, moveable wealth, people, livestock, etc.) belonged to the monarch in as much as it was ultimately part of the crowned head’s ‘corporate body’.¹⁴ Yet even if God gave the monarch this proprietary interest as part of his divine investment, historical precedent secured this privilege as well. As Michel Foucault explains, the theory of monarchical possession claimed the crown’s proprietorship as a divine *and* a historical right:

When James I told the Star Chamber that kings sat on the Throne of God, he was obviously referring to the theologico-political theory of divine right. But in his view, his divine election – which effectively meant that he owned England – had been prophesied and guaranteed by the Norman victory. . . . [I]t implied that England had been taken into possession, and that all English lands belonged to the Normans and the leader of the Normans, or in other words, the king. It was insofar as he was the leader of the Normans that the king was effectively the owner or the proprietor of the land of England. (1997: 102)

Certainly, specific delegations of parts of the realm could be made, so that land, dwellings, wealth, people and animals could be accorded to families and individuals who were then entitled to their various holdings. However, these holdings were ultimately subject to the exercise of royal prerogative (for example, in the forms of taxation, secondment, forced loans, arbitrary imprisonment, punishment, and even execution) and thus not necessarily immune from arbitrary seizure or destruction. James I made this point succinctly to the Houses of Parliament in 1609 when he avowed: 'For to Emperors, or Kings that are Monarchs, their subjects' bodies and goods are due for their defense and maintenance' (in Burgess, 1992: 848). Framed by the theory of divine ordination, the King's claim was extensive and knew few proprietary bounds, not even the bounds of the subjects' bodies. Thus, as Foucault has so graphically characterized it, within this organization of power, the monarch effectively exercised the right 'to take life or let live' (1980: 136).¹⁵

Under different monarchs with different understandings of their prerogative, citizens and properties, 'bodies and goods', were more or less imposed upon. Yet the potential assertions of royal prerogative, however benign, always ran athwart the citizen's experiences of freedom. During the 17th century, the descendants of James I – to whom Francis Bacon attributed the aphorism: 'Kings rule by their laws as God did by the laws of nature' (quoted in Milton, 1998: 684) – took an aggressive, if not in fact 'absolutist', perspective on their prerogative. Indeed, the Stuart monarchs appeared to understand the 'absoluteness' of their rule as a 'natural' result of their unique and sovereign ability to (metaphysically and politically) transform legislation passed by Parliament into 'law' (Daly, 1978).¹⁶ As a consequence, they often understood themselves *to be* 'the law', or even *above* the law, which was a more contentious proposition altogether. As things turned out, this absolute investment in their paramount legal status did not do much for their longevity, either as monarchs or as people. The execution of Charles I and the expulsion of James II punctuated a century during which various challenges to royal power were made in the name of diverse religious, political, economic and social interests. In the midst of this period of unsettled authority, and in order to establish principles of governance that would mitigate those excesses of royal power which repeatedly catalyzed popular opposition to the crown, legal and political changes redefined some of the fundamental principles of governing.

One of the most enduring of these changes – indeed one whose significance has remained unsurpassed from then until now – was the Habeas Corpus Act of 1679 (Act 31 Chas. II. c. 2). Passed during the reign of Charles II (the monarch restored to power in 1660 after the Cromwellian interregnum that followed the beheading of his father Charles I in 1649), the Habeas Corpus Act installed a principle of limitation on royal or state prerogative that continues to define the legal limits on executive authority today.¹⁷ While the basic principle which the Habeas Corpus Act affirmed – namely, that the monarch, though sovereign, was bound by natural and

common law – had been implicit in English jurisprudence since the signing of the Magna Carta, in practice things were not always so clear.¹⁸ Monarchs could circumvent writs of *habeas corpus* by various legal maneuvers, including assertions that the crown held powers of discretionary imprisonment, which seemed to call the whole principle into question (Guy, 1982; Reeve, 1986). During the parliamentary debates leading up to the Civil War, Charles I's disregard for the legal status of English property and persons generated much discussion about whether or not he had abrogated his monarchical responsibility and therefore his monarchical authority (and ultimately his right to his monarchical head). Needless to say, in the wake of the Restoration and Charles II's accession to the throne, there was much less tolerance of the Crown's disregard for the rights accorded by natural and common law. While the details of the passage of the Act are not important here, suffice it to say the general tenor of the discussion affirmed 'the sanctity of the lives, liberties and properties of Englishmen' (Nutting, 1960: 536).¹⁹

The central claim of the Habeas Corpus Act is very simple: the executive cannot imprison people unless it can show that it has a lawful reason to do so. In order to ensure this legal protection against unlawful imprisonment, a prisoner can obtain a writ of *Habeas Corpus ad subjiciendum* which the responsible authorities must answer by bringing the detained person before a court where the case for detention can be heard.²⁰ As the Act states:

That wheresoever any person or persons shall bring any *habeas corpus* directed unto any sheriff or sheriffs, gaoler, minister, or other person whatsoever, for any person in his or their custody . . . the said officer or officers, his or their under-officers or deputies, shall within three days after the service thereof . . . bring or cause to be brought the body of the party so committed or restrained, into or before the lord chancellor, or lord keeper of that great seal of England for the time being, or the judges, or the barons of the said court from which the said writ shall issue . . .²¹

Here, the presentation of 'the body of the party so committed or restrained' in court establishes the limits of the executive function of government. The legal formulation *Habeas Corpus ad subjiciendum* addresses itself (albeit deferentially in the present subjunctive) to the Crown's representative or agent as a competing form of subjection. Literally *Habeas Corpus ad subjiciendum* translates as: 'You may/should have the body for submitting'.²² This 'submitting' renders 'the body' as the limit of the monarch's power to exercise its authority legally over its subjects. Upon receiving a valid writ, whosoever 'has' 'the body' must present 'the body of the party' to the court in order to allow the court to exercise its legal jurisdiction, which is in fact the jurisdiction of 'the law' per se. Under this doctrine, 'the body' appears as both a natural and a legal metonym for 'the person' that inscribes a judicial limit to the Crown's exercise of violence on its subjects. 'The body', in this formulation, is decisive precisely because it marks a 'natural' or 'immanent' locus of resistance to the divine and transcendent assertions of

authority that underwrote royal prerogative.²³ In other words, in response to the monarch's assertion of spiritually ordained power over 'bodies and goods', 'the body of the party' emerges as a material impediment, forming the ground, as it were, on which the citizen-subject can stake its formal claim to due process of law.

Under the auspices of the Habeas Corpus Act, which formalized the application of the principle as universal (except when it gets suspended),²⁴ 'the body' legally appears as the counterpoint to monarchal violence. Theologically grounded theories of royal sovereignty and prerogative affirmed the monarch's ordained right to exercise violence both in declaring war abroad and in punishing and/or killing subjects at home. Within this other-worldly framework, the monarch, as the temporal embodiment of God's law and thus of the legal principle itself, contains the violence that the law contains.²⁵ Paradoxically, then, the monarch's *raison d'être* was to unify and pacify the realm by incorporating a violence that enabled the sovereign to negate any other violence which seemed to threaten this unity and pacification.²⁶ Needless to say, this violent paradox left open some room for abuses of such power by monarchs and their minions. The Habeas Corpus Act sought to circumscribe these powers by specifying a legal limit to the crown's authority to exercise violence on its own subjects. At the very least, it required the king or his representatives to submit to a legal assessment of the cause for which a body, and hence a person, could be physically seized upon and incarcerated.

The specification here of 'the body' *in lieu of* 'the person' – and thus literally and legally as *the place of* the person – nominates 'the body' as the matter which opposes the spirit that imbues the crown with its discretionary force. It thus establishes a countervailing philosophical basis – or even an ontological foundation – for rights claims in a 'nature' that 'the body' then represents in and for the person. Or, to put it another way, in the late 17th century 'the body' becomes incorporated as a legal stratagem in order to provide a 'natural' ground for subjects as citizens.²⁷ Shifting the political consideration of the monarch's legal authority from the theological to the mundane, the Habeas Corpus Act grounds the legal rights of subjects, or the rights of subjects to due legal process, in their bodies as such. This shift conceptually detaches 'the body' from the realm which had heretofore been conceived as co-extensive with the monarch's (and hence God's) authority in order to redefine 'it' legally as a separable and indeed separate entity. Thus, 'the body' emerges as a legal referent, born under the threat of royal violence, that affirms the subject's 'natural' distinction from the theological domain within which a monarch can freely execute unchecked violence. 'The body' enters politics, then, not as a vital or biological phenomenon, but as a legal fiction that stands opposite the corporate body of the monarch. The violence that a 'sovereign' could inflict on its subjects by virtue of their vulnerability as living and embodied beings produces an opposing formation, in which resistance to this violence affirms 'the body' as a distinct legal and political entity. However, this juridico-political

fabrication of ‘the body’ itself gives rise to a violent (conceptual) rending of the living person from the life-world in order to legally redress the violent seizures and imprisonments that monarchs claimed as their prerogative. Certainly, this fiction decisively altered the experiences of citizens with respect to their sovereigns. But once this juridico-political decision has been made, once ‘the body’ has been rendered a legal and political metonym for the person, and once the living human being has been conceptually rent from the physical universe, how does the newly embodied subject come to understand and live this corporeal personhood as a vital possibility? How does ‘the body’ literally and materially come to make sense as the place of personhood? How does ‘it’ come to determine us epistemologically, psychologically and economically?

Personifying a Rightful Body

The fictioning of ‘the body’ as the legal location of ‘the person’ radically reimagined both the ontological and political basis for personhood. While the legal incarnation of the embodied person did not itself ‘cause’ these changes, it provided a frame within which these changes could be incorporated both philosophically and experientially. Yet this frame also needed to be fleshed out in order for it to significantly inform, let alone transform, the volatile historical and conceptual conditions from which it arose and in which it was intended to intervene. Perhaps the most substantial such fleshing out of corporealized personhood appeared a decade and a half after the passage of the Habeas Corpus Act, when John Locke published the second edition of his *Essay Concerning Human Understanding* (1694). Revising the first edition of his philosophical magnum opus at the instigation of his friend, William Molyneux, who suggested that Locke include a discussion of the *principium individuationis*, Locke appended a new chapter to the *Essay* entitled ‘Identity and Diversity’.²⁸ Though written more than 300 years ago, this chapter continues to provoke so much consternation and controversy that scholars still argue vociferously about what Locke’s text means.²⁹ Suffice it to say the core of the argument concerns ‘what’ ‘a person’ ‘is’. Grossly characterized, the philosophical dispute arises between those who argue that Locke reasonably holds that ‘a person’ is more or less an effect of accreted memories independent of any particular body and those who argue that such disembodied personhood does not and cannot fully account for the complexities of human existence. Be that as it may, and despite whatever other complex nuances it conveys, the highly debated Lockean notion of personhood appears at the end of the 17th century in part as an attempt to interrupt the political and philosophical effects embedded in political theology’s equation of ‘person’ with ‘soul’.

For Locke, the category of ‘soul’ presented a basic problem for knowledge in as much as the soul is constitutively unknowable. Such unknowability vexed Locke, since as Adriana Cavarero recently suggests, his project foregrounds *what* a person is rather than *who* a person is, and thus his thinking necessarily relies on the epistemological possibility of

defining this ‘whatness’ (2002b: 97). Whether the soul is immortal or not, or indivisible or not, according to Locke, exceeds the purview of human understanding and hence cannot serve as an adequate foundation for defining personhood. Invoking the example of resurrection – a vexing problem through which Christian theology had debated the body’s status for several hundred years (Bynum, 1996; Vidal, 2002) – Locke avers:

The body, as well as the soul, goes to the making of a man. And thus we be able, without any difficulty, to conceive the same person at the resurrection, though in a body not exactly in make or parts the same which he had here, – the same consciousness going along with the same soul that inhabits it. But yet the soul alone, in that change of bodies, would scarce to anyone but to him that makes the soul of man, be enough to make the same man. (II § 27: 15)

As evidence for this claim, Locke then offers the example of ‘the soul of a prince, carrying with it the consciousness of the prince’s past life’ that ‘enter[s] and inform[s] the body of a cobbler’ (II § 27: 15). In this case, Locke concludes that the soul cannot be enough to make the person since ‘the soul, with all its princely thoughts about it would not make another man: but he would be the same cobbler to every one besides himself’ (II § 27: 15). Here, by virtue of the example itself, we discern that Locke’s concern with personhood lies in the social and political rather than the theological domain. Soul may be enough to identify a person ‘to him that makes the soul of man’ but not to anyone, and certainly not to *anybody*, else. Posing the problem in this way we see that Locke’s philosophical interest in personhood focused on the moral and legal consequences that accrue to human actions in so far as they can be ascribed to human agents. Indeed, he explicitly states that “‘Person’ is a forensic term . . . appropriating actions and their merit; and so belongs only to intelligent agents, capable of a law, and happiness and misery’ (II § 27: 26).

In the wake of Locke’s analysis, ‘personhood’ has come to characterize a legal, moral, ethical and even psychological subject. Indeed, as Charles Taylor has argued, Locke’s postulation of a ‘punctual self’ as the reasoning agent behind human action ‘helps explain why we think of ourselves as “selves” today’ (1989: 174). However, while Locke’s formulation certainly fuses the *thinking* of ourselves with the *being* of our ‘selves’, this thinking being – or as he puts it ‘thinking thing’ – cannot be functionally disembodied, unlike Descartes had supposed before him. Perhaps it is not so surprising that Locke was more attached to the living body than Descartes.³⁰ After all, Locke’s first training had been in medicine and he had served as the assistant to and become a close friend of one of the 17th century’s greatest physicians and advocates of the Hippocratic tradition, Thomas Sydenham (Coleman, 2000; Romanell, 1984). Indeed, throughout his career Locke maintained an abiding interest in medical matters, and the (literal) matter of medicine, as his ongoing efforts to record meteorological

data and to correlate it with health and illness testify (Dewhurst, 1962, 1963). Also, Locke's own delicate health, which impelled him to leave England in 1675 in search of more salubrious surroundings, might have contributed to a greater appreciation of bodily matters in questions of personhood.³¹ Moreover, Locke had already recognized the political utility of 'the body' as the basis for legal personhood in his *Second Treatise on Government* (as mentioned above and considered again below), which had also appeared about ten years after the passage of the Habeas Corpus Act.

Hence, while Locke certainly foregrounded consciousness as essential to personhood, for Locke, consciousness itself presupposes a sensuous, if not embodied, immanence in the world:

[W]e must consider what a person stands for; – which I think, is an intelligent being, that has reason and reflection and can consider itself as itself, the same thinking thing, in different times and places; which it does only by that consciousness which is inseparable from thinking, and, as it seems to me, essential to it: it being impossible for any one to perceive without perceiving that he does perceive. When we see, hear, smell, taste, feel, meditate, or will anything, we know that we do so. Thus it is always as to our present sensations and perceptions: and by this every one is to himself that which he calls self: - it not being considered in this case, whether the same self be continued in the same or divers substances. (II § 27: 9)

In this famous passage, Locke imagines 'consciousness' as that which presents and represents 'a person' to its 'self'. Yet, since Locke also carefully discriminates between thinking and consciousness per se, he explicitly differentiates his understanding from Descartes' *Cogito*, in which thinking appears as self-evident to itself and thus as the necessary and sufficient evidence for 'the self'. Interposing consciousness as the 'inseparable' and 'essential' companion of thinking, Locke affirms that the matter of selfhood (in both senses) literally rests on and in 'our present sensations and perceptions', and that only 'by this every one is to himself that which he calls self'. Thus, Locke indicates that consciousness must exist in a sensuous and perceptive medium, although he brackets the question of whether this conscious self-presence depends on 'the same or divers substances'. Of course the appearance of this sensuous underpinning is no great surprise since Locke's entire theory of knowledge is predicated on sensation, which he defines as the 'great source of most of the ideas we have, depending wholly upon our senses' (II § 1: 3). Despite this (albeit murky) recognition of consciousness's sensuous self-knowledge, however, something still seems to be missing here – a lurking missing something upon whose back, it turns out, the edifice of consciousness rises.

In the sections immediately preceding Locke's reflections on consciousness and personal identity, he introduces a different figure who mysteriously disappears as soon as Locke conjures 'the person' as the hero of his discussion. This supporting character, whose work sustains consciousness's leading role, much as the slave sustains the master, or perhaps more

pertinently, as the wage laborer enriches the capitalist, is called by Locke 'the same man'. In a section entitled 'The Identity of Man', Locke posits this figure as the accreted effect of embodiment:

[T]he identity of the same man consists . . . in nothing but a participation of the same continued life, by constantly fleeting particles of matter, in succession vitally united to the same organized body. He that shall place the identity of man in anything else, but, like that of other animals, in one fitly organized body, taken in any one instant, and from thence continued, under one organization of life, in several successively fleeting particles of matter united to it, will find it hard to make an embryo, one of years, mad and sober, the same man by any supposition, that will not make it possible for Seth, Ismael, Socrates, Pilate, St. Austin, and Caesar Borgia, to be the same man. For if the identity of the soul alone makes the same man; and there be nothing in the nature of matter why the same individual spirit may not be united to different bodies, it will be possible that those men, living in distant ages, and of different tempers, may have been the same man: which way of speaking must be from a very strange use of the word man, applied to an idea out of which body and shape are excluded. (II § 27: 6)

The 'identity' that Locke posits here as a formal self-relation surreptitiously introduces a new figure into his argument: 'the same man'. This figure hypostatizes the 'same organized body' by accreting to itself 'constantly fleeting particles of matter in succession vitally united', thereby establishing the 'participation of the same organized life'. A number of things should be noted here about the conceptual work this embodied identity performs. To begin with, the sameness of 'the same body' affirms a continuity in the face of difference, or an identity in the face of diversity, as the chapter title indicates. The comparison of two instances of 'the same body' across time affirms an identity – its sameness – precisely insofar as those 'constantly fleeting particles of matter' – its diversity – appear as having no significance whatsoever. The 'one fitly organized body' that defines the identity of both man and animal plays a crucial role here, since its continuity 'under one organization of life' binds up the temporal discontinuities which continually disrupt the 'sameness' of its materiality. In other words, 'the same body' is a theoretical fiction that incorporates a contradiction – sameness-in-difference – which Locke then rectifies by *personifying* it as 'the same man'.

The 'sameness' of man, as both an idea and a figure, serves as the bridge across which 'the person' enters Locke's text. In this sense 'the same man' conceptually and rhetorically personifies 'the same body', a hypostatization that then collapses into 'the person' as the privileged framework for human self-understanding. This unremarked personification, or should I say, *impersonation*, performs incredibly important work for how we have come to experience ourselves as embodied beings over the last several hundred years. In the first instance, Locke's elision of the 'same body' and the 'same man' as the substrates – or even the precipitates – of the 'same person' makes the notion of 'having a body' psychologically plausible. While most

commentators focus on the ways Locke foregrounds consciousness as constitutive of personhood, few recognize a back formation which subtends this possibility: in order to affirm the ownership of one's body as the ground for legal and political personhood (as Locke so famously does in *The Second Treatise*), it becomes necessary to make this juridico-political formulation *make sense* both conceptually and sensually as a mode of living. He does this precisely by annexing consciousness as the constituent form of selfhood to 'the same body' as the locus within which, or through which, this consciousness literally and materially lives (Yolton, 2001). In so doing, Locke produces a liminal or indeed ghostly figure, 'the same man', who incorporates 'the same body' by retrofitting this body with a consciousness that makes *it known to itself* ('When we see, hear, smell, taste, feel, meditate, or will anything, we *know* that we do so', 27: 9 discussed above, my emphasis). Weirdly, this personified body/man manifests a strange and yet hauntingly familiar doubleness. For, if heretofore a 'duplicity' of person had been the defining attribute of reigning monarchs, whose 'two bodies' incorporated the territorial principle of sovereignty in the body of a living – and hence mortal – being, the new philosophy generalized this doubleness as a constituent condition of all *persons* in so far as they are also political and legal subjects.

The 'king's two bodies' principle, which Kantorowicz discerned in early modern political theology, therefore seems to presage the self-doubling that subtends Locke's same man/same person articulation. Indeed, we might consider that Locke makes the bifurcated royal subject immanent, rather than transcendent, by projecting the political principle into a legal and psychological framework of 'personhood', which then provides a general and generalizable condition for human 'identity'. While the chapter on 'Identity and Diversity' first appeared as an addendum to the second edition of *The Essay on Human Understanding* (an ostensibly epistemological rather than political text), its implications offer a helpful elucidation of Locke's slightly earlier assertion that the laboring body establishes the very principle of property. When Locke avers in *The Second Treatise of Government* that:

Though the earth, and all inferior creatures, be common to all men, yet every man has a property in his own person: this no body has any right to but himself. The labour of his body, and the work of his hands, we may say, are properly his . . . (1764: II § 27)

he affirms a doubleness of the laboring subject which he will conceptually elaborate in his discussion of the 'personified man'. According to Locke's political affirmation, the laborer exists in an objectified relation to his labor, which he 'owns' as his own: 'labour being the unquestionable property of the labourer'. By reifying this bodily activity (labor) as an own-able resource that belongs as 'unquestionable property' to the agent who performs this action (the laborer), Locke invokes another kind of identity-in-diversity. The transforming work that labor 'is' necessarily manifests a difference in the world, a difference that 'the body' literally makes.³²

Yet the relation of ownership binds this world-changing temporal process (labor) back to the laborer through a material medium which labor itself has transformed: ‘Whatsoever then he removes out of the state that nature hath provided, and left it in, he hath mixed his labour with, and joined to it something that is his own, and thereby makes it his property’ (1764: II § 27). Labor returns to the laborer as his property through a belabored ‘nature’ that only becomes property through the infusion of bodily activity which extracts it, or as Locke suggests ‘frees it’, from the ‘state’ in which it had been previously ‘left’. The logic here anticipates the ‘same body’ that binds up ‘constantly fleeting particles of matter’ and thereby grounds the ‘sameness’ of ‘the same man’. Labor, a temporally extended process, is accorded a self-consistency by being located in a body which then gets effaced when labor is construed as the ‘property’ of the laborer who personifies it. In this formulation, ‘the body’ from which the labor proceeds (‘the labor of his body and the work of his hands’) disappears, subsumed on the one hand into the objects of the labor ‘it’ performs and on the other into the laborer who owns these efforts. Thus, the body is metonymically elided on the one hand into its world-transforming activity and on the other into the political and legal agent who takes possession of what these activities produce.

Locke’s property-owning, property-creating ‘person’ introduces a fundamental refiguration of the living, laboring human being by constituting a self-difference (labor/laborer) as a form of identity (property). Moreover, it makes this identity-in-difference thinkable by personifying ‘the body’ as the laborer and through this personification effacing the specific difference that ‘the body’ ‘is’. Instead of valuing the corporeal locus of human being as the immanent realization of difference-producing agency, Locke’s seminal formulation re-imagines this human potentiality as a kind of property (labor) owned by its personification (laborer) which in turn makes the principle of property itself plausible as a way of dividing up the world. Only in the wake of such a conceptual convolution does the notion that labor is intrinsically alienable *and that it therefore can be contractually alienated* emerge as a credible way to organize human relations. To this convolution we owe both the realization of wage labor as a general economic condition and the idea that a person’s worth can be specified by the amount of money which the body’s labor can command. Reflecting on Locke’s philosophical interventions, then, helps us understand how ‘a body worth having’ enters the world not just as a conceptual possibility but as a lived economic relation. For, in so far as wage labor comes to define a dominant and dominating form of human activity, it informs and incorporates the living human being in its image.

Coda: Bare Naked Body

This article addresses a deceptively simple question: ‘what makes a body worth having?’ Depending on how you inflect it, the question can parse in at least two ways – what makes ‘*a body*’ worth ‘*having*’? and what makes ‘*a*

body worth having?³³ Yet, as sly as this ambivalent inflection might seem, the question's deceptive simplicity really derives from another feint secluded in its syntax: addressed to an implied subject, an unvoiced 'you', the interrogative silently invokes the very assumptions on which it rests. When what we call 'a body' supposes that it has always already been 'had' by someone; when we assume that where a person 'is', 'a body' will have been had; when the *having* of a body personifies a person; then it is 'the body' that makes 'the person' to whom the question addresses itself worthy of the question in the first place. Ask not what 'the body' can do for you, for the body-you-are, construed as the body-you-have, has already made you you. Framed slightly differently, however, the question begins to reveal a different critical perspective: why does 'having a body' become the idiom through which we appreciate our experiences of aliveness and vitality – including all the sensations, pleasures, risks, challenges and suffering that these experiences entail?

The having of a body might seem to us, in our part of the world, a natural or necessary way to represent the organismic dimension of human existence; yet, this is not naturally or necessarily the case. As Jeanette Armstrong's depiction of the Okanagan worldview demonstrates, the 'land dreaming capacity' figures the vital materiality of human being just as well as 'the body' does – though with radically different, and to me, quite compelling, ethical, aesthetic, moral and political nuances. Rather than appreciating the appeal of such metaphorical, and perhaps metaphysical, resources, however, our political ontology secretly conjures 'the nature of the body', in order to discretely manifest its thoroughly bio-political magic. (The socio-biologist's or evolutionary psychologist's incantation that 'the body determines our [human] nature' demonstrates this bio-political sleight of hand nicely.)³⁴ Strictly speaking, 'the body' does not naturally exist. Or, to put it more affirmatively: 'the body' only exists within a political ontology that distinguishes the human organism both from its life-world *and* from 'the person' to whom 'it' supposedly belongs. Within this ontological frame, human personhood appears as a subsequent, or even consequent, relation to a self-defining (and 'self' defining) form of living matter which 'the body' then names as its proper reference. Only our bio-politics, and not 'our nature', makes 'the body' seem natural to us.

Giorgio Agamben has recently undertaken to disclose the bio-political logic that subtends this embodied problematic in a series of meditations on what he calls '*homo sacer*'. According to Agamben, the ancient Greeks bifurcated life into two modes, *zoe* and *bios*, and this bifurcation sustains and underwrites all Western politics – or, as he says, is 'consubstantial with it': '*Zoe* . . . expressed the simple fact of living common to all living beings (animals, men, or gods), and *bios* . . . indicated the form or way of living proper to an individual or a group' (1998: 1). For Agamben, this distinction announces the founding of the *polis* as an act of exclusion or ablation through which the city-state first extracts itself from the life-world and then literally defines itself by constituting a threshold *between* itself and

the ‘nature’ outside its gates. In so doing, it concomitantly locates this threshold *within* each of its citizens as the bifurcated form of their own self relation. By distinguishing itself from the life lived ‘outside’ its walls, the *polis* overwrites or obscures the ‘bare life’ (*zoe*) of the living beings living within its ambit by inscribing them with its political form (*bios*):

In Western politics, bare life has the peculiar privilege of being that whose exclusion founds the city of men. . . . There is politics because man is the living being who, in language, separates and opposes himself to his own bare life and, at the same time, maintains himself in relation to that bare life in an inclusive exclusion. (1998: 7–8)

Thus, unqualified life, or what Agamben denominates ‘bare’ or ‘naked’ life,³⁵ is precisely always already at stake politically, even if it is that which can never appear politically as such. Since its existence as vital phenomenon gets entirely overdetermined by a specifically human mode of political being, bare naked life only becomes visible, according to Agamben, under the threat of a legally sanctioned death, which negatively reveals the latent living potential that the *polis* has always already incorporated.

Agamben claims that sovereignty always already incorporates ‘bare life’ because sovereignty both gives rise to and exposes it as such. Since the pre-political life of the human animal knows no distinction between itself and the continuous life of the planet, its life is not bare or naked, but embraced and encompassed. As Georges Bataille put it so beautifully: ‘The animal is in life like water in water’ (1989: 24). In other words, the un-human life does not *know* itself as such; it lives.³⁶ But politics (which Agamben associates with language? or is language the original political form?) divides the human animal within it. In this irreducible living difference – a living difference that Jacques Lacan also recognized but interpreted psychically or existentially³⁷ – the pathos of politics is born. Agamben locates bare naked life in the singular person, the *homo sacer*, exposed to death. Thus, bare naked life forms a living singularity that, in exposing living as such (and only before death), reveals its location as what we might now call ‘the body’ – though, as Agamben points out, ancient Greek had no equivalent for our sense of ‘the body’ since their word, *soma*, referred to the corpse. Indeed, we might argue that ‘the body’ becomes the proper location of the *living* human only at the moment when it begins to serve as its legal address. As the discussion of *habeas corpus* above suggests, challenging the subject’s exposure to sovereign violence (and hence following Agamben’s thinking, its appearance as bare life) provides a new ground for political ontology. Through the demand that the monarch or its representatives present ‘the body’ in court as the form of the subject’s legal right, the body comes to incorporate the person as its proper owner.³⁸

Resisting or subverting the sovereign claims of political theology re-oriented the human life context. For, so long as they were interpellated by

it, the life of the soul, with its eternal *durée*, served as a major obstacle for those who might want to oppose sovereign powers that proclaimed their divine ordination.³⁹ The mortal life of the organism offered an alternate *locus operandi* for political challenges to ‘divine’ monarchs and subsequently for politics itself. Thus, we can discern the outline of a new political ontology in ‘the body’ that emerges legally and politically in the wake of the Habeas Corpus Act. For only following this body’s juridico-political ‘birth’ can rights be claimed on the basis of a nature which it represents in and for the subject. This initial formulation introduces the figure of the liberal subject as personified by the living human body. Of course, this political formulation is concurrent with the economic one that both precipitates and supports it. For, in the late 17th century, ‘the body’ is conceptually torn from the world and from the kingdom, philosophically, politically *and* economically. In other words – Locke’s word actually – it is removed from ‘the state in which nature had left it’ by an intellectual labor that mingles with ‘it’ and transforms it from bare nature into personal property. ‘The body’ emerges then as a legal and philosophical metonym for ‘the person’ precisely in so far as it grounds personhood materially and thereby serves as a counterpoint to theological claims for sovereign authority. This material person, or personified matter, serves as a fulcrum with which to prise apart the theo-political edifice of monarchal absolutism by re-appropriating the very corporeality which Christianity had abjected. In this sense, we might say that liberal political philosophy ironically resurrects ‘the body’ in order to disrupt the transcendental foundations claimed by sovereign authority. When conjured in response to a writ of *habeas corpus*, ‘the body’ produced – in both senses – in the courtroom in lieu of the person, i.e. as the legal place of the person, offers a material antidote to ‘the soul’, whose eternal disposition political theology had used to render legal subjects forever subject to the sovereign’s absolute authority.

Certainly in the context of early modern Europe, it made a lot of sense to invest (in) ‘the body’ as the living location of personhood and to conceive ‘the body’ as the kind of property that grounds the right to own property – as Locke did. The strategic efficacy of this investment in human life was palpable to say the least. To take just one extremely important example: a hundred years later in *The Rights of Man*, Thomas Paine could extrapolate from this premise in order to explain the liberal subject’s (a.k.a. ‘man’s’) efflorescence during the French revolution by deriving political sovereignty explicitly from ‘the rights and freedom of *the living*’ (1791, my emphasis). From this ‘living’ political subject, Paine deduces the putative equality of citizens, since ‘equality of birth’ means that the law recognizes us as ‘born equal in rights’ in so far as we are all equally born (i.e. in order to be a person we must have a body). By the end of the 18th century, when ‘the living’ have finally displaced both ‘the dead’ and ‘the soul’ as the sovereign principle that founds the nation, we might say that ‘the body’ has gotten fully enshrined as a political metonym for the person. Yet as valuable as ‘the body’ has been in grounding the tenets of liberal political thought, it

remains a reaction formation to sovereign violence and, as such, unwittingly re-contains this same violence within itself.

As bodies we are violently torn from the world's embrace and belatedly return to it as property owners of ourselves. In this sense, we might consider that 'a body worth having' both bears – and bares – the traces of the very sovereign violence to which it initially served as a legal and political alternative. In other words, 'the body', born out of a strategic legal and political decision (once again with its etymological emphasis on cutting and rending), conserves the trauma of its violent inception. We might, following Wendy Brown's critique of identity politics, consider whether 'the body' thus serves as the paramount form of a 'wounded attachment' (1995: 53–76). If our attachment to 'the body', conceived as both the site and the source of our personhood, conceals an unremarked political wound, then perhaps recognizing its contingency might allow us to re-imagine our corporeal situations differently. While the poetic appeal of the Okanagan 'land dreaming capacity' might not hail all of us equally, it does at least suggest that we might invoke other imaginative resources besides 'the body' in order to encompass, or indeed to appreciate, the vital dimensions of our living being.⁴⁰ In any case, perhaps it is time to reconsider whether 'a body' is really worth *having* and whether the worth of such 'a body' lies primarily in the political ontology that it founds. For, even if 'the body', construed as *the* distinctive form of human living, has proved strategically effective in birthing liberal citizen-subjects, it has not really helped us understand how *as living human bodies* we can live *together* either with each other or with other forms of life.

In this era, when neo-liberalism reigns triumphant, far too many of the political, economic, social, psychological and ecological problems that challenge us derive from our limited resources for imagining our being as living beings together. The reduction of human life to 'a body worth having' naturalizes the premises of possessive individualism as the bedrock for all 'rational' collective decision making; it thereby invalidates other forms of appreciating life (including human life) that do not so easily reduce to such putative singularities. The notion that 'the market' or 'competition' provide the best ways to regulate all vital forms of human coexistence depends on the premise that human life itself, as *living human being*, can be fundamentally and entirely encompassed within 'a body' that is someone's personal property. By interrogating the assumption that we *are* the bodies we *have*, or that we even *have* bodies in the first place – since bodies *are* after all actually bio-chemical transformations of matter and energy localized in time and space – we might begin to open ourselves to vital new possibilities, at once political and personal, material and spiritual, local and global. And perhaps such possibilities might enable us to body forth and flesh out new ways of living together with more equity, more justice, more compassion and more grace. At least that is the reverie inspired by my own land-dreaming capacity.

Notes

1. While C.B. Macpherson's essential analysis of liberalism (1962) is not discussed directly, this article is obviously indebted to it throughout.
2. Since the middle of the 19th century, there has also been another 'disembodied' form of legal person, i.e. the corporation. However, it is certainly not coincidental that this non-corporeal legal subject, constituted entirely in order to facilitate the possession and transference of property, should nominally affirm its similarity to the embodied person in its very name.
3. The discourse of psychoanalysis – especially in its recent feminist and/or Lacanian incarnations – extensively engages this being/having dynamic through considerations of 'being/having the phallus' (see, for example, Borsch-Jacobsen, 1991: 43–71; Butler, 1993: 57–92; Lacan, 1977: 281–91).
4. For an excellent critique of the Darwinian notions of 'fitness' as 'adaptation to an environment' and an explanation for the co-evolution of the organism–environment dyad, see Lewontin (1992).
5. On the paradox of individuation as a form of selfhood, see Simondon (1992).
6. The precariousness of this imaginary-yet-real decision is well known to 'owners' of coastal property, where the uncontainable and often uncontained processes of ocean and weather can erase the even most well defined, and defended, property lines. Recent planetary history has underscored this vulnerability as the effects of the December 2004 tsunami in the Indian Ocean and of Hurricane Katrina in the Gulf of Mexico amply illustrate.
7. For example, this same proprietary defensiveness informs Hobbes's famous affirmation of 'self defense' as the first 'right of nature' (Hobbes, 1968: 189).
8. In *Leviathan*, Chapter 39, Hobbes elucidates his famous critique, abjuring the use of spiritual precepts to political ends:

Temporall and *Spiritual* Government, are but two words brought into the world, to make men see double, and mistake their *Lawfull Sovereign*. . . . [T]hat Governor must be one; or else there must needs follow Faction, and Civil War in the Common-wealth, between the *Church* and the *State*; between *Spiritualists* and *Temporalists*; between the *Sword of Justice*, and the *Shield of Faith*; and (which is more) in every Christian man's own brest, between the *Christian* and the *Man*. (1968: 498–9)

For Hobbes, resorting to political theology in order to ground sovereign authority induces a bifurcation – both within the person and the Commonwealth – that inevitably undermines political stability. His political ontology seeks to circumvent such instability, or indeed insurrection, by positing a unitary material ground for the polity. On Hobbes' critique see Shapin and Schaffer (1985: 80–109).

9. On Hobbes' theological understanding, see Springborg (1975: 289–303) and Foisneau (2001).
10. A 'Bill against Atheism and Profaneness' was introduced in the House of Commons, specifying *Leviathan* by name. The bill passed the Commons but the House of Lords allowed it to die in the next session.
11. Lovejoy's book is one of the most influential and controversial in the discipline established in its wake: the history of ideas. As a foundational text it has given rise

to a vast archive of secondary literature too extensive to be named here. On Lovejoy's notion of hierarchy and its correspondence to medieval notions of hierarchy, see Mahoney (1987).

12. On Kantorowicz's paradigm, see Agamben (1998: 91–103).

13. See, for example, Forset (1606). For a genealogy of the metaphor 'body politic' as it underwrites this theo-political paradigm, see Hale (1971).

14. On the body/head distinction, see Cavarero (2002a: 99–120).

15. The full citation underscores the implications of sovereign violence:

The sovereign exercised his right to life only by exercising his right to kill, or by refraining from killing; he evidenced his power over life only through the death he was capable of requiring. The right which was formulated as the 'power of life and death' was in reality the right to *take* life or *let* live. Its symbol, after all, was the sword. Perhaps this juridical form must be referred to a historical type of society in which power was exercised mainly as a means of deduction (*prélèvement*), a subtraction mechanism, a right to appropriate a portion of the wealth, a tax of products, goods and services, labor and blood, levied on the subjects. Power in this instance was essentially a right of seizure: of things, time, bodies, and ultimately life itself; it culminated in the privilege to seize hold of life in order to suppress it. (Foucault, 1980: 136)

16. Citing Forset (1606), Daly comments:

While . . . the two houses of parliament had to consent to legislation, it was the king's *le Roi le veult* which actually changed a bill into law. It was *natural enough* to describe this life-giving legal power as an attribute of royal absolutism, another expression of sole superiority. (1978: 232, my emphasis)

17. *Habeas corpus* continues to function as a limiting principle on improper uses of executive authority to incarcerate people as its recent use in the cases of people (illegally?) detained after September 11, 2001, or of prisoners captured in Afghanistan and held by the US military in cages at a base in Guantanamo illustrate (see Butler, 2004: 50–100).

18. Section 39 of the Magna Carta, assented to under duress by King John I in 1215 at Runnymede, reads: 'No freeman shall be taken or imprisoned or disseised or exiled or in any way destroyed, nor will we go upon him nor send upon him, except by lawful judgment of his peers or by the law of the land.'

19. Not surprisingly, Charles II and his allies vehemently contested the Act's passage. The Act, in various versions, was introduced repeatedly between 1668 and 1679 before its final passage. For a thorough account of this process, see Nutting (1960).

20. The form of *habeas corpus* had appeared by the 13th century but it did not have either the effect or the intent of the modern notion. Initially used to negotiate the competing jurisdictions of different courts, it was only during the late Tudor period that it began to be used to redress discretionary imprisonment. For a history of the concept, see Sharpe (1989).

21. *Modern History Sourcebook*: www.constitution.org/eng/habcopra.html (accessed 13 April 2008).

22. Thanks to Livia Tenzer for her Latin expertise.
23. On the significance of the ‘plane of immanence’ for the critical articulation of modernity, see Hardt and Negri (2002: 70–74).
24. On the suspension of *habeas corpus*, see Crawford (1915). On the ‘state of exception’ more generally, see Agamben (2003).
25. This formulation echoes Derrida (1992).
26. Theories of violence and statehood often derive the early modern establishment of the state and religion as two distinct domains or powers from the state’s consolidation of its monopoly on the legitimate use of violence. For an excellent survey and critique of this literature, see Cavanaugh (1995).
27. In a single unsupported sentence Marcel Mauss placed the idea of bodily self possession at an even earlier historical moment: ‘Old Germanic law still distinguished between [the slave] and the free man, *Leibeigen*, proprietor of his own body’ (1979: 81). While I am not an expert and can venture no guess as to Mauss’s sources for this assertion, *Liebeigen*, which could literally translate as ‘own body’, actually seems to have referred to serfs, peons or bondsmen. Thus, I am not sure that this is the sense of ‘proprietor of his own body’ that has carried over into the formations of liberal personhood.
28. Locke acknowledges his fulfillment of Molyneux’s request in a letter to him in August 1693 (see Allison, 1966: 41–2).
29. Philosophers have been arguing about Locke’s ideas since the minute they were published and probably even before. During the 18th century, Leibniz (in *New Essays Concerning Human Understanding*) and Hume (in *Treatise of Human Nature*) most famously took up Locke’s theory of personal identity and refuted various aspects of it more or less successfully. More recently Derek Parfit’s *Reasons and Persons* has unleashed a riot of philosophical writing for and against the neo-Lockean perspective. The bibliography here is extensive. Two essays that reveal the tenor of these polemics are Atkins (2000) and Noonan (1998).
30. This is not to say that Descartes had no regard for the living organism, nor that he had no appreciation for how corporeality effects the person. In his last work *On the Passions of the Mind* (*Les Passions de l’Ame* [1649]) and in his correspondence with Princess Elizabeth regarding the role of the passions, as well as in his posthumously published text on physiology, *Description of the Human Body*, he attempts to explicate the material dimensions of human life and especially the ways that the passions compounded both body and mind (see Cook, 2002). On Descartes’ relation to contemporary medical thought and his own health care, see Shapin (2000), Gorham (1994), Carter (1983) and Londeboom (1979).
31. On Locke’s health, see ‘John Locke’, in *The Internet Encyclopedia of Philosophy*, <http://www.utm.edu/research/iep/l/locke.htm> and ‘John Locke’, *The Stanford Encyclopedia of Philosophy*, <http://plato.stanford.edu/entries/locke/>.
32. See Paulo Virno’s discussion of ‘labor-power’ as embodied potential (2004: 81–4).
33. Judith Butler evokes a similar conceit with her title *Bodies that Matter* (1993).
34. For an excellent discussion that considers the historical emergence of ‘human nature’ as a segue between theological and social forms of determinism, i.e. between ‘fate’ and ‘society’, see Poovey (2002).

35. The translation of Agamben's idiom varies. For a commentary on this problem, see the translators' note in Agamben (2000: 142).
36. The idiom 'un-human' derives from Donna Haraway (1992) in contrast to the use of 'non-human' preferred by Bruno Latour (1993).
37. Using a figure that is simultaneously botanical and surgical, Lacan describes this self splitting as 'a certain dehiscence at the heart of the subject' (1977: 4).
38. For Agamben, the pivotal role played by *habeas corpus* appears accidental:

The fact that, of all the various jurisdictional regulations concerned with the protection of individual freedom, it was *habeas corpus* that assumed the form of law and thus became inseparable from the history of Western democracy is *surely due to mere circumstance*. (Agamben, 1998: 124, my emphasis)

What I have tried to argue here is that the 'mere circumstance' to which Agamben alludes is in fact quite significant in so far as it encompasses political theology's role in legitimating monarchical sovereignty to which 'the body' comes to serve as a mundane critique.

39. It is certainly no coincidence that when Louis Althusser wanted to illustrate the working of ideology as the interpellation of the 'subject' before the 'Subject', he invoked Christian theology as the paradigmatic example (1971: 178–83).
40. Donna Haraway, for one, has repeatedly turned to science fiction as an imaginative repertoire for precisely this reason (see, for example, Haraway, 1991, 1992).

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