

ments or how to protect patches of more-than-human liveability, as Anna Tsing has put it, or of the processes of repurposing things of the present in order for there to be places, possibilities of future entanglements to co-make new worlds from. Extractive capitalism is working for less and less people, with billions of others 'sacrificed'. The abandonment of the majority whilst the wealthy con-

tinue their gilded lives is also a narrative that is emerging strongly in cli-fi – fiction that features a catastrophically changed climate, reflecting how the very rich are themselves responsible for most climate gas pollution globally. A breakout from such narrow narratives is needed, but while the Salvage Collective offer some visions of possibility, they are ultimately few.

Chris Wilbert

Vital institutions

Roberto Esposito, *Institution* (Cambridge: Polity Press, 2022). 160pp., £40.00 hb., £14.99 pb., 978 1 50955 155 2 hb., 978 1 50955 156 9 pb.

The Covid-19 pandemic had the curious result of simultaneously legitimising and de-legitimising discourses of the biopolitical. The longstanding claim of biopolitical theorists that politics and biological life have become inextricable within medicalised forms of governance has become increasingly undeniable. However, the negative construal of that entanglement within dominant accounts of the concept has been subject to increased scrutiny due to the dynamics of pandemic politics. Giorgio Agamben's widely criticised intervention into public debates around lockdown measures during the early stages of the pandemic – a blog post published in February 2020 entitled 'The Invention of an Epidemic' – has opened broader questions concerning the adequacy of the concept to the present. Who are the main proponents today of the idea that there is something inherently dangerous about governments implementing measures to protect the biological well-being of their populations if not the right? The unimaginably large death toll of the pandemic took place against a backdrop of far-right rallies against government interventions such as lockdowns and mask-mandates, of the alt-right spreading conspiracy theories regarding mobile phone infrastructure and vaccinations, and populist leaders of the right advocating letting the virus rip to keep society open for business. In this context, it became increasingly hard to justify the notion that theoretical accounts that foster mistrust in the normative regulation of public health or use of emergency measures to protect the lives of those vulnerable to death are inherently progressive. Such a crisis in the

notion of the biopolitical has led some commentators such as the architectural theorist Benjamin Bratton to call for an affirmative form of biopolitics in which the governance of biological life is seen as a necessity rather than a danger.

Roberto Esposito has been calling for a notion of affirmative biopolitics for what is now approaching twenty years and his work is ripe for reassessment. No thinker has emphasised the centrality of concepts of immunity and immunisation to contemporary politics more than Esposito, whose own understanding of biopolitics is better suited to a post-pandemic world than his better-known compatriot. Esposito's reinterpretation of biopolitics through the category of immunisation was always marked by a critical relation to what it saw as an unresolved antinomy at the heart of the Foucauldian notion in which a politics of life (an affirmative biopolitics in which life is the subject of politics) vied with a politics over life (a negative politics in which life was the object of politics). For Esposito, the affirmative model was taken up by Antonio Negri and the negative by Agamben while his own concept of immunisation represented a point of articulation between the two which made sense of their unity.

This positioning within a third space between Agamben and Negri is something that continues to mark Esposito's work to the present. This is evident in his recent work on instituent thought which was first set out in his 2020 book *Pensiero Istituyente* and, following the pandemic, re-connected to his thinking on the biopolitical

in the work under review here, 2022's *Institution*. Zakiya Hanafi's welcome translation of the term *istituente* as 'institutent' draws our attention to how the work is being positioned between Negri's concept of constituent power and Agamben's work on inoperativity as a destituent power. For Esposito, the instituent represents the alternative to these two 'exhausted' political-ontological paradigms which can be traced to Deleuze and Heidegger, respectively. As such, it marks a shift away from Esposito's earlier Heideggerian-deconstructionist commitments which he would now assign to an exhausted 'destituent' paradigm primarily concerned with undoing modern political categories and their associated institutions. Instead, he mines a range of sources primarily from French sociology and philosophy, German philosophical anthropology and Italian legal institutionalism to develop an affirmative reconceptualisation of institutions. The spine of this thinking is formed by a line of thought that stretches from Merleau-Ponty and Marcel Mauss to Cornelius Castoriadis and Claude Lefort which centres upon thinking institution not only as a noun but also as a verb; as instituent praxis. Lefort's neo-Machiavellian notion of institution is central to this 'institutent paradigm' which is here developed in biopolitical terms.

Institution centres upon the relationship between biological life and institutions via a discussion of the ancient Roman notion of the *vitam instituere*. This serves as a biopolitical image of the 'institutent' in which the dominant notion of the institution with its associations of formal establishment, duration and law are viewed as inherently connected to biological notions of vitality, movement and force. For Esposito, life and institutions are both misunderstood when viewed as divergent entities which have only recently become entangled with one another. Instead, they should be viewed as two moments of a 'single figure' in which institutions are always already vital and life is always already instituted. The book offers an account of how this ambivalent notion of the institution – as both noun and verb, duration and dynamic, form and force – has been historically 'eclipsed' by the dominant state-like model of the institution. It traces the recent historical and political consequences of this eclipse across the political struggles of the 1960s and 1970s to the institutional responses to the Covid-19 pandemic via developments in post-1989 global civil society. Esposito argues that the tendency to theoretically

confine institutions within a state-like form – here understood in a dual sense of the state and static – has led to a rigid opposition between conservative institutions and anti-institutional movements. This opposition is evident in political theory on the left (Foucault, Marcuse, Sartre) and right (Schmitt, Gehlen) and reaches its apex in the political struggles of 1960s and 70s (with an emphasis on the Italian 'Years of Lead').

Esposito traces this opposition to the rise of Christian theology, as exemplified by the anti-Roman tendencies of Augustine's *City of God*, which re-imagined the process of social institution to lie totally within the personality of God and thereby replaced the dynamic and functional concept of instituent human practice that, for Esposito, characterised Roman Law with a fixed model of the institution primarily based around authority. Hobbes's Leviathan state, although complicating this picture due to the explicitly socially instituted character of the sovereign person, ultimately comes to cement the notion that all institutive practice should be incorporated within a monolithic authority. As such the state-form comes to eclipse the diverse and dynamic instituent practices of the ambivalent *vitam instituere* and occupy the conceptual space of the term 'institution' leading to its severing from notions of movement. The result are institutions that are unable to change, and movements that are unable to endure.

This eclipse is challenged by the neo-Machiavellian 'institutent paradigm' of thought which Esposito is seeking to recover and elaborate. These thinkers reconnect the concept of institution to its obscured 'institutent' (dynamic-creative) moment alongside its more established (state-like) 'instituted' moment. This yields a dynamic and conflictual conception of institution which embraces the productive potential of the negative. Institution contains a paradox however: the instituent refers to a moment of creation of something new, but this newly instituted moment *qua* institution is a 'state' characterised by temporal duration. Thereby the dynamic instituent moment dialectically passes over into its opposite of immobility. Esposito does not simply side with the instituent moment against the instituted moment of institution but rather embraces the tension between innovation and preservation inherent to the concept. Therefore, unlike the constituent paradigm which continually reduces the constituted moment to the constitu-

ent, instituent praxis aims seeks to keep the dynamic and static moments in balance. This process hinges on the relations between institution, life and negativity in two senses: institutions perform a limiting function which is needed to channel the flow of life and secure it in time, however their own vitality – their ability to change – requires their continued connection to social conflicts.



Undergirding Esposito's argument is the historical judgement that non-State institutions are growing in political influence at the same time as the Westphalian model of mutually independent sovereign states is in a period of decline. Therefore, the state-like image of institutions is one that has not kept up with historical reality. In practice, institutions have already acquired increasing autonomy from the state, a process which was accelerated in the post-1989 context in which non-state actors became increasingly influential in shaping political projects (NGOs, the EU, the IMF, etc.). This process of politics being displaced to non-state institutions in a 'global civil society' is seen by Esposito as something to be embraced. While neoliberalism is addressed as further evidence of the declining role of the state, its connection to the emergence of 'global civil

society' remains largely unexplored beyond the notion that states increasingly lack the power to regulate global flows of capital without extra-state coordination. Instead, we find glowing passages on NGOs which are described as the 'one of the most interesting experiments in innovative instituent praxis'. Although his conflictualist perspective calls for 'taking a stance for some institutions against others', the overall picture is one which feels in danger of unconsciously endorsing a depoliticised and post-democratic notion of global civil society.

The book concludes by returning to the figure of the *vitam instituere* and arguing that the pandemic has proven the interconnection of life and politics and shown the necessity for institutional intervention at their intersection. Esposito claims that such a connection is what has been missing from theoretical accounts of the biopolitical and traces this lack to the genesis of Foucault's concept in opposition to notions of mediation and law which are, in turn, associated with institutions. He argues that contemporary thinking on biopolitics is ironically shaped by a separation of 'life' and 'politics' inherited from Foucault and Arendt's work. Whereas Foucault sees institutions as separate from and repressive of life, Arendt sees life as something inherently non-political which undermines institutions with violent results. Here, Esposito is challenging two of the sources for the negative model of biopolitics represented by Agamben's thinking on 'bare life' whose immediacy Esposito is seeking to overcome with his notion of 'instituted life' (the *vitam instituere*). For him, biological life 'is always instituted, that is, inscribed in a historical and symbolic fabric from which it cannot be separated.' In fact, the negative biopolitical legacies of racist, colonial and totalitarian violence are here ascribed to the breakdown of the institutional mediation of life. Therefore, he concludes that the concept of biopolitics must be integrated with the instituent paradigm to avoid its negative drift towards a thanatopolitics.

The institutionally-mediated affirmative concept of biopolitics put forward in Esposito's short book represents a generative way forward for the concept in the post-pandemic world. However, serious questions remain over the project and not merely for its highly Eurocentric or even Romanocentric worldview. The politics within the biopolitics put forward here are less clear than their relationship to life. If constituent power can be ascribed to a revolutionary communist politics and destituent power

to an insurrectionary anarchism, where might one ideologically place the instituent paradigm? It is possible to imagine its role within a renewed libertarian socialist politics – there are gestures towards this: for example, he argues for the need to reconfigure the logic of welfare beyond the state – however the overriding feeling is of a slow drift towards liberalism. This is evident in the configuration of the post-1968 and post-1989 moments within the book. The movements of the sixties and seventies are reduced to an anti-institutional straw man figure and ultimately come to stand for part of what must be overcome. Meanwhile, the post-1989 decline of

the state in the era of ‘global civil society’ is presented as something that must be embraced as our only horizon of sense. This symptomatically avoids any exploration of the tendencies within the New Left which, for better or worse, argued for working within, across and against institutions including the state. One can think here of the idea of ‘Long March Through the Institutions’ or the recently re-discovered idea of working ‘In and Against the State’. The instituent paradigm relies heavily on the thinkers of *Socialisme ou Barbarie* – Lefort and Castoriadis – but its development would benefit from consideration of their early work.

Matt Phull

Law’s violence

Oishik Sircar, *Violent Modernities: Cultural Lives of Law in the New India* (New Delhi: Oxford University Press, 2021). 370pp., £40.99 hb., 978 0 19012 792 3

This is a book that resists easy categorisation and, as a result, also resists the typical review process.* I could, for example, note that the book consists of seven essays written as standalone pieces, which address a wide range of topics. Sircar deals with questions as diverse as the authorial style of the famed critical legal theorist Upen- dra Baxi (Chapter 6), representations of law in cinematic retellings of the Gujarat anti-Muslim pogrom of 2002 (Chapter 3), the inability of rights-claims under the Indian Constitution to deliver justice and emancipation for subaltern actors (Chapter 1), and the complications of being a male feminist (Chapter 7). I could also flag that Chapter 2, dealing with the children of sex workers and the politics of pity and suffering, is co-authored with Debolina Dutta, a choice that puts pressure on the very form of the sole-authored monograph and invites us to think creatively about how to interact with our comrades and co-conspirators through our scholarly work.

The uniqueness of this volume leads Sircar to warn his readers early on that the book can be read both in a fragmented way (depending on one’s interest in different topics covered by the essays) or in a traditional cover-to-cover way. If one does the latter (as I did), then this book becomes a – still fragmented – meditation on

the relationship between liberal legality, on the one hand, and the joint rise of neoliberalism and Hindutva, on the other. Where both liberals and the far-right understand the relationship between the two ideologies and political systems as fundamentally antagonistic, Sircar suggests that there are important continuities between the two. More specifically, he documents meticulously that law was a central terrain where the promises of liberalism either remained unrealised or were, in fact, realised only to reveal that they entailed more violence and exclusion than its exponents assumed. Even though the book shies away from a strong, unified claim, the implication is that the failures and successes of liberal legalism alike paved the way for the rise of the Hindu far-right. This happened due to the law’s tendency to equate secularism with Hinduism, authorise or tolerate violence in the name of ‘national security’, make the poor and other subaltern actors the object of private pity and public management, and by elevating the nation-state into the ultimate arbitrator and referent of human diversity. In this telling, the three pillars of the postcolonial state, namely the rule of law, secularism and developmentalism, contained the seeds of the ascendance of the Hindu far-right. Sircar shows in detail how events and actors nominally antag-

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