(Bio)ethics and homeless persons: between Agamben and Derrida

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Abstract

This article aims to analyze bioethical issues related to homeless persons based on the concepts of *homo sacer*, by Giorgio Agamben, and unconditional hospitality, by Jacques Derrida. We considered the following key elements: the invisibility of these people and the recognition that health professionals and institutions must operate within the logic of a hospitable culture, considering care for this population as a significant ethical action.
Keywords: Primary health care. Ethics. Homeless persons.

Resumo

(Bio)ética e população em situação de rua: entre Agamben e Derrida

Neste artigo pretende-se analisar problemas bioéticos relativos às populações em situação de rua a partir dos conceitos de *homo sacer*, de Giorgio Agamben, e de hospitalidade incondicional, de Jacques Derrida. Como elementos-chave destacam-se a invisibilidade dessas populações e o reconhecimento de que profissionais e instituições de saúde devem operar em lógica de cultura hospitaleira, que considere o cuidado às pessoas em situação de rua como significativa ação ética.
Palavras-chave: Atenção primária à saúde. Ética. Pessoas em situação de rua.

Resumen

(Bio)ética y personas sin hogar: entre Agamben y Derrida

En este artículo, se pretende analizar los problemas bioéticos relativos a las personas sin hogar con base en los conceptos de *homo sacer*, de Giorgio Agamben, y hospitalidad incondicional, de Jacques Derrida. Como elementos clave se destacan la invisibilidad de dichas poblaciones y el reconocimiento de que los profesionales e instituciones de salud deben operar en una lógica de la cultura hospitalaria, que tenga en cuenta el cuidado a las personas sin hogar como significativa acción ética.
Palabras clave: Atención primaria de salud. Ética. Personas sin hogar.

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The meanings attributed to homeless persons (HPs), regarding their development, causes, flows and derivations, depend on further analysis about this phenomenon, having the process of social exclusion in Brazil as a background. This conception, which interrelates the topic with the issue of poverty and inequality, considers the instability of the homeless subject's social place, which directly interferes with their health conditions[1].

Ultimately, what is at stake is the neoliberal logic at the heart of late capitalism, guided by the perspective of: 1) expanding multinational corporations and maximizing international capital flows; 2) globalizing markets; 3) shrinking state control in the economy; 4) squandering natural resources; 5) dismantling the welfare state; 6) valuing individualism; and 7) stimulating unbridled competitiveness[2-4], as shown in Hans Weingartner's[5] film *Hut in the Woods* (*Die Summe meiner einzelnen Teile*, in the original). In this context, an ambiguous capture/exclusion process emerges reaching part of society, leaving subjects to their own devices, expropriating them from the production/consumption dialectic and transforming them into HPs.

In this sense, the many modes of existence of HPs are marked by the violation of fundamental human rights, the flagrant economic and social inequality and by the distance from public policies. Criminalizing discourses are also produced to reaffirm distinct stigmas about this population: the "vagabonds," those who "do not want to work," the "crooks," among other derogatory names[6]. There is, in fact, remarkable recurrence in the forms of exclusion to which homeless persons are subjected[7].

Recognizing the social (non) place assigned to HPs and the denial of rights, violence and barriers to which they are subjected, it is important to formulate the problem theoretically, as to seek references to characterize it and discuss alternatives for its handling. Thus, this article consider HPs based on the concepts of *homo sacer*, by Giorgio Agamben[8], and unconditional hospitality, by Jacques Derrida[9]. These authors may bring new views and a theoretical basis for this issue, in (bio)ethical-political terms, which could inspire actions (*praxis*) for the care of these people.

The concept of *homo sacer* and homeless persons

The notion of *homo sacer* refers to a figure of the archaic roman law that includes those who committed a crime to which there is no law, becoming thus "unwanted" both in the human and divine dimension. In fact, as someone who cannot be submitted to punishment rituals (sacrifice). Left to their own devices – beyond "human justice" and below "divine justice," maybe in a *limbo* between both – this subject could be killed without it being considered a crime. In other words, *homo sacer* is excluded from the "sacrifice" dimension, but captured by the possibility of being murdered[8]. Their lives are exposed to abandonment, at the mercy of a power of death[6].

On the one hand, one has the sacredness and authority of those who hold power; on the other, *homo sacer*'s capacity to be killed but not sacrificed, over whom all men act as sovereigns. This subject, who is both imprisoned and exposed to violence, is subjected to the double subtraction – a reflection of political exclusion – of his human and divine rights[8].

It is possible to relate Agamben's concept to the lives of homeless persons[10]. Submission to civil society and to the State subjects HPs to all kinds of violence and neglect, institutional or not, with several individual and collective repercussions. Their existence, like that of *homo sacer*, is *separated from its context and that, so to speak surviving its death, is for this very reason incompatible with the human world*[11]. Abandoned to their own vulnerability, homeless people experience the fragility of a *bare life*[8].

Considered deprived of autonomy, exposed to the violent reality of which they are part, with no possibility of seeking different ways to overcome it, *these subjects only resist and in an attempt to stay alive they lead the life they can, despite maintaining it in an irregularity that feeds and sustains a certain government logic that continues to condemn it as an evil for the cities*[12]. When we analyze this structural and subjective abandonment, it is easy to identify an exclusionary inclusion relationship, since the individual who *has been banned is delivered over to his own separateness and, at the same time, consigned to the mercy of the one who abandons him – at once excluded and included, removed and at the same time captured*[13].

Using coercive practices, power regulates, protects, transforms and keeps the homeless person on the margins, in a threshold situation that creates a zone of indistinction between inside and outside. This subject is *supposedly* part of society, but at the same time lacks a clear sense of belonging in relationships and everyday life[6].

It is a situation similar to that of *homo sacer*, whose existence, (…) *is reduced to a bare life stripped of every right by virtue of the fact that anyone can kill him without committing homicide; he can save himself only in perpetual flight or a foreign land. And yet he is in a continuous relationship with the power that banished him precisely insofar as he is at every instant exposed to an unconditioned threat of death. He is pure zoê, but his zoê is as such caught in the sovereign ban and must reckon with it at every moment, finding the best way to elude or deceive it. In this sense, no life, as exiles and bandits know well, is more "political" than his* [14].

The homeless person can be identified as *homo sacer*, as he is excluded from social benefits and subjected to constant acts of violence. His life is exposed, disposable, and can be taken by anyone, often without punishment, as the recurring massacres and murders of these people that generally go unpunished [15]. Their bodies are *violated hundreds of times, without any chance of defense or response* [16].

Socially excluded, but at the same time captured by the system, their lives can be watched, collected and, eventually, exterminated, as Agamben [8] points out. Moreover, as Butler shows, *there are ways of distributing vulnerability, differential forms of allocation that make some populations more subject to arbitrary violence than others* [17]. Impunity is also the result of exclusion, marginalization and wide-open oppression in the streets and alleyways of cities, pointing to disposable lives, that is, that do not matter. Supposedly, these lives can be eliminated for the discomfort they generate by revealing the misery that constrains society and public power, for their simple political existence, at the mercy of the relationship with the power that banned it. It is a *life that can be killed by anyone – an object of a violence that exceeds the sphere both of law and of sacrifice* [18]. An example of this approximation between the figure of the *homo sacer* and the homeless person is in one of the many news stories expressing the capacity to be killed and disposability of this population:

Attacks on homeless people in the country often follow the same pattern. They are done at dawn, without the possibility of defense and identification of the aggressors and done, in general, with firearms. Besides these characteristics, all are marked by impunity. A Folha *survey shows that five of the main attacks of the last five years lacked an outcome: no one is in prison or has been condemned for the crimes* [19].

The murders are imbued with neutrality based on the sovereignty of those who hold power over *homo sacer*'s life, which can be discarded symbolically – by deprivation, stigmatization and other type of violence – or concretely, as in the massacres and hygienist interventions legitimized by public initiative. An example of these actions took place in Rio de Janeiro, in August 2017:

One of the most evident social problems in Rio is on the sidewalks, covered by rags and pieces of cardboard, in plain sight. But not everyone wants to see it, much less up close. Even the authorities have closed their eyes. Just like the Edifício Roxy in Copacabana, which installed a kind of shower in the marquee, other buildings have adopted strategies to ward off homeless people. Barbed wire, hoarding, railings, creolin, threats and aggression are some of the "methods" used by traders and tenants to prevent adults, youth and children from sleeping at their doors. While the homeless population grows — there are 14,279 in the entire city — the city is still studying what to do to overcome this challenge [20].

The homeless population is daily expelled from their places of stay by these "methods," which justify the recurrent flight, evasion and vagrancy. In this context, the role of the State recedes, moving from the focus on human rights to the security discourse. Instead of being perceived as threatened by institutionalized devices, homeless people are seen as a threat to public order [21]. As *homo sacer*, the homeless subject suffers insults and unconditional subjection to a power of death [8], even if having legal status as a citizen [22]. The lack of guarantee of basic rights permeates the different vulnerabilities to which HPs are exposed, including the health-disease condition. Demands that should be part of the subject's constitution and recognition over his own body are predetermined, in the case of "killable" subjects, by the sovereignty of power and justice.

Following this line, one can also think of a Brazilian *homo doentis*. A sick man who, due to his presumed irrationality, justifies any and all forms of treatment. The homeless person is transformed into a sick body over which any and all therapy is justified. The management of his life and body is legitimized by his presumed state of illness. Discussions are not

about what is done, but about strategies regarding the possibilities of doing. The planning of collective health actions is held in spaces where homeless people are not: in science or in the government office. What is offered to him must be adapted by assumption and his knowledge can be legitimately disregarded (...). In this way, homo doentis *is treatable by all and by anyone, and therefore the question is how to access him to do so. Constituting his being, the disease defines him and justifies not having to listen to his rationality. The disease is, therefore, the establishment of the homeless* [23].

Being marginalized, they are subjected to the demands and care that the holders of knowledge and power deem necessary. Professionals, academia and institutions classify them only by what they are exposed to: their wounds, hunger, misery and disease [24]. In this perspective, *the very body of* homo sacer, *in its capacity to be killed but not sacrificed, is a living pledge to his subjection to a power of death. And yet this pledge is, nevertheless, absolute and unconditional* [25]. That is, in his body is expressed the absolute power that determines his non-existence, unconditional submission to death and deprivation of rights, his non-autonomy [8]. The production of life, health, meaning and desire of these people is pushed to the background, run over mainly by the norms and protocols that support institutions.

The theoretical association with Agamben's [8] reflections shows how society seeks misguided ways to suppress the discomfort HPs generate, disregarding different ways of existing outside the standard of a "successful" life. This view exposes homeless individuals to a cycle of search for survival that marks them more for their deviations than for what gives them citizenship. This is because they are where they supposedly should not be, for being who they should not be, and yet produce themselves as political subjects of the city, even if by "illegality" in the eyes of the *status quo* [6]. According to Agamben, *what confronts us today is a life that as such is exposed to a violence without precedent precisely in the most profane and banal ways* [26].

It is undeniable that there are policies, laws, apparatus, projects and services focused on HPs. The reflection here does not disregard the importance of these actions, as, in fact, without them the invisibility of this population would be even greater. However, this study also analyzes interventions that supposedly alleviate the suffering of "vulnerable" subjects, but which

in practice run the risk of intensifying their difficulties, especially regarding health [27]. Often there are protocolary, bureaucratic conducts and lack of comprehensive care, exposing individuals, for example, to constant new referrals, in a dynamic that deviates from the expected care.

The figure of *homo sacer* is a good reference to further discuss such a complex topic, that is, life conditions of HPs, based on a critical and reflective perspective. Devoid of rights and freedom, just like *homo sacer*, homeless persons are subjected to a power that both abandons and captures them, and that includes to exclude. Thus, according to Agamben, *human life is politicized only through an abandonment to an unconditional power of death* [28]. Are there alternatives to this logic? This is our question here. In the next section we analyze new alternatives and solutions, which presupposes recognizing different ways of living.

Care for the homeless: in search of unconditional hospitality

Especially regarding this idea of hospitality, the thought of Jacques Derrida [9] can substantially contribute to the care for homeless persons. The concept of "deconstruction," one of his main theoretical contributions [29], denotes *an open thought, exposed to both life and death,* [which] *allows shifting one's gaze both on biopolitics and on our traumas before its processes and consequences. To think deconstruction is to think us today* [30].

Based on this notion, which intends to subvert the logic of opposition, Derrida proposes the concept of unconditional hospitality as the possibility of a "democracy to come" [31]. Indeed, according to Meneses, *"deconstruction" can be described as the welcoming of hospitality, as well as the hospitality of hospitality* [32]. It is pure welcoming. In fact, such hospitality refers to the full exposure of those who welcome to the arrival of the one who comes without having been invited. The one who welcomes must leave the door open to the one who arrives, unconditionally, offering shelter, a place, without requiring reciprocity [9,29].

When thinking about the disregard of HPs, the limitation of access and reach of their basic rights and the lack of public policies really capable of caring for this group becomes explicit. In short, health services should provide comprehensive care, hospitality and support to any citizen, regardless of their condition, since this is *the very experience of*

Update

hospitality, the condition of welcoming in general [33]. Thus, from unconditional hospitality we can reflect on HPs beyond the political aspects, denouncing and combating the inadequacies of legal, State and civil hospitality [34]. In this sense, Derrida [9] refers to the figure of the "foreigner" as a being alienated from a certain language and technique, forced to take risks in defense of the law of the country that welcomes or ousts him:

He must ask for hospitality in a language that, by definition, is not his own, that imposed by the owner of the house, the host, the king, the lord, the power, the nation, the State, the father, etc. These impose on him the translation into his own language, and this is the first violence. The question of hospitality begins here: should we ask the foreigner to understand us, to speak our language, in every sense of the word, in every possible extension, before and in order to welcome him among us? [35]

The foreigner is an outsider of the hegemonic reality, to which he apparently does not belong, and in this aspect can be compared to the homeless. Both are on the fringes and are seen as deviant from social norms. This implies that when one thinks of institutional welcoming based on the premise of unconditional hospitality, the language of services and professionals tends to be inaccessible to these individuals. Care is often provided disregarding what truly identifies subjects in their individuality, ignoring their demands, their "first language" and way of living and being in the world. It is quite questionable, therefore, to require that homeless people assimilate the logic, functioning and language of the services, which should welcome them without preconditions.

Another relevant point refers to the way homeless persons are socially seen, and how this influences the way in which they are welcomed or not, considering *the social practice of being and living on the street, which is responsible for building their identity* [36] – seen as negative, a target of social and institutional repulsion. Such identity, originated from the attempt to classify people or territories, serves as justification for stigmatizing and arbitrary actions [37,38]. In this regard, Derrida [9] ponders the importance of the name, which would act as a kind of privilege, exclusive to the social and family status, capable of conferring nominal identity, by right, to its bearer. The first name allows hospitality, including to the "foreigner."

In fact, one can think of HPs as subjects whose identity is created and distorted by society.

They are called not by their first name, but by their stigmas – "crooks," "junkies," "crackheads," "vagabonds," "beggars" –, which denies them the right to be recognized for their history. Even among acquaintances, homeless people are commonly called by nicknames or names that are not their own, and most of them no longer have access to their own documentation or prefer anonymity.

Therefore, *no hospitality is offered to those who arrive anonymously and to anyone who has no first name, patronymic, family, and social status, someone who would soon be treated not as a foreigner, but as another barbarian* [39]. According to Assumpção [24], the stigmatization of these individuals even determines the social position they assume for institutions, blocking knowledge, discourses and practices and preventing possible interventions.

In this sense, hospitality would become conditional and therefore paradoxical, since what defines it is its absolute character. It is focused on this other, unknown, anonymous, giving him the flow to come, to arrive – without requiring reciprocity, even their name [9]. This theoretical reflection highlights the importance of unprecedented embracement, in the sense of welcoming the foreigner without restrictions [9].

As Soares adds, *hospitality, seen through the prism of deconstruction, does not suppose identity. It presents itself as a moral right, as a duty of humanity due to another human being. Hospitality, when unconditional, is defined by letting the other come, by unreservedly welcoming the other who arrives, it is an act of generosity towards the other* [40].

From this perspective, it is important to recognize that health services are set from requirements that end up becoming access barriers for a population with no name, address and documentation. Most often, there are prerequisites for the care: electronic records and other regulations in the data system, for example, disallows not filling some information.

In this context, we highlight the importance of recognizing the other – HPs – as someone who needs unconditional welcoming. Moreover, this embrace should happen without the need, for instance, of any identity document, considering that they are presupposed elements [31]. In addition to the flexibilization of bureaucratic obligations, hospitality also presupposes a relationship between those who embrace and those who are welcomed, even when one thinks of inferred rights and duties. In this way, the one who welcomes does so with

some know-how – conscious or not –, and must give space for the other to make decisions. This attitude should oppose hierarchical relationships, characterized by demands that jeopardize the multilaterality involved in this meeting.

Openness to the *other* is complex, as is democracy, and otherness cannot be reduced[41]. As Derrida states, there is a *paradoxical or perversive law: it touches this constant collusion between traditional hospitality, hospitality in the ordinary sense, and power. This collusion is also power in its finiteness, namely the need, by the host, to choose, to elect, to filter, to select their invitees, their visitors or their guests, those to whom they decide to offer asylum, visiting rights or hospitality. There is no hospitality, in the classical sense, without sovereignty for oneself, but just as there is also no hospitality without finiteness, sovereignty can only be exercised by filtering, choosing, thus excluding, and practicing violence. Injustice, a certain injustice, and even a certain perjury soon begins from the threshold of the right to hospitality*[42].

Thus, not welcoming the other unconditionally implies exclusion and violence, mainly due to the aforementioned influence of what constitutes sovereignty and power, which are the main things responsible, even if indirectly, for controlling these relations. According to Fonseca[43], Derrida therefore bets on the unconditional "yes," on the precedence of otherness, on the primacy of the foreigner over the hegemony of the "self."

Based on this, before the power and hegemony of the one who embraces is the *unconditional yes*, in an attempt to escape from the shackles of power that corrupts the possibility of hospitality: *let us say yes to the one who arrives, before all determination, before all anticipation, before all identification, whether or not they are a foreigner, an immigrant or an unexpected visitor, whether or not the one who arrives is a citizen of another country, a human being, animal or divine, a living or dead, male or female*[44]. In our context, the *one who arrives* is the homeless person. The excerpt from Derrida[9] allows us to understand unconditional hospitality as a type of engagement, where the subjectivity of those who embrace is decisive for an absolute welcoming free of debts.

Such reflection can be extended to the production of care in the Brazilian Unified Health System, since welcoming is essential to democratize access to health services, recognizing the subjectivity and needs of each one[45]. In practice, however, embracing users is commonly related to a professional behavior on the part of some workers,

wrongly identified with a simple administrative screening action for referral to specialized services[46].

Beyond this simplistic idea, one must value voluntary openness to the other, letting them express their uniqueness. However, "voluntary" does not mean "optional". Hospitality, as advocated by Derrida[9], is unconditional, and the principle of equity referred to in item IV of article 7 of Law 8,080/1990 determines the *equality of healthcare, without prejudice or privilege of any kind*[47].

However, in the daily routine of health services, user embracement tends to be linked to compliance with protocols, leaving HPs with their demands unmet. These many protocols and rigid flowcharts hinder a broader approach to problems and culminate in excessive referrals, which intensifies the hegemonic logic and fragmentation of care[48].

This type of situation would be easily resolved with embracement, the receptivity to the other, in the face of the singularities of who welcomes and who is welcomed, as proposed by the notion of unconditional hospitality. Tesser, Poli Neto and Campos[48] further add that welcoming should be prioritized by coverage area and user particularity, underlining the importance of guiding the medical staff to value jointly discussing cases.

Moreover, *the concept of hospitality is not static, it is, preferably, a dynamic concept, which forces us to go beyond ourselves and institutions to be aware of the foreigners' vulnerability*[49]. Indeed, in the relationship between the service and the streets there is not only the hospitality of the professional towards the user, but also the institution, which relates to the public space itself, the territory and the dynamics of HPs. In this sense, Derrida points out that *hospitality here means public space advertising*, and that *city hospitality or private hospitality are dependent on and controlled by the law and the state police*[50].

Thus, the author indicates and discuss the consequences of "hospitality offenses" and how institutional power relations hold the ideal mode designated as unconditional. This sovereignty of cities is a relevant factor in thinking about the true meaning of democracy, in theory and in practice, as *we are produced by the city at the same time as we produce it, inhabiting it*[51].

Derrida[9] also states that unconditional hospitality is ideal, but with a certain impossibility – meaning its full manifestation in reality –, which is confirmed by the functioning of health services when encountering HPs. It is difficult to unconditionally

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Rev. bioét. (Impr.). 2020; 28 (4): 628-36   **633**

Update

embrace the other, without prejudice, protocols or other instances that create barriers to the naturalness of the encounter:

Everything happens as if hospitality was the impossible: as if the law of hospitality defined this very impossibility, as if one could only transgress it, as if the law of absolute, unconditional, hyperbolic hospitality, as if the categorical imperative of hospitality required transgressing all the laws of hospitality, that is, the conditions, norms, rights and duties that are imposed on the hosts, on the men and women who offer and on those who receive the welcome [52].

Access can and should be facilitated by important actors in the discussion on the lack of conditions to embrace and care for HPs. The action of associations, federations and social movements that seek to break barriers is essential [24]. Moreover, the form of embracing is related to a reflexive and critical process directed to the subjectivity and existence of who welcomes and who is welcomed. One cannot, therefore, think about unconditional hospitality without being unprepared and available to meet the

unexpected [53]. Those on the "front line" represent the institution responsible for healthcare, but are also subjects with representations about themselves. These persons must be available to encounter themselves and the other, considering their *conditioned and conditioning rights and duties* [54], but without these being criteria for unconditional welcoming.

Final considerations

This article aimed to think HPs in the light of Giorgio Agamben's concept of *homo sacer*, and Jacques Derrida's unconditional hospitality. The considerations made throughout the text allowed to question the care dispensed to homeless people. From this perspective, we conclude that it is possible to build forms of hospitality based on unconditional hospitality, taking care of the relational scope of those who establish themselves as hospitable, by discussing "how" and "who" has been embraced [43]. The (bio)ethics that permeates HPs care must be hospitable and unconditional, allowing to face the harmful effects of the capture/exclusion that turns people into *homo sacer*.

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636

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