

Giorgio Agamben. *The Highest Poverty: Monastic Rules and Form-of-Life*. Stanford: Stanford University Press, 2013. ISBN 9780804784054 (cloth). Pp. xiv + 157. \$50 cloth, \$17.95 paper, \$9.99 Kindle. Translated by Adam Kotsko from: *Altissima povertà: Regole monastiche e forma di vita*, Vicenza, Neri Pozza, 2011.

Reviewed by Paul J. Griffiths, Duke Divinity School

What does it mean to separate oneself entirely from the law's precepts by embracing radical poverty as a form of life? That's the question of this book. The answer is given by way of a detailed analysis of the texts describing the early Franciscan impulse to establish a form of life that would exactly be constituted by a complete renunciation of ownership.

Agamben's first move is to establish the grammar of ordinary legal thinking about ownership, to which the Franciscan idea responds with a radical rejection. That is, he depicts the terms of art and the deep conceptual structure that inform understandings of ownership found in Roman law and in Christian canon law; this grammar remains with us now, and its deep infiltration of our thought is, Agamben thinks, why it is difficult for us, whether we are Catholics or not, to see with any clarity the meaning of the Franciscan attempt to replace it with something different in every way. Agamben provides in this book what he takes to be the conceptual tools necessary for such clarity.

Our understanding of law and its relationship to persons, at the deepest level, takes the law's precepts to apply not to actual persons but rather to juridical ones. Juridical persons are abstractions, legal fictions that can bear rights, enter into contracts, own property, and most generally be subject to the prescriptions, proscriptions, punishments, endorsements, and supports of legal codes. That juridical persons are not identical with actual persons is shown by the fact that we all think -- and all actual legal codes reflect this view -- that some aspects of our lives are extra-legal, subject to no law. We may call these aspects of our lives 'private' (there are many things they can be called), but whatever we call them, we fully expect that some aspects or departments of our lives, some of what we do, think, and say, lies beyond the law's scope. To consider ourselves as juridical persons, persons recognized by and under the sway of law, is therefore to consider only a part of what we are. All this is true, anyway, if we understand 'law' to mean 'positive law' -- codes brought into being by legislative bodies and (in theory) available for study. The juridical person, as Agamben puts it, is statutory, brought into being and maintained by statute; the concrete individual -- you and me in our particularity -- are by contrast biographical, constituted by the lives we lead and the history we have.

Over against this understanding of the relation of law's rule to life Agamben gives us that of monasticism generally, and of Franciscanism as its most consistent and radical form. Francis' aspiration, as Agamben depicts it, was to bring into being a community -- a form of common life, which is *koinos bios* in Greek, or *coenobium* in Latin, or *cenoby* in English -- in which there would be no distinction between the rule governing the community's life and that form of life as lived. Rule (*regula*) and form-of-life (*forma vitae*) cannot, according to the Franciscan ideal, be distinguished. They bear a relation to one another which Agamben likes to call one of "indistinction" or "indetermination," or (even worse) "a tendential threshold of indistinction." All this is barbaric in English, though no doubt less so in Italian (*una soglia di indistinzione tendenziale*); one of the dubious merits of this translation is that it stays close to the Italian even when the result is barely recognizable as English.

In any case, it is clear enough what Agamben means. He wants to show what it would be like to imagine a form of life that cannot be subject to (legal) rule because it and rule (*forma* and *regula*) have become co-extensive. There is no outside to such a form of life, nothing external to it, and so those in it, living it, are not subject to laws (*regulae, leges*) because entering the form of life has abolished juridical persons, and it is only such persons who can be thought of as subject to law's rule. There are, instead, monastic persons whose form of life is the *vita Christi*, Christ's own life; they have, in the ideal-typical case, become assimilated to Jesus in all that they do, the bodily sign of which is the stigmata, which Francis is supposed to be the first to have borne on his body.

The difference between a legal-juridical understanding of monastic life with its rules, on the one hand, and an understanding of it as a form of life in Agamben's sense, on the other, can be a bit hard to keep in mind. Don't Franciscans have more-or-less legal rules that order their life together? Aren't they subject to them as precepts? Aren't there punishments for breaking them? And isn't all that sort of thing simply a necessary condition of all social life, cenobitic or not? Well, yes and no. It's the great strength of this book to show, by careful analysis of the arguments surrounding central features of the Franciscan life, what the difference between the two ways of thinking comes to.

Consider the vow, the means of entry into the monastic community. One way, the ordinary legal way, to understand this is in terms of contract. When aspirants take the vow, on this view, they sign on to a set of precepts (poverty, chastity, obedience, and so on), and are subject to sanction if they offend against them. They are, *de facto*, juridical persons, whose relations to their fellow-monks and their monastic superiors are understood in broadly contractual terms.

On another understanding, the one Agamben advocates as the proper way to think about the Franciscan form of life, the vow is a unilateral declaration

of intent to enter a form of life ("I want to serve God in this way ..."), and the precepts (poverty and so on) a description or delineation of the shape of the form of life that is serving God in this way. There is no juridical subject on this understanding, and no contract; there is, rather, entry into a mode of living (*forma vivendi* -- all these Latin phrases are everywhere in the Franciscan literature) with a particular configuration. It is, moreover, a form of life that embraces everything about those who enter it; it cannot be exhausted by precepts, and to observe the precepts that delineate it is not to exhaust the form of life, to keep it perfectly -- any more than observing the precepts that delineate the form of life that is marriage or siblinghood is to keep those forms of life perfectly. (Citizenship is a different matter: that is a creature of law *stricto sensu*, and can be exhaustively described in terms of juridical persons.)

Offences against the precepts, on this second view of the vow, are understood very differently than on the first understanding of it as binding yourself by contract. Suppose you're a Franciscan and you offend against the precept that you should not wear sandals. On the contractual-legal-juridical understanding of precept, when you do this you've broken a law and you're subject to punishment. When the precepts are understood as descriptively delineating a form of life, then when you put sandals on you leave the form of life in which they are not worn -- you become, to the appropriate extent, self-exiled by what you do. There is, according to this view, no distinction between what the monk does -- the form of life he lives -- and the monk himself. This is a distinction that would have to be in play were the legal-juridical understanding of the monastic *regulae* the correct one. Agamben makes the difference abundantly clear by contrasting what he takes to be the Franciscan view of the religious life with the (after Augustine) standard distinction between person and office in the case of the priesthood. In that case, [the office and the human being who occupies the office and the office itself are deeply distinct: a priest may be a man who does bad things, but he is still a priest – at least, until he is removed from his office.](#) But in the non-juridical understanding of the monastic form of life, the monk who does non-monastic things is, to the extent that he does them, exactly not a monk.

Monastic life as Agamben sees it, with Franciscan life as its ideal type, leaves behind completely the fundamental distinction between norm and life, or law and life, that informs all ordinary understandings of the scope and force of law. It does this by subsuming all norms, all laws, into a form of life, and thereby reconstituting them as delineations of that form of life, rather than as regulations extraneous to it and to the persons whose lives are constituted by living it. The norm is 'lived' we may say (Agamben does), rather than the life being normed.

What, then, about poverty? This is the distinctive mark of the form of life that is Franciscanism, and almost half Agamben's book is devoted to an analysis

of contributions to the convoluted and passionate debates about whether radical renunciation of ownership is possible, and if so how it should be understood, that marked the century following Francis' death in 1226. Agamben is very good on this. He doesn't write as a scientific historian trying to get at how it really was, at what those who contributed to these debates may have thought they meant. He writes rather, and much more illuminatingly, as an intellectual archaeologist, trying to get at the essential structure of the debates, at their grammar. That grammar concerns the possibility of using things (food, clothing, and so on) without owning them. For the mainstream —, the anti-Franciscans, we might say (though some of them were Franciscan) — simple use (*, usus simplex* or *usus facti*), simple use, is an incoherent concept. All *usus* implies *proprietas* or ownership -- that eventually became the doctrine of the church on the question, and Agamben, in a pregnant passage, understands this decision by John XXII in 1322, as foreshadowing the understanding of the relation between use, consumption, and ownership that defines "the very canon of mass consumption." We all now think, that is, that to use a consumable, such as a meal, is to make it our own; and we all now think that every understanding of use is parasitic upon an understanding of ownership. Agamben thinks -- and thinks that Francis thought -- these conclusions mistaken.

Agamben thinks that the Franciscan theorists lost this argument -- failed, that is, in defending a concept of use-without-ownership they thought necessary of Franciscan poverty was to be what Francis intended it to be -- because in making it they adopted the language and grammar of their opponents. They tried, that is, to give an account of poverty in juridical language, reaching for conceptual devices that would, or might, permit them to find a constrained corner of life free from the reach of law. What they should have done, Agamben thinks, was to attempt a definition of use in its own terms, without doing so in terms of its opposition to ownership. If they had done so -- and he applauds Peter Olivi, a Franciscan theologian active in the second half of the thirteenth century, as having come closest to doing so -- they might have succeeded in doing what Olivi wanted to do, which was to show the intimate connection between radical poverty (*usus paupertas*) and a life lived without the law, an *abdicatio iuris*. A life beyond the law's reach, without juridical persons — so, has, Olivi thought (and Agamben thinks —) can only be given form by the complete renunciation of ownership. Otherwise, the law's dominion remains complete.

A line from Bob Dylan's song, "Absolutely Sweet Marie" (1966) might help to make some of these abstracta concrete: "To live outside the law you must be honest." Agamben doesn't quote this, but I think he would approve. Extra-legal life, a form of life to which precept does not and cannot apply, requires the virtues for its substantial delineation. Agamben puts it this way: "[T]he decisive core of the monastic condition is not a substance or content, but a *habitus* or a form."

The Highest Poverty is one volume in a large ongoing work by Agamben called *Homo Sacer*. The *homo sacer*, the sacred person, is, according to Roman law, legally excluded from the provisions of the law (already a paradoxical situation), and may, as a result, be killed without fear of legal penalty. There are various ways in which this condition may be entered, and Agamben has analyzed many of them in other volumes in this series. His consistent interest is in extra-legal modes of life that escape the legal power of the state to exclude them; and he is interested in this because he wishes to delineate and advocate forms of life that make politics (and indeed life) without law possible. These forms of life, he thinks, have increasingly been made impossible by adoption of understandings of sovereignty that recognize only law-governed life as properly life, and that therefore make it possible for the state to treat all forms of life that they exclude, or that try to exclude themselves, from the state's exercise of sovereignty, as instances of *homo sacer*, to be killed or tortured or otherwise disposed of at will and without penalty. His treatment of the Franciscan form of life in this volume fits this program perfectly: he takes Francis' advocacy of a form of life ordered around radical poverty as an instance of what he's looking for, even if one that has not managed to realize its aspirations and whose central purpose was soon undermined by the church.

Agamben's book is an intellectual delight. It's analytically sharp, and profoundly illuminating in its treatment of monastic (especially Franciscan) *regulae*, materials too often left to canonists who are so close to the material that they cannot think about it. As he has in some of his other works, he shows the power and radicality of materials from the Christian archive in ways difficult and surprising for theologians and canonists for whom these materials are in some sense authoritative. What he offers the Church is a good example of the gifts pagans can bring: He did this for Paul's Letter to the Romans in his *Il tempo che resta* (2000), for some central eschatological ideas in his *Il regno e la gloria* (2007) and *La chiesa e il regno* (2010), and here in this book for the idea of radical poverty. Catholics should be grateful. They should certainly read him.

A final comment about the form of the book. It's a pleasure to read, and we should be grateful to Adam Kotsko, its translator, and to Stanford University Press, its publisher, for bringing it to an English-speaking readership so soon after its first publication in Italian. The translation is mostly accurate (I read it with the Italian open before me), indeed rather too much so to be easily comprehensible in English. Some of that has to do with Agamben's style in Italian: he has many oracular and aphoristic moments which that resist paraphrase and sometimes comprehension; but some of it has to do with the translator's decision to stay close to the syntax and vocabulary of the original. Much more troubling is the frequency, in the English version, of errors in the Latin. There's a lot of Latin in the book, almost all of it translated accurately

enough into English; but the number of errors in the Latin is unconscionable for a reputable university press, and most of them are not present in the Italian original and must, therefore, have been introduced during the process of making this English version. I hope Stanford will do better with their rendering of the next volume in Agamben's series, which appeared in Italian in 2012, and is already promised for publication by Stanford.