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# Specters of Saint Francis: Agamben's *The Highest Poverty* and the State of Digital Culture

Alessia Ricciardi

## The impossibility of simple use

In his celebrated treatise, *Specters of Marx* (French, 1993; English, 1994), Jacques Derrida assesses the widespread repudiation of the Marxist legacy after the fall of the Berlin Wall, suggesting that this disavowal amounts to a denial of the reality that “never before [. . .] have so many men, women, and children been subjugated, starved, or exterminated on the earth.”<sup>1</sup> For Derrida, triumphal pronouncements of the demise of Marxism in the 1990s only threw into sharper relief Marx’s “spectral” persistence as an inescapable spirit of critique in contemporary capitalism. In what follows, I wish to ask whether the figure of Saint Francis of Assisi might not play a similarly necessary and perplexing role vis-à-vis our prevailing cultural conditions. More specifically, I will argue that, in his most recent work, the Italian philosopher Giorgio Agamben’s recuperation of the Franciscan legacy brings to light a surprising kinship between our current digital culture and the Franciscan school of monasticism, an affinity that nevertheless ultimately turns out to be more than a little problematic.

The central tenet of the “rule and life of the Friars Minor,” as Francis articulates it in the *Regola bollata* (1223), is “to live in obedience, in chastity, and without property” (*vivere in obedientia, in castitate, et sine proprio*).<sup>2</sup> Clearly, this credo’s emphasis on the last term of its trinity of ideals is what strikes a sympathetic note to contemporary ears. We should remember, however, that the imperative to live without property in fact turned out to be the pivotal historical error of the Franciscans, as their claim that the simple use of such things as food, drink, or clothes ought to be divorced wholly from their worldly status as property, in the end, became insupportable in the eyes of the Church itself. Curiously, a persistent strain of digital culture seems to thrive on the assumption that the simple use of a thing may indeed be separated from its attributes as property. We all have become “users” of the World Wide Web, and some of us have difficulty recognizing the legitimacy of property rights within the domain of virtual reality. The allure of illegal downloads, for example, has created a population of consumers whose behavior seems inimical to the law’s ostensible authority over their actions. Acts of online piracy thus, ironically, suggest an abiding belief in the primacy of “natural law” in the sense of a primordial common good that precedes and trumps the claims of positive law.

Notwithstanding his penchant for philological and theological excursus, Agamben has trained us as readers to expect from his writings a timely take on contemporary culture. Certainly, he achieves this feat in *Homo Sacer* (Italian, 1995; English, 1998) and then later in *State of Exception* (Italian, 2003; English, 2005), which was published in Italian in January 2003, a little more than a year after George W. Bush signed the Patriot Act into law in October 2001. Agamben’s recent reflections on the Franciscan form of life, which he shares with readers in *The Highest Poverty: Monastic Rules and Form of Life* (Italian, 2011; English, 2013), surely offer a welcome retort to what might be called the Franciscan pretensions of digital culture, even if

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<sup>1</sup> Jacques Derrida, *Specters of Marx: The State of the Debt, the Work of Mourning and the New International*, trans. Peggy Kamuf (New York: Routledge, 1994), 85.

<sup>2</sup> Cited in Giorgio Agamben, *The Highest Poverty: Monastic Rules and Form of Life*, trans. Adam Kotsko (Stanford: Stanford University Press, 2013), 122.

some of the philosopher's recent texts may seem, in a strictly technical sense, more compelling.<sup>3</sup> Indeed, we live in a time when we regularly confront the ghosts, doppelgängers, and caricatures of the Franciscan way of life, starting with the glossy image of our latest Pope, who quite cunningly has taken the name of Francis, and clearly hopes to assume some of his personal mystique.<sup>4</sup> Against this backdrop, *The Highest Poverty* represents Agamben's definitive statement of the *pars construens* of the multi-volume *Homo Sacer* series.<sup>5</sup> The appearance of the volume thus strikes me as a productive occasion to show how the philosopher undertakes to resolve the question of form-of-life and what relevance his reasoning may have for us as contemporary readers.

In the writings of Michel Foucault as well as those of Agamben, the concept of forms of life gains urgency in the historical context of neocapitalism and appears to be linked to the time-honored ideal of criticism or critique, the goal of resisting domination and increasing freedom while avoiding the temptation to affirm rational universalism. Foucault progressively focuses on "the care of the self," particularly in the last two volumes of *The History of Sexuality*. Responding to Pierre Hadot's contention that philosophy in ancient Greece was a way of life and not a theoretical pursuit, he famously revisits Greek and Hellenistic philosophy with special attention to Stoicism and Epicureanism in order to evaluate the acts of asceticism that are most conducive to an "ethical life." If the critical enterprise has been identified since Kant with the analysis of limits, the activity becomes for Foucault a reflection focused less on limitations than on the possibility of crossing over them, the potential for "franchissement."<sup>6</sup> To escape the temptation of aiming at transcendental, universal truths, the critic must pay attention to the contingency of the conditions that determine individual subjectivity, thus raising the prospect of "no longer being, doing or thinking who we are," as the philosopher puts it.<sup>7</sup>

Indeed, in his interviews of the mid-1980s, Foucault increasingly recurs to the idea of a form or way of life—of a "mode de vie" in the original French—especially in relation to the "homosexual mode of life," which he contends must be invented, as it currently is "formless."<sup>8</sup> As he acknowledges, "This notion of mode of life seems important to me. [. . .] Will it require the introduction of a diversification different from the ones due to social class, differences in profession and culture, a diversification that would also be a form of relationship and would be a 'way of life'? [. . .] It seems to me that a way of life can yield a culture and an ethics."<sup>9</sup> This

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<sup>3</sup> In particular, I am referring to Agamben's tight, Weberian analysis of Catholic liturgy in *Opus Dei* (2012). For the English translation, see *Opus Dei: An Archaeology of Duty*, trans. Adam Kotsko (Stanford: Stanford University Press, 2013).

<sup>4</sup> On this score, Agamben's sympathy clearly remains with Joseph Ratzinger, i.e. the former Pope Benedict XVI, who, through his grand refusal of the papal office, exposed the confusion between the legitimacy and the legality of the institution. For more on this point, see Agamben, *Il mistero del male: Benedetto XVI e la fine dei tempi* (Bari: Laterza, 2013).

<sup>5</sup> The notional order of the series runs as follows: *Homo Sacer* represents Volume 1; *State of Exception*, *The Kingdom and the Glory*, *The Sacrament of Language*, and *Opus Dei*, represent Volume 2, Parts 1, 2, 3, and 5, respectively; *Remnants of Auschwitz* represents Volume 3; and *The Highest Poverty* represents Volume 4, Part 1.

<sup>6</sup> Michel Foucault, "What is Enlightenment," in *Ethics: Subjectivity and Truth*, ed. Paul Rabinow (New York: The New Press, 1997), 315.

<sup>7</sup> Ibid.

<sup>8</sup> Foucault, "Friendship as a Way of Life," in *Ethics: Subjectivity and Truth*, ed. Paul Rabinow (New York: The New Press, 1997), 136. For a deeper sense of Foucault's thinking on the relation between sexuality and forms of life, compare this essay with "Une esthétique de l'existence" and "Michel Foucault: une interview, sexe, pouvoir et la politique de l'identité" in *Dits et écrits II, 1976-1988* (Paris: Éditions Gallimard, 2001), respectively 1549-54 and 1554-65.

<sup>9</sup> Foucault, "Friendship," 137.

effort of “diversification” coincides with the elaboration of one’s life as a work of art, as a continuous search for an “aesthetics of existence,” which has become all the more urgent in the twilight of the Christian code of obedience.<sup>10</sup> To decline the form of life as a “mode de vie” and aesthetics of existence clearly means for Foucault to replace any normative notion of class and even of sexual identity with the trope of life as a work of art. Throughout his career, his reflections on the care of the self never seem to intersect decisively with his analysis of biopower.

To the contrary, what is at stake in the debate, from Agamben’s perspective, is not only the aesthetics of existence, but more crucially, the strategic and biopolitical value of the subject’s form of life. As he sees it, one of the few means left to us of resisting the society of spectacle is through “profanations” or the activities and forms of life that restore to human beings the free use of what they have been separated from in another sphere.<sup>11</sup> Any illegal download is in this sense the paradigm of a profanation. At his most effective, Agamben stages what Benjamin would have called “a dialectic at a standstill” between the present and the past in a specific and, as we shall see, very useful sense. It may be said that one of Agamben’s major achievements is to have developed a rich, modern phenomenology of bare life.<sup>12</sup> Yet is the philosopher compelling when he speaks of forms of life? In his view, what is most meaningful is not the

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<sup>10</sup> Foucault, *Dits et écrits II*, 1551.

<sup>11</sup> Agamben, *Profanations*, trans. Jeff Fort (New York: Zone Books, 2007), 83-84.

<sup>12</sup> This term has a complex history. Prior to the publication of *Homo Sacer*, Agamben uses the Italian expression *la nuda vita* in his early writings, particularly in *Language and Death* (Italian, 1982; English, 1991), to mean something like natural life. See Giorgio Agamben, *Homo Sacer: Sovereign Power and Bare Life*, trans. Daniel Heller-Roazen (Stanford: Stanford University Press, 1998) and *Language and Death: The Place of Negativity*, trans. Karen E. Pinkus with Michael Hardt (Minneapolis: University of Minnesota Press, 1991). Beginning with *Homo Sacer*, however, he appears to regard *la nuda vita*, which is generally rendered in English as “bare life,” as an effect of sovereignty. In *Homo Sacer*, we do not find a clear-cut definition of the phenomenon, but rather a series of hints and heterogeneous examples. Agamben seems to approach the problem of bare life as the genealogical result of the metaphysical opposition between *zōē* and *bios* in Aristotle’s philosophy. He then links the concept to the notion of *sacer* as Pompeius Festus defined it in Roman law, which is to say the condition of a life that is exposed to violence while being barred from religious redemption as a sacrifice. Turning to more concrete and contemporary examples, Agamben names as instances of bare life the archetypes of the refugee, the *Versuchsperson* or subject of medical experiments in prison camps, the Muslim, and the overcomatose. The Italian formulation first occurs in Renato Solmi’s rendering of the idea of *Bloßes Leben* in his 1962 translation of Walter Benjamin’s “Critique of Violence.” As Carlo Salzani observes, it is likely that Solmi’s translation is the source of Agamben’s use of the expression. See Salzani, *Introduzione a Giorgio Agamben* (Genoa: Il Nuovo Melangolo, 2013), 84. However, we should note that *bloß* in German means “mere” rather than “naked.” Indeed, only Cesare Casarino and Vincenzo Binetti, the translators of *Means Without Ends*, have opted for the English “naked life” to convey Agamben’s *nuda vita*; other translators generally follow Daniel Heller-Roazen in using “bare life.”

Perhaps the linguistic and conceptual slipperiness of the notion explains the objections of many readers. These complaints range from Laurent Dubreuil’s and Clarissa C. Eagle’s questioning of Agamben’s reading of the supposed Aristotelian antinomy between *bios* and *zōē*, to the critiques advanced by Catherine Mills, Penelope Deutscher, and Ewa Płonowska Ziarek of the Italian philosopher’s blindness to gender and race in theorizing bare life. See Dubreuil and Eagle, “Leaving Politics: *Bios*, *Zōē*, Life,” in *Diacritics* 36:2 (Summer 2006): 83-98, and Mills, “Playing with Law: Agamben and Derrida on Postjuridical Justice”; Deutscher, “The Inversion of Exceptionality: Foucault, Agamben, and ‘Reproductive Rights’”; and Ziarek, “Bare Life on Strike: Notes on the Biopolitics of Race and Gender” in Alison Ross, ed., *The Agamben Effect, The South Atlantic Quarterly* 107:1 (Winter 2008): respectively 15-36, 55-70, and 89-106.

Finally, we may find it revealing that, although *la nuda vita* must be viewed as a distinct yet related problem, the very concept of life itself, as Agamben claims in *The Open*, “never gets defined as such [in western philosophy] [. . .] everything happens as if, in our culture, life were *what cannot be defined, yet, precisely for this reason, must be ceaselessly articulated and divided.*” Agamben, *The Open*, trans. Kevin Attell (Stanford: Stanford University Press, 2004), 13.

attempt to liberate the subject through a reimagining of the uses of the body, as it is for Foucault, but rather a post-Heideggerian quest for the proper “Da-sein.” If Heidegger’s central concern in *Sein und Zeit* is that of Being-in-the-world (*in-der-Welt-sein*), Agamben ascribes a similarly crucial significance to his own hyphenated concept of form-of-life.

Expanding on this concept in *The Highest Poverty*, the Italian thinker reexamines the emergence in the twelfth and thirteenth centuries of Christian rites that no longer conformed to the liturgy or even to formal rules of conduct. As he explains, these rituals instead affirmed the notion of a form-of-life, which is to say a life that becomes exemplary insofar as it is inseparable from its own form. Along these lines, Francis and the movement that he inspired are emblematic because the Franciscan vow to live without property (*sine proprio*) or in the highest poverty reformulates Christ’s parabolic teaching in terms of everyday life. Agamben rehearses the vicissitudes of Franciscan monks and theologians such as Saint Bonaventure, Hugh of Digne, Ubertino of Casale, William of Ockham, Pierre Jean Olivi, etc., who over the course of decades tried to convince the Church to accept their notions of *simplex usus* or the use of things without property rights. For example, Bonaventure argued in his *Apologia pauperum* (1269) for the acceptance of shared or simple use as the only true temporal necessity of human existence. Hugh of Digne crucially distinguished a life of poverty from the possession of property in *De finibus paupertatis*, asserting that natural law grants to human beings the “use of the things necessary to their conservation, but does not obligate them in any way to ownership.”<sup>13</sup> Almost a century after Francis’s death, Bonaventure, Hugh, and their allies lost the debate over *simplex usus* when Pope John XXII, in his edict *Ad conditorem canonum* (1322), forbade the separation of use from property in order to dissolve the agreement by which the Holy See permitted the Franciscans to make use of the Church’s possessions without further legal obligation. As a rationale for his decision, the Pope cited the example of goods such as food or drink that could be used only through an act “that coincides with the destruction of the thing (*abusus*),” which is to say, through the good’s being consumed and thus owned.<sup>14</sup>

Agamben’s meticulous reconstruction of this theological debate reveals how theories of *simplex usus* imply a range of praxes and a form of life that ultimately come into being outside the law. In his opinion, the main mistake of the Franciscans was indeed to insist on an overtly juridical definition of use, negatively understood in its separation from property, rather than on the form of life per se. He reminds us, for example, that Bonaventure characterized the *frati minori* as lacking an acquisitive spirit (*animus acquirendi*) and being like children (*filius familias*) who, thanks to their father, enjoy all the benefits of using property without possessing it.<sup>15</sup> By defining poverty in relation to the legal rights of ownership, however, the Franciscans made themselves vulnerable to the line of attack that John XXII decisively exploited. On this score, it is worth noting that the philosopher regards the papal ban against the separation of use from property on account of the necessity of consumption as still relevant today insofar as, according to our contemporary logic, ownership “is affirmed with the maximum intensity precisely at the point where it coincides with the consumption of the thing.”<sup>16</sup> A corollary of this condition is the utter suppression of any possibility of imagining “existence which is situated outside the law”; freedom from “the planetary dominion of the paradigm of operativity” in other

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<sup>13</sup> Agamben, *Highest Poverty*, 123.

<sup>14</sup> *Ibid.*, 130.

<sup>15</sup> *Ibid.*, 125.

<sup>16</sup> *Ibid.*, 131.

words becomes something that our epoch cannot even remotely conceive.<sup>17</sup>

When it comes to these critical conclusions, I think it is clear that Agamben is at least partly wrong. Digital culture has created a community of users who, in various ways and with varying degrees of success, are waging a war in the name of “open” or common use against the hegemony of property rights and privileges. It is striking how readily we may discern in the present day a parallel between the legal battles of Internet activists and those of the Franciscans in the thirteenth century. Unlike food or drink, digital content can be consumed without being destroyed, and its “immaterial” character lends itself to the idea that it is possible to use the Internet without owning it. Indeed, the ubiquity of such content and the relative ease with which it can be copied and redistributed have helped to promulgate the belief that information published online should always be cheaply, or even freely, accessible. It may be argued that this conviction has led in turn to popular perception of acts of digital piracy as relatively trifling wrongs, hence to a general acceptance of such acts along the lines that I observe above.

What is happening with increasing frequency in today’s digital domain, however, as it did for the Franciscans in the cenobitic sphere many centuries ago, is that all attempts to separate use from property are being rapidly and systematically thwarted. When illegal downloading began to occur on a massive scale with the broad adoption of Napster as a way to share music files, the Recording Industry Association of America, the trade organization of publishers of recorded music in the United States, swiftly reasserted the legal order by suing Napster for copyright infringement. The shutdown of Napster as a free file-sharing service of course paved the way for the triumph of Amazon and Apple’s iTunes in the commercialization of downloadable media. Massive Open Online Courses or MOOCs, on the one hand, seem to make possible a use of knowledge distinct from ownership while, on the other, prompting Richard C. Levin, former president of Yale University and current CEO of Coursera, to wax eloquent about “the revenue potential” of online courses relative to their cost of production.<sup>18</sup> Meanwhile, customers of social media such as Facebook and Twitter or research tools such as Google who make use of these companies’ technologies without paying financial charges are obviously “used” in turn by the corporations inasmuch as their data is harvested and sold to advertisers. Digital culture, like Franciscanism, nevertheless persists not only in advancing the claim that simple use is possible, but also in promising to resolve one’s life into a form, in suggesting a praxis or form-of-life that is transformative. In this light, it seems fitting to ask whether the ghost of Saint Francis appears to be a *revenant* or an *arrivant* and in what ways might the return of his specter imply a dialectical relation between past and future.

The largest corporate purveyors of digital content can even be said to rely on Franciscan imagery in their efforts to perpetuate the fantasy that the Internet is the only field of experience where simple use magically becomes possible. These companies encourage the impression that they are, as it were, only *filii familias*, who seek to exercise the right of use without the burden of owning property and thus stand in contrast to older, more authoritarian corporations that perpetually assert the prerogatives of the *patres familias*. The relative youth of the founders and workers of new media giants such as Facebook, Google, and Yahoo, gives unmistakable emphasis to the drama of generational conflict at the heart of this narrative. Wearing hoodies like

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<sup>17</sup> Ibid., 144-45.

<sup>18</sup> “Relative to the revenue potential, the cost of producing these courses is such that I think this [venture] can be viable for most if not all of our partners.” Richard C. Levin, as cited in D. D. Guttenplan, “Out in Front, and Optimistic, About Online Education,” in *The New York Times*, April 13, 2014, last accessed on March 21, 2015, <http://www.nytimes.com/2014/04/14/education/out-in-front-and-optimistic-about-online-education.html> .

ad hoc uniforms, the programmers who make up these corporations' workforces parodically evoke not only the radical spirit of African-American street culture but also the simplicity of the Franciscan monks whose *cucullus* was meant to signify humility before God. The efforts of the digital technology companies to erase the divide between life and work for their employees may even be said to emulate the attempts of the *frati minori* to eliminate the boundary between their lives and their religious vocations. No monastery could contain the form of life of the early Franciscans, who were supposed to live simply and spontaneously in *imitatio Christi*, neither praying nor working at prescribed hours of the day. As depicted in the media, life at a company like Google apes the condition of Franciscan joy insofar as it inheres in a community where work and play no longer seem easily separable. An abundance of free food and drinks is a well-known perk of Google's digital campus and thus a winking acknowledgment of the wish for a utopia where simple use at least of some perishable goods is indeed possible. Other celebrated benefits include the free availability of colorful bikes to transport workers from one end of the campus to another and the freedom to bring one's dog to work, the latter perhaps suggesting a first step toward a social order in which humans and animals coexist under natural law as equal inhabitants of the same space.<sup>19</sup>

Yet, if we examine the ethos of the technology industry more closely, we may suspect that it in fact exalts a life that looks like work rather than the contrary. In other words, the distinctive form of life of the digital worker, which the media so unfailingly celebrates, may be even more enslaved in certain respects than that of other corporate workers. Dave Eggers certainly appears to suggest as much in his recent novel *The Circle* (2013). The novel recounts the career of Mae Holland, a new employee of the world's best-known social media company, the Circle, which has devised a "unified operating system" to surveil, measure, and record all aspects of its users' lives. The corporate campus of the Circle is a place where the front entrance is the size of a cathedral and visitors find a "borrow room" in which the company loans out everything from bicycles to telescopes for free.<sup>20</sup> In fact, the dormitories of the campus are loaded with free goods for employees to use. Eggers repeatedly focuses on the system of free use that the Circle adheres to and promotes, a principle that the company puts into practice not only internally with its workers but also externally in the real world. One of the three "wise men" who control the company buys distressed estates and then gives the former owners unlimited access to the possessions he has just purchased from them.<sup>21</sup> As one of her colleagues explains to Mae, workers at the Circle constantly emphasize the importance of community because of the kinship between the ideas of community and communication, which share the same etymological root in the Latin *communis* or common.<sup>22</sup> Highlighting this point, the company promotes itself by adopting, among others, the motto "to heal we must know, to know we must share."<sup>23</sup> Through such examples, Eggers implicitly contrasts the new world of "sharing" to the old world of Wall Street profiteering and conspicuous consumption in order to gauge how dangerous the new mantra of "passion, participation, and transparency" turns out to be.<sup>24</sup> One of the requirements of

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<sup>19</sup> A representative blog posting promotes Google as an employer solely through a list of just such benefits, including the free food and drink and the freedom to bring pets to work. See Kevin Smith, "Google Employees Reveal Their Favorite Perks Working for the Company," in *Business Insider*, March 6, 2013, last accessed on March 21, 2015, <http://www.businessinsider.com/google-employee-favorite-perks-2013-3?op=1>

<sup>20</sup> Dave Eggers, *The Circle* (New York: Alfred A. Knopf, 2013), Kindle edition, location 233.

<sup>21</sup> *Ibid.*, location 364.

<sup>22</sup> *Ibid.*, location 1326.

<sup>23</sup> *Ibid.*, location 2085.

<sup>24</sup> *Ibid.*, location 2555.

advancement at the company seems to be the complete loss of privacy and anonymity, the acceptance of a form-of-life in which life cannot be distinguished from its corporate rule. The novel renders a chillingly effective portrait of this dystopia to the extent that it succeeds in exposing the contemporary fear that surrounds lives without a form or “style” and the myriad ways in which corporations exploit this fear.

In this respect, it is interesting to note how the very notion of “lifestyle” has become ever more popular and pervasive in recent years as a marketing tool. As Debord observed in *The Society of the Spectacle*, the more life becomes a product, the more drastically human beings are cut off from their lives.<sup>25</sup> From furniture to clothes, drugs, food, means of travel, etc., every consumer good, experience, and social activity, is increasingly branded and marketed as one more appurtenance of a unique “lifestyle.” This unremitting assault on our attention makes painfully clear how much we lack what Agamben defines as a form-of-life.

### **The highest poverty as form-of-life**

As Agamben sees it, the task of the critic or philosopher is the identification of a life that coincides with its own form.<sup>26</sup> In the books that precede *The Highest Poverty*, we discover textual hints of this effort, but not its full achievement. Searching for new, more dignified forms of life, in this treatise Agamben pointedly turns to the example of the monastic *regula* of Franciscanism. The conclusion of *The Highest Poverty* examines how the Church, which wished to reassert the primacy of a liturgy distinguishable from life, made heretics of the Franciscans by discrediting their theory of use, thereby assuring a fundamental failure of recognition when it came to the importance of their legacy, which, according to the author, consists in nothing less than “the invention of a form of life inseparable from its form.”<sup>27</sup>

The Italian philosopher’s critics may feel that his reflections on the Franciscan form of life betray his own overbearing intellectual snobbery. Unlike Foucault’s celebration of technologies of the self, a preliminary account of Agamben’s monasticism makes it even less clear how an individual or a collectivity would benefit concretely from experimentation with pure use. And yet, perhaps counter-intuitively, I wish to suggest that Agamben is an incisively contemporary thinker. His thought not only has currency as a means of acute cultural diagnosis, but also does not occupy such a “highly mediated position,” to borrow a phrase with which Habermas once criticized Benjamin for his supposed abstruseness, vis-à-vis its potential political uses.<sup>28</sup> For in the Franciscan practice of a “common use” divorced from property, Agamben identifies for us a potential remedy to digital culture’s unearned claims to transparency and freedom.

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<sup>25</sup> Guy Debord, *The Society of the Spectacle*, trans. Donald Nicholson-Smith (New York: Zone Books, 1995), 24.

<sup>26</sup> In addition to Foucault, an important source for Agamben’s insistence on forms of life is Heidegger, who embraces what the Italian philosopher calls a passion for “facticity” [Faktizität]. Agamben, “The Passion of Facticity,” in *Potentialities: Collected Essays in Philosophy*, trans. and ed. Daniel Heller-Roazen (Stanford: Stanford University Press, 2000), 185ff. What Agamben means to convey with this term is that, in *Being and Time*, *Dasein* is always already in the world, open to the world, before any constitution of anything like a subject or an object. “Facticity” thus comes to designate the original character of *Dasein*, understood as modes of Being that are existential and not categorical. We can see at work, if somewhat displaced, the same passion for facticity and forms of life in Agamben’s own thought, where the expression “form-of-life” replicates the typographical gesture of Heidegger’s “being-in-the-world.”

<sup>27</sup> Agamben, *Highest Poverty*, 121.

<sup>28</sup> Habermas says of Benjamin that his critique reflects a “highly mediated position relative to political praxis.” Cited in Mills, “Playing,” 27.



His writing is haunted by the possibility of an ideal, hyphenated form-of-life, since at least the inauguration of the *Homo Sacer* series. In *Means Without Ends* (Italian, 1996; English, 2000), an entire section dating back to 1993 already bears the title “Form-of-Life.” Here he pursues the image of a life that can never be separated from its form, in which it is never possible to isolate “naked life.”<sup>29</sup> He enlarges this definition by adding that, as “beings of power” who choose whether or not to act, humans distinguish themselves as “the only beings for whom happiness is always at stake in their living . . . whose life is irremediably and painfully assigned to happiness.”<sup>30</sup> The emphasis falls poignantly on the vision of a prelapsarian lack of separation, the impossibility of the ban, a lost state of being that represents a corrective to the Marxist notion of alienation, although the terms have shifted onto the biopolitical terrain. Yet in the course of the argument the author characteristically seems more comfortable enumerating current examples of bare life, which he calls the “dominant form of life everywhere.”<sup>31</sup> To the ranks of the archetypes that exemplify *la vita nuda* in *Homo Sacer* such as the Muslim, the refugee, and the overcomatose, he adds a list of the contemporary figures whose existences “all rest on naked life,” naming specifically “the voter, worker, journalist, student, HIV-positive, transvestite, porno star, elderly, parent, woman.”<sup>32</sup> Collectively, these groups represent “the multifarious forms of life abstractly recodified as social-juridical identities” by the modern state and thus prevented by their exceptionality from coalescing into a form-of-life.<sup>33</sup> The author seems to imply that their very innocence of power, or abstraction from it, paradoxically invites their subjection to power.

In *Means Without Ends*, Agamben settles on “thought” and “intellectuality” as the forces that may counteract bare life: “Only if there is thought, there is a form of life in which it is never possible to isolate something like naked life.”<sup>34</sup> Yet in his later works, he does not recur to these ideals as cohesive powers that are capable of enacting irreducible forms-of-life. In *State of Exception*, or *Homo Sacer*, Volume 2, Part 1 (Italian, 2003; English, 2005), the philosopher confirms in alarmist rhetoric the critical urgency of the present, which he regards as characteristic of the most radical worldwide manifestation of exception having become the rule.<sup>35</sup> In *The Kingdom and the Glory: For a Theological Genealogy of Economy and*

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<sup>29</sup> Giorgio Agamben, *Means Without End: Notes on Politics*, trans. Vincenzo Binetti and Cesare Casarino (Minneapolis: University of Minnesota Press, 2000), 4. Agamben warns us in the preface that all of his texts are destined to find their true sense only within the perspective of his complete work, i.e. within a rethinking “of our political tradition in light of the relation between sovereign power and naked life” (ibid., x). The translators of *Means Without End*, Vincenzo Binetti and Cesare Casarino, opt for the English “naked life” to render *nuda vita*, whereas Daniel Heller-Roazen, in his translation of *Homo Sacer*, settles on “bare life.” The latter has the advantage of suggesting the fact that this mode of being arises from the operations of the biopolitical machine, whereas naked life suggests something akin to natural life. To better understand why this point is significant, we might consider the philosopher’s assertion from *State of Exception* that, “the very possibility of distinguishing life and law, *anomie* and *nomos*, coincides with their articulation in the biopolitical machine. Bare life is a product of the machine and not something that preexists it, just as law has no court in nature or in the divine mind.” Agamben, *State of Exception*, trans. Kevin Attell (Chicago: University of Chicago Press, 2005), 87-88.

<sup>30</sup> Agamben, *Means*, 4.

<sup>31</sup> Ibid., 6.

<sup>32</sup> Ibid., 6-7.

<sup>33</sup> Ibid., 6.

<sup>34</sup> Ibid.

<sup>35</sup> Agamben notoriously borrows from one of Walter Benjamin’s “On the Concept of History” in which the German critic asserts that, “The tradition of the oppressed teaches us that the ‘state of emergency’ in which we live is not the exception but the rule.” Benjamin, “On the Concept of History,” in *Selected Writings Volume 4: 1938-1940*, ed. Howard Eiland and Michael W. Jennings, trans. Harry Zohn (Cambridge, MA: Harvard University Press, 2003), 392.

*Government*, or *Homo Sacer*, Volume 2, Part 2 (Italian, 2007; English, 2011), he evidently proposes that the true form-of-life may be found in “inoperativity” or, as he phrases it, the power of acting and living our actability and livability. In the domain of the inoperative, according to his reasoning, *bios* coincides with *zōē* without remainder.<sup>36</sup> To give a succinct account of what Agamben means by inoperativity, a notion that accompanies his philosophy from the very beginning, is no small task; it must suffice for the moment to say that the inoperative enhances life by its very proximity to potentiality. As Catherine Mills puts it, a happy life for Agamben resides in the “unlived potentiality of its own composition, reaching the perfection of its own power and communicability, a life over which the law has no hold.”<sup>37</sup> As becomes clear in *The Highest Poverty*, Agamben concerns himself above all with a communitarian, rather than an individualist, form of life. On this score, he might differ from Foucault, who seems to pursue an archeology of the care of the self often oriented to the individual.<sup>38</sup> To the fundamental question running throughout the *Homo Sacer* series, namely, what would a life that is truly inseparable from its form look like, Agamben gives the unexpected answer of Franciscanism.

Here it seems worth recognizing that *The Highest Poverty* occupies an especially strategic place in the scheme of the *Homo Sacer* project, as it promises to resolve the fundamental problematic of the series. The main topic of this volume, we should note, is a recurrent concern of the author. In “In Praise of Profanation,” which is the longest essay in his 2005 collection *Profanations*, he initiates the investigation into Franciscan monasticism and pure use that he enlarges in *The Highest Poverty*. Agamben chooses monasticism as a paradigm because the monastic order creates a field of forces or, to use a more traditional term, a dialectic, in which rule and life are consistently in a state of tension. He makes clear in *Opus Dei* that the priestly liturgy of the Catholic Church has established an infelicitous ontology and praxis of effectiveness with which we are still contending.<sup>39</sup>

What is crucial for Agamben, as he makes clear in *The Highest Poverty*, is that

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<sup>36</sup> Agamben, *The Kingdom and the Glory: For a Theological Genealogy of Economy and Government*, trans. Lorenzo Chiesa with Matteo Mandarinini (Stanford: Stanford University Press, 2011), 250. He traces the history of inoperativity as a concept back to philosophically illustrious roots in Aristotle’s *Nicomachean Ethics*. Paul’s Epistle to the Romans, specifically Chapter 5, Verse 21, which he reads as a claim that the eternal life of messianic salvation is “inoperative,” and Spinoza’s inquiry into what a body can do, which revolves around potentiality. Inoperativity in this sense may be viewed as the necessary supplement of contemplation, the practice of the sabbath: “Contemplation and inoperativity are, in this sense, the metaphysical operators of anthropogenesis, which by liberating the living man from his biological or social destiny, assign him to the indefinable that we are accustomed to call politics” (Ibid.). As a primal model of inoperativity, Agamben proposes the poem, which is to say language made inoperative. Political thought and philosophy, in his reckoning, play a similar role with respect to the exercise of power by deactivating the technological-ontological apparatus or, to put it in overtly Heideggerian terms, the *Ge-stell*. Yet at this point he seems unable to identify more specific forms of life as paradigms of resistance and concludes the book by affirming the need to enforce the “inoperative disarticulation of both *bios* and *zōē*” as the task of future investigations (Agamben, *Kingdom*, 260).

<sup>37</sup> Mills, “Playing,” 26.

<sup>38</sup> As Agamben points out in an interview with Ulrich Raulff, Hadot famously maintained that Foucault was wrong to associate the philosophical meaning of the care of the self with the ideal of a life lived as a work of art. For Hadot, in fact, the care of the self in ancient Greece implies a dispossession of the self. Agamben argues in the same interview that Hadot was mistaken when he attributed to Foucault an individualistic understanding of the care of the self. According to the Italian philosopher, Foucault de-emphasized the authorial subject insofar as he regarded the construction of life as coinciding with the injunction, “se dependre de soi.” Agamben, interview by Ulrich Raulff, “An Interview with Giorgio Agamben,” *German Law Journal* 5:5 (2004): 613.

<sup>39</sup> Agamben does not discuss the Protestant Reformation, which arguably was a movement born of the necessity to respond to this very tenet.

monasticism and, more particularly, Franciscanism set themselves apart from the liturgical paradigm in the sense that we experience these pursuits not at the level of doctrine or law, but at the level of life.<sup>40</sup> In the customarily “bombastic” rhetoric that Derrida ridicules in *The Beast and the Sovereign*, Agamben asserts in the preface that reflecting on the most precious legacy of Franciscanism, which is to say the idea of life not as property but rather as common use, is a task that the West cannot afford to defer. He declares with solemnity that it is precisely to a new theory of use that he intends to dedicate the next (and apparently final) installment of the *Homo Sacer* cycle.<sup>41</sup>

Only by addressing the need for such a theory, he argues, can Western thought find the ground for a critique of the ontology of operative and governmental power. Agamben’s discussion of the theory of use in Franciscanism is arguably a theoretical *hors d’oeuvre*, a distinct field of effort in which he seems to displace onto the biopolitical and theological domains the classic Marxist preoccupations regarding the distinction between use-value and exchange-value and the notion of commodity.<sup>42</sup> Without our recapitulating the Marxist analysis of value, what is certain is that, with the explosive growth of financial speculation in recent years, the global economy has been subjected increasingly to the pervasive and at times dangerous escalation of exchange-value. The textual sources considered by Agamben, which detail the cenobitic “institutions” or rules (for example, Cassian’s *Institutes*, the anonymous *Rule of the Master*, or Benedict’s *Rule*) are neither ethical exercises nor juridical, historical, or hagiographical treatises. Instead, Agamben’s favored texts deal with the *koinos bios*, which is to say the common life of the cenoby or religious community. That, in his eyes, this communal existence is a good life becomes clear when he attributes to Augustine the maxim of “love and do what you wish”; according to his reasoning, the dictum reflects the understanding that, when life and rule coincide, the rule is abolished.<sup>43</sup> What is chiefly at stake in the cenobitic institutions is not the body but rather the *habitus*, which is to say both clothing and a way of life. The *habitus* as such is shaped by meditation, contemplation, and a completely spiritual scansion of time. Considering Agamben’s discomfort with the law as the foundational apparatus for the institutionalization of bare life through the ancient Roman legal figure of *homo sacer*, we should not be surprised by the importance he places in *The Highest Poverty* on proving the irreducibility of monasticism, the Christian form of life, to the law.<sup>44</sup>

The monastic *regula* instead approaches the ideal status of the form-of-life. According to Wittgenstein, whom Agamben duly quotes, in regard to language, it is the rule that is born from a

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<sup>40</sup> Agamben, *Highest Poverty*, xi-xii.

<sup>41</sup> *Ibid.*, xiii.

<sup>42</sup> Marx discusses the notion of use-value first in “A Contribution to the Critique of Political Economy” (1859) and then later in *Capital*. The use-value of a product responds to social needs, regardless of the individual need of any particular person. In paragraph 63 of *Capital* we find the proposition, “A thing can be a use-value without being a value. This is the case whenever its utility to man is not mediated through labor. Air, virgin soil, natural meadows, unplanted forests, etc., fall into this category. A thing can be useful, and a product of human labour, without being a commodity. He who satisfies his own need with the product of his own labour admittedly creates use-values, but not commodities.” Karl Marx, *Capital: A Critique of Political Economy, Volume One*, intro. Ernest Mandel, trans. Ben Fowkes (New York: Vintage Books, 1977), 131. When it comes to Marx’s complex discussion of exchange-value, what is most notable for our purpose is his insistence that when commodities are in relations of exchange, “their exchange-value manifests itself as something totally independent of their use-value” (*ibid.*, 128). We might say that the exchange-value represents the “form” of expression of value in trade. As such, it stands at the greatest distance from a “form of life.”

<sup>43</sup> Agamben, *Highest Poverty*, 7.

<sup>44</sup> *Ibid.*, 46.

form of life and not vice-versa.<sup>45</sup> With the Franciscans, we encounter an intensification of the principle that “it is life that is to be applied to the norm and not the norm to life.”<sup>46</sup> The question raised by monasticism, which according to Agamben has been misunderstood by the West, is whether ethics and politics can be displaced from the sphere of action to that of existence, to a form of life.<sup>47</sup> For Agamben, the concept of a form of life is charged with a much more crucial task in which, no less than in Heidegger’s work, the West and its metaphysics are implicated. The sort of criticism that, following his thinking, ensues from forms of life is necessarily of an ontological and political character. The form-of-life is therefore a litotes in his work: a trope that seems modest in importance but in fact constitutes the key to the enigmas of ontology and politics.

The third section of *The Highest Poverty*, which is entitled “Form-of-Life,” is the most decisive. Agamben notices that only in Franciscanism does the notion acquire a technical meaning, albeit not in the writings directly attributed to Saint Francis (such as *Regola non bollata* and *Testamentum*). What remains most vital about Franciscanism as a philosophy, in his eyes, is its emphasis on living “without property in the highest poverty” or *sine proprio in altissima paupertas* (as well as in chastity and obedience). It is this particular wish—even more than the claim that, as *De finibus paupertatis* puts it, the Friars Minor “have only this right, not to have any rights”—which brings about the final rupture with the Church in the person of John XXII, who responds by proclaiming the inseparability of use from ownership.<sup>48</sup> Focusing on the principle of “de facto use” or *simplex facti usus*, Agamben identifies the Franciscan practice of walking barefoot as the monks’ form of life, remarking that only in a state of necessity would they use shoes.<sup>49</sup> In other words, the Friars Minor, as Ockham affirmed, were invoking not positive but rather natural rights of use.<sup>50</sup> By not claiming rights of property or use and by proposing a life beyond the law, the Franciscans in fact strategically embraced Gratian’s position that property ensued from the Fall inasmuch as in our original state we enjoyed a prelapsarian sharing of goods. In our own time, as we already have suggested, the Internet constitutes a space where our longing for a return to the natural law of a prelapsarian sharing—a longing that we express through what I propose to call “digital profanations”—is strongly encouraged, yet seems destined in the end merely to meet with frustration.

## Digital profanations

An urgent need to acknowledge the biopolitical significance of diverse “forms of bare life,” which include, among others, the habits of consumers of the society of spectacle, animates Agamben’s thought. With the philosopher’s outlook in mind, we may well ask whether digital users and consumers belong to the society of spectacle proper and, as such, are they consequently doomed to roles of passive submission?

On the one hand, there is no reason to believe that the World Wide Web is anything more

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<sup>45</sup> Ibid., 58. Cf. Ludwig Wittgenstein, *Philosophical Investigations*, trans. G. E. M. Anscombe (New York: Macmillan, 1958), 87-88, §238-41. The Italian philosopher cites Wittgenstein again to discuss the characteristics of constitutive norms that do not prescribe but bring into being a practice, as in the game of chess. Agamben, *Highest Poverty*, 71.

<sup>46</sup> Ibid., 61.

<sup>47</sup> Ibid., 61-62.

<sup>48</sup> Ibid., 121-7.

<sup>49</sup> Ibid., 121.

<sup>50</sup> Ibid., 114.

than an expansion of the society of spectacle in a more “diffuse” form, to apply the term in a technical sense. For Guy Debord, we should recall, spectacle signifies what he called an “inversion of life” and an arrangement of social relations that enforces a deceived gaze and false consciousness. Assessing this arrangement, Debord distinguishes between its “concentrated” and “diffuse” manifestations, identifying the former with totalitarian regimes and the latter with advanced capitalist societies.<sup>51</sup> His description of spectacle early on in Chapter One of his classic *Society of the Spectacle*, anticipates with eerie accuracy the effect of the Internet in systematically displacing our integral relation to life *per se*, for which it substitutes a “common stream” of images: “Images detached from every aspect of life fuse in a common stream, and the former unity of life is lost forever. [ . . . ] The tendency toward the specialization of images-of-the-world finds its highest expression in the world of the autonomous image, where deceit deceives itself.”<sup>52</sup> Along similar lines, he aptly predicts the new media powers’ relentless drive toward phantasmatic self-mystification when he observes, “The spectacle appears at once as society itself, as a part of society and as a means of unification.”<sup>53</sup> Moreover, it is precisely this empty promise of unification, I would argue, that confirms Debord’s general claim that “isolation underpins technology,” which he substantiates with examples drawn from his own day, but which seems even more applicable to the workings of digital media: “All *goods* proposed by the spectacular system, from cars to television, also serve as weapons for that system as it strives to reinforce the isolation of ‘the lonely crowd.’”<sup>54</sup> Perhaps Debord’s most definitive and troubling observation follows on the heels of his description of spectacle as “the abstract general equivalent of all commodities,” when he adds that in the society of spectacle “the totality of use” already has been exchanged for images and representations, and concludes that “the spectacle is not just the servant of *pseudo-use*—it is already, in itself, the *pseudo-use* of life.”<sup>55</sup> This pessimistic view, I would add, increasingly pertains to our virtual life, to the digitized province in which critical questions of use—of what we use, how, and by whom we are used—grow more and more problematic over time.

On the other hand, digital culture has also aspired to create outlaw spaces where the very Debordian practice of *détournement*, or diversion—which is to say the act of wresting an expression from its historic frame of reference in order to turn it against the status quo—at least for a time becomes imaginable. As Debord puts it, near the end of *Society of the Spectacle*,

*Détournement* is the antithesis of quotation, of a theoretical authority invariably tainted if only because it has become quotable, because it is now a fragment torn away from its context, from its own movement, and ultimately from the overall frame of reference of its period and from the precise option that it constituted within that framework. *Détournement*, by contrast, is the fluid language of anti-ideology.<sup>56</sup>

This mutable problematic of the critique of the present *in fieri*, which Debord associates with *détournement*, is rechristened with the term “profanation” by Agamben. More specifically, the Italian philosopher identifies works of profanation with “restitution to the common use” of that

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<sup>51</sup> Debord, *Society*, 41-3.

<sup>52</sup> *Ibid.*, 12.

<sup>53</sup> *Ibid.*

<sup>54</sup> *Ibid.*, 32.

<sup>55</sup> *Ibid.*, 32-3.

<sup>56</sup> *Ibid.*, 145-46.

which has been removed from it. Although he does not identify any digital pursuits as examples of profanation, one need not be a technology enthusiast to feel that few, if any, media other than the Internet offer any possibility of achieving Agamben's desired restoration of shared experience, especially when one considers the few instances of profanation that he does cite (the activity of play is his central example).<sup>57</sup> Yet the possibility of profanation emerges as one of the rare constructive propositions in Agamben's body of thought, which for the most part remains steadfastly impervious to any hope that is not messianic.

For all its fastidious and, to its detractors, quasi-farcical rhetoric, Agamben's *Homo Sacer* series has helped to train a spotlight on the contemporary phenomenology of exposed and oppressed forms of life. Noting the concern of both Agamben and Pier Paolo Pasolini with such questions, Georges Didi-Huberman detects in their writing a historical pessimism that he can admit only with ambivalence: "There is with these two thinkers a very great impatience when facing the present; but it is always linked to an infinite patience when facing the past. In this, they are necessary to us because they regard the contemporary world with a violence always supported by immense research into the thickness of time."<sup>58</sup> On this account, the attitude of the Italian thinkers fosters the ability to take a disenchanted, yet layered, three-dimensional view of the present and so, in anthropological and philosophical terms, to provide a "thick description" of contemporary culture. This perspective allows Agamben and Pasolini to achieve what the critic calls their "not false diagnosis" (*diagnostique pas faux*) of the society of the spectacle, and its all-too-literal manifestation in contemporary Italy.<sup>59</sup> Nevertheless, Didi-Huberman regrets that the logic that compels Agamben to present this diagnosis as a conclusive truth ultimately deprives us in the present of a cultural *Nachleben* or afterlife.

If Paul Rabinow is right to define the contemporary as "the moving ratio of modernity," the movement of Agamben's thought in fact becomes visible particularly in relation to the digital present.<sup>60</sup> Agamben, however, unlike Rabinow, defines being contemporary as having "a singular relationship with one's own time, which adheres to it and, at the same time, keeps a distance from it."<sup>61</sup> In this sense, digital culture may be too close and perhaps too "spectacular" to be the object of Agamben's sophisticated analysis. Yet far from being an academic or antiquarian theological matter, the apparently distant question of pure use confronts us every day, as digital technology gives us the illusion of being able to shape our lives freely and transparently. Indeed, it is far from obvious that the dream of total virtual sharing will ever be the case, notwithstanding the early enthusiasm of philosophers such as Antonio Negri and Michael Hardt who, in the final pages of their book, *Empire*, raise a political rallying cry in the name of

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<sup>57</sup> In *Réenchanter le monde*, the manifesto of the political and philosophical collective Ars Industrialis, Bernard Stiegler and his fellow authors discern one of the most urgent problems of contemporary culture in the advancing ruination of desire and the dwindling possibility of sublimation. Bernard Stiegler with Ars Industrialis (Marc Crépon, Catherine Perret, George Collins, and Caroline Stiegler), *Réenchanter le monde: la valeur esprit contre le populisme industriel* (Paris: Flammarion, 2008), 29. They plead for uses of new media not as technologies of control but rather as procedures of individuation that, to borrow Gilbert Simondon's phrase, ought to be both "psychique et collective" and to aim at an art of *savoir vivre*.

<sup>58</sup> Georges Didi-Huberman, *Survivance des lucioles* (Paris: Les Éditions des Minuit, 2009), 92.

<sup>59</sup> *Ibid.*, 86-87.

<sup>60</sup> Paul Rabinow, *Marking Time: On the Anthropology of the Contemporary* (Princeton: Princeton University Press, 2007), 2.

<sup>61</sup> Giorgio Agamben, "What Is the Contemporary," in *What Is An Apparatus? and Other Essays*, trans. David Kishik and Stephen Pedatella (Stanford: Stanford University Press, 2009), 41.

Saint Francis.<sup>62</sup>

For it is, in fact, the domain of computational power that raises, for us, the question of “pure use,” of the refusal or acceptance of property rights, every day. That software, data, and information should be freely shared by all is the point of departure for many Internet activists. One of the most famous of such activists, Aaron Swartz, was involved in, among other things, the organization “Creative Commons,” which developed copyright licenses that allowed licensors of intellectual property to waive certain ownership rights at their discretion. He also founded the online group “Demand Progress,” which mobilized users against the claims of the “Stop Online Piracy Act.” Swartz was arrested in 2011 by the MIT campus police for the alleged illegal downloading of scholarly articles from the JSTOR database and was charged by Federal prosecutors with wire fraud and violations of the Computer Fraud and Abuse Act, which together were punishable with one million dollars in fines and thirty-five years in prison. At Harvard, he had worked with Lawrence Lessig on research into institutional corruption. Unable to reach a plea bargain with the government, Swartz committed suicide in January 2013, only to be inducted into the Internet Hall of Fame in June 2013. In Swartz’s case, we may begin to discern how dangerous and fragile the notion of a digital profanation can be.<sup>63</sup>

Since even the ideal of so-called open source has been co-opted by corporate interests, it seems increasingly less likely that the utopian promise of communal, non-exclusive property rights will ever lead to any real change in the digital economy. As Christopher Newfield suggests, companies such as Microsoft, Google, and Coursera have embraced open source to varying degrees in response to learning that, when knowledge rapidly advances from scarcity to abundance, no single company can control it. At the same time, the capital ecology of big business ensures that the retention of content by a particular individual has no practical value, as this content exists only within the system of production and distribution maintained by its corporate publisher. New users follow the patterns of existing users and, in the end, all that counts is the platform, over which we have no control.<sup>64</sup> Consequently, Newfield concludes that the fate of open source systems in knowledge economies is inevitably to converge with, and be assimilated by, proprietary platforms.<sup>65</sup>

Coursera represents a particularly interesting case, because the company claims in its mission statement, published on its “About” page, “to offer courses online for anyone to take, for free.” However, as Robert Meister, the president of the Council of University of California Faculty Associations, remarked in an open letter to Coursera founder Daphne Keller on May 10, 2013, the supposedly free use of online courses that are published by the company presumes an exchange by which data that students “now provide to the company for free—perhaps so it can

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<sup>62</sup> Cf. Andre Gorz, *L’Immatériel: Connaissance, Valeur, Capital* (Paris: Éditions Galilée, 2003) as well as Michael Hardt, “The Common in Communism,” and Gigi Reggero, “Five Theses on the Common,” in *Rethinking Marxism: A Journal of Economics, Culture & Society*, 22:3 (2010), respectively 346-56 and 357-73.

<sup>63</sup> A cogent account of Swartz’s indictment and suicide can be found in Larissa MacFarquhar, “Requiem for a Dream,” in *The New Yorker*, March 11, 2013, last accessed on March 21, 2015, [http://www.newyorker.com/reporting/2013/03/11/130311fa\\_fact\\_macfarquhar?currentPage=all](http://www.newyorker.com/reporting/2013/03/11/130311fa_fact_macfarquhar?currentPage=all).

<sup>64</sup> Christopher Newfield, “Corporate Open Source: Intellectual Property and the Struggle over Value,” in *Radical Philosophy*, 181 (September-October 2013), last accessed on March 21, 2015, <http://www.radicalphilosophy.com/commentary/corporate-open-source>. For a thorough analysis of the social dimension of open source practices see Steven Weber, *The Success of Open Source* (Cambridge, MA: Harvard University Press, 2005).

<sup>65</sup> Newfield, “Corporate Open Source,” 10.

grade them—will be the private property of Coursera, which it can sell back to them.”<sup>66</sup> For example, students of online classes will need to know how they fare vis-à-vis students from prestigious universities for the purpose of validating the quality of their credentials. Offering access to educational content that claims to be demonstrably equivalent in quality (hence in value) to classes for which public universities “will be required by state law to offer credit,” and delivering detailed quantitative comparisons of the performances of online students to those of their counterparts in traditional institutional classrooms, no doubt will quickly become highly profitable “services.” While ostensibly giving access to knowledge everywhere, Coursera not only limits the definition of knowledge to what can be assessed within the company’s twelve-minute units of quantitative measurement, thus eliminating complex critical thought from the picture, but also by necessity must meet its venture capital investors’ demands for exponential profit, which eventually will force it to adopt a cable channel-like model of subscription-funded pedagogy. No wonder that in 2012 the industry blog site *TechCrunch* awarded Coursera the top prize in its annual competition for best start-up company. It is in the dissemination of knowledge itself that the fantasy of free use without property exerts its strongest and most deceptive appeal.

In the end, however, the most serious threat to “simple use” of the Internet may be the future limitation and control of access to network bandwidth on the basis of wealth. The demise of “network neutrality,” which is to say the principle that all traffic on the Internet should be treated equally so that individual users do not have to pay more for better content, is a distinct possibility at the time of this writing. The Federal Communications Commission (FCC) voted on May 15 of 2014 to advance a proposal that would have allowed Internet Service Providers such as Verizon, AT&T, Comcast, etc., to charge content providers such as Netflix, Google, Apple, etc. higher rates for access to faster data transmission while relegating any group or individual who cannot afford such rates to slower traffic lanes. If the FCC had approved this proposal, it would have segregated the Internet into two classes of service: a high-speed stratum for the digital “haves,” as it were, and a low-speed stratum for the digital “have nots.” The FCC’s recent vote on February 26, 2015 to apply public utility protections to broadband Internet access clearly has not diminished the appetite of companies in the telecommunications industry for greater control over pricing of the Internet.<sup>67</sup> As the journalist and author Federico Rampini bleakly concludes, division of the digital economy into one Internet for the rich and one for the poor would mean that “the inequality which plagues capitalist society at large will find its digital expression.”<sup>68</sup> After having aimed initially at the freedom of simple use and net neutrality, digital culture thus would finally submit to the claims and disciplinary measures of property rights.

In retrospect, Pope John XXII’s rejection of the Franciscan doctrine of use without property looks strikingly modern in its avowal of the absolute value of consumable resources.<sup>69</sup>

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<sup>66</sup> Robert Meister, “CUCFA President Meister’s Open Letter to Coursera Founder Daphne Koller,” CUCFA website, May 10, 2013, last accessed on March 26, 2014, [http://cucfa.org/news/2013\\_may10.php](http://cucfa.org/news/2013_may10.php)

<sup>67</sup> The ongoing resistance of Internet Service Providers to any arrangement less profitable than a quasi-oligopoly whereby they hold exclusive pricing authority over the flow of data across the World Wide Web is evident from the coverage of the February 2015 FCC vote. See, for example, Dominic Rushe, “Net Neutrality Activists Score Landmark Victory in Fight to Govern the Internet,” in *The Guardian*, February 26, 2015, last accessed on March 21, 2015, <http://www.theguardian.com/technology/2015/feb/26/net-neutrality-activists-landmark-victory-fcc>.

<sup>68</sup> Federico Rampini, “L’internet dei ricchi,” in *Micromega* (online), May 5, 2014, last accessed on March 21, 2015, <http://temi.repubblica.it/micromega-online/l'internet-dei-ricchi/>.

<sup>69</sup> Jaron Lanier makes a startling suggestion in his 2013 book, *Who Owns the Future?* In this provocative treatise, Lanier proposes that corporations should help to stave off the loss of jobs and to protect the cachet of the middle and creative classes by compensating ordinary, individual consumers, with micropayments for the use of their personal data, if it enriches the company’s business. He contends, “In a world of digital dignity, each individual will be the



In the battle over net neutrality, the cable networks and telecommunications companies ironically appear to echo the Pope's reasoning in their dealings with content providers. Of course, by the rules of today's consumer society, it is ultimately the "simple," individual users, who will be asked to pay for the cost of building and maintaining the network. Far from being a "perpetual frontier, the place where everyone gets a shot, where the underdog might have a chance," as Timothy Wu, the Columbia University professor and originator of the concept of network neutrality, sums up his preferred notion of openness in contemporary digital communications, the Internet threatens to enforce the property rights of the strongest and richest among us, to reify their advantages.<sup>70</sup> Wu's vision of the Internet as "a kind of norm of behavior" according to which "there shouldn't be discrimination against one form of content or another or one provider or another," seems like an especially vulnerable ideal at a time when the planned merger of Comcast and Time Warner Cable may give a single company control over forty percent of digital traffic in the United States.<sup>71</sup> In this light, reflecting on the dialectic between, on the one hand, the Franciscan hope for simple use without property and, on the other, contemporary digital society's insistence on the principle of no use without ownership, proves to be instructive and sobering.

These are the specters that we may say haunt us in the present day: the abiding desire for freedom from slavery to corporate power and the long shadow of domination that our supposed institutions of economic progress cast over the individual. And to return to where we began this essay, Agamben's critical rereading of Foucault helps to parse contemporary culture's ambivalence toward these specters of Saint Francis. According to the Italian philosopher in "What Is an Apparatus," Foucault always resisted the use of the general conceptual categories of the state, sovereignty, law, and power, which he referred to pejoratively as "the universals."<sup>72</sup> Instead, he crucially replaces the universals in his thinking with the notion of apparatuses, which is to say, the networks of strategic relationships "that can be established between these elements" of control.<sup>73</sup> Agamben elaborates on this maneuver by highlighting three meanings of the term "apparatus," which he claims are common in French dictionaries: 1) in the legal sense, the section of a judgment that articulates the decision as distinguished from the reasoning of the opinion, 2) in the technological sense, the way in which a machine or its components are arranged, and 3) in the military sense, the arrangement of means according to a plan.<sup>74</sup>

As his argument advances, however, he exhorts the reader "to abandon the context of Foucauldian philology" by recognizing that it is "apparatuses in which living beings are incessantly *captured*."<sup>75</sup> Agamben views this recognition as responding to an overlooked truth about the apparatus rather than to a historical change in the use of apparatuses, and his position makes clear another difference between the Italian thinker and his French predecessor. Unlike

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commercial owner of any data that can be measured from that person's state or behavior. [ . . . ] In the event that something a person says or does contributes even minutely to a database that allows, say, a machine language translation algorithm, or a market prediction algorithm, to perform a task, then a nanopayment, proportional both to the degree of contribution and the resultant value, will be due to the person." Jaron Lanier, *Who Owns The Future?* (New York: Simon & Schuster, 2013), 20.

<sup>70</sup> Cited in Jeff Sommer, "Defending the Open Internet," in *The New York Times*, May 10, 2014, last accessed on March 21, 2015, <http://www.nytimes.com/2014/05/11/business/defending-the-open-internet.html>.

<sup>71</sup> Ibid.

<sup>72</sup> Giorgio Agamben, "What Is an Apparatus," in *Apparatus*, 7.

<sup>73</sup> Ibid.

<sup>74</sup> Ibid.

<sup>75</sup> Ibid., 13. My italics.

Agamben, Foucault was keenly interested in epistemic or historical *caesurae*, most particularly the *caesura* of Modernity, which in his view marked, among other things, the genealogical origin of biopower. Although it is impossible to rehearse here all nuances of the complex relationship between the two, suffice it to say that Agamben's reading of Foucault's theory of the apparatus implies a decisive swerve in the Italian philosopher's own understanding of notions such as biopower, governmentality, and, ultimately, technology. Ranging beyond the French thinker's premises, Agamben includes on the list of concrete examples of apparatuses not only instruments of discipline such as prisons, madhouses, schools, and the panopticon, but also inventions as diverse as the pen, literature, cigarettes, computers, and cellular telephones—the last of which represents an apparatus that, as he confesses, inspires him with “an implacable hatred” because it makes human relationships increasingly abstract.<sup>76</sup>

This line of reasoning leads Agamben to a sobering insight: “In what way, then, can we confront this situation, what strategy must we follow in our everyday hand-to-hand struggle with apparatuses? What we are looking for is neither simply to destroy them nor, as some naively suggest, to use them in the correct way.”<sup>77</sup> The impasse results from the fact that the apparatus is not an accident that we can easily amend but rather a phenomenon that is “rooted” in our very condition qua *Homo Sapiens*; the relation between apparatuses and human beings is in some sense primordial.<sup>78</sup> What is clear is that apparatuses in Agamben's opinion constrain “the possibility of knowing being as such,” which he calls “the Open,” thereby contributing to the division of living being from itself and its immediate or natural environment.<sup>79</sup> His concern with “the apparatuses that crowd the Open with instruments, gadgets, odds and ends, and various technologies,” stems from the disquieting knowledge that these devices falsely promise to assuage our nostalgia for “the animalistic behaviors” from which we are forever cut off.<sup>80</sup> Every apparatus, in other words, appeals to “an all-too-human desire for happiness” by offering an illusory relief or peace from the essential conflict of our being.<sup>81</sup> Summing up the point of his analysis, Agamben declares, “The capture and subjectification of this desire in a separate sphere constitutes the specific power of the apparatus.”<sup>82</sup>

To capture the subject's desire and to remove it to a separate sphere, however, ultimately amounts to a negation of the subject as such, in what Agamben calls a “desubjectifying moment” that precludes the formation of a new subject “except in larval or, as it were, spectral form.”<sup>83</sup> Not surprisingly, he cites as the paradigm of such a desubjectifying moment the example of someone who is captivated by the apparatus of the cell phone, only to learn that he or she “cannot acquire a new subjectivity, but only a number through which he [or she] can eventually be controlled. [. . .] Here lies the vanity of the well-meaning discourse on technology.”<sup>84</sup> For Agamben, we may observe, there cannot be a correct or “simple” use of technology as long as we do not make space for its profanation, for the restitution to common use of what has been captured and separated in the apparatus.<sup>85</sup> From his perspective, the problem of technology that

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<sup>76</sup> Ibid., 14-16.

<sup>77</sup> Ibid., 15.

<sup>78</sup> Ibid., 16.

<sup>79</sup> Ibid., 16-17.

<sup>80</sup> Ibid., 17.

<sup>81</sup> Ibid.

<sup>82</sup> Ibid.

<sup>83</sup> Ibid., 20-21.

<sup>84</sup> Ibid., 21.

<sup>85</sup> Ibid., 24.

Foucault elucidates through the notion of *dispositif* and that Heidegger addresses with the idea of *Ge-stell*, or the activity of “gathering together . . . to expose the real in the mode of ordering [*Bestellen*],” ultimately refers back to the *oikonomia* or set of practices “that aim to manage, govern, control, and orient” all human behavior.<sup>86</sup>

It is helpful to remember on this score that in *The Kingdom and the Glory* Agamben criticizes Heidegger for the mistake of framing the problem of technology in terms of metaphysics. Where the Italian philosopher instead locates the urgency of the problem is in realizing that technology, which Heidegger associates with “Orderability (*Bestellbarkeit*),” is in fact “nothing other than governmentality” and so, to follow Agamben’s thinking, must be viewed in relation to *oikonomia*, which is to say “the theological apparatus of the government of the world.”<sup>87</sup> The argument is emblematic of his larger project insofar as it reflects the aim of providing a theological genealogy of the notion of “economy,” of redirecting our attention to the economy of the Trinity. The question that technology raises for us—and that in Agamben’s eyes Heidegger does not manage to answer in any satisfactory way—must be restored to its political locus. We must understand this question, in other words, as the challenge to imagine what “deactivates and renders inoperative the technological-ontological apparatus.”<sup>88</sup>

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<sup>86</sup> Ibid., 12.

<sup>87</sup> Agamben, *Kingdom*, 252.

<sup>88</sup> Ibid., 253.

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