



On Olivi's Franciscanism and Agamben's Biopolitics

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Abstract

Whether the Franciscan reconciliation between *vita* (life) and *regula* (rule) suggested by Agamben can be understood as the anticipation of a new type of "undefined" social ontology on which "modern biopolitics" relies or, on the opposite, if it can be interpreted as an instrument to challenge modern laws and norms.

Keywords: Ontology; Biopolitics

Introduction

I will embrace and discuss Giorgio Agamben's view that Franciscanism represented the first real attempt of a reconciliation between *regula* (rule) and *vita* (life) or, as pointed out by Ian Hunter, "the realization of the political-metaphysical utopia of a rule conformed to life" (Hunter). I will tackle with Petrus Joannis Olivi's thought and *I will argue that, in contrast to Agamben's conclusion, the works and life of the French Franciscan seem to suggest that such an attempt to reconciliation between regula and vita, although being a form of "resistance" against the institutional Church (and its corrupted power entailing the split between regula and vita), can also be understood as the anticipation of a new type of "undefined" social ontology on which "modern biopolitics" arguably relies* (i). The description of the "Form of life" and the characteristics of the above-mentioned "modern social ontology" will emerge in the following pages. The concept of "modern biopolitics" here adopted broadly corresponds to the Foucauldian idea, which I embrace, that in modernity politics is directed towards the government of life.¹

The sub-arguments serving the purpose of supporting the main argument (i) will be presented in chapters (2) and (3). I will first (1) present Franciscanism by giving a brief historical overview of the theological debates that animated the Order in relation to four notions that I consider relevant to this paper: *Regula*, *vow*, *Usus pauper*, and *imitatio Christi*. (These four notions will be recurring in the whole work). In the second chapter (2) the notion of *imitatio Christi* will be problematized in relation to the issue of the "performative" character of faith: two main sub-arguments supporting the main argument (i) will be

Michel Foucault et al., *Security, Territory, Population Lectures at the College De France, 1977-78* (Basingstoke: Palgrave Macmillan, 2014)). In other words, with the advent of modernity, biological and political life become inseparable: the particular feature of modern biopolitics is investing on life. To be sure, the term "biopolitics" (biopolitik in Swedish) was originally coined in 1905 (seventy years before Foucault's publications) by the Swedish radical conservative Rudolf Kjellén (Gunnflo, 24). Biopolitics, in Kjellén's *Weltanschauung*, indicated his "vitalistic" conception of the State: "the political is nothing else but the continuation of nature at another level and therefore destined to incorporate and reproduce nature's original characteristics" (Gunnflo, 26). As emphasized by Pedro Paulo Gomes Pereira, the concept of "biopower" (the power exerted by modern biopolitics) entails an "ambiguous movement: a juncture in a life that must be protected at all costs, the invention of others that threaten life, and the emergence of lives that do not deserve to be lived. Thus, we live in a time when there is overvaluation and protection of life, while at the same time there are areas where people are left to die" (Pedro Paulo Pereira, "In and around Life: Biopolitics in the Tropics," *Vibrant: Virtual Brazilian Anthropology* 10, no. 2 (2013): 16).

1 As rightly noticed by Markus Gunnflo, the French thinker Michel Foucault used the concept of "biopolitics" when analyzing a "re-articulation of sovereign power in the second half of the eighteenth century through which the security and welfare of the population became the centre of gravity of politics" (Markus Gunnflo, "Rudolf Kjellén: Nordic Biopolitics Before the Welfare State," *Nordisk Juridisk Tidsskrift* 35, no. 3 (2015), cf. Michel Foucault, *The History of Sexuality* (NY: Pantheon Books, 1978) &

presented: a) if, as emphasized by Augustine of Hippo and Søren Kierkegaard, faith is “paradoxical”, then it must be “performative” and “self-referential”, that is to say, its truth must depend on the subject and there cannot be such a thing as a “non-performative” faith and b) the case of the Franciscan *imitatio Christi* shows resemblances with some aspects of modern queer ontology²: in both cases “saying” is equivalent to “acting”, and “acting” is equivalent to “being” (Augustine would have objected against Franciscans that this identification can exist in the mind of God alone). In the third chapter (3) I will discuss *Regula*, vow and *Usus pauper* in relation to my sub-argument, serving the main argument (i), that Olivi’s attempt to return to the original spirit of Francis took the form of an “individualization”³ of the *Regula* and that Olivi’s “indeterminate vow” (as well as the “indeterminate” and “indeterminable” status of the *usus pauper*) should be understood in regards to this “individualization” which, in turn, should be contextualized within his political philosophy and voluntarist ideas on personal freedom. In the same chapter I will discuss resemblances between the concerns expressed against Olivi’s view at his time and the condition of humans dealing with a “modern undefined social ontology”.

I will conclude that, despite the apparently different *vitae* (for instance, the prescription of recitation of Psalms, on the one hand, the prescription of the working hours on the other hand), to a certain extent, the “form of life” of Franciscanism is analogous to the “form” of life of modernity. Both Franciscanism and modernity, in fact, are dimensions in which *vita* can no longer be distinguished from *regula*. Because of that, Franciscanism, contrary to Agamben’s view, is insufficient to “render inoperative the grasp of power and its laws”⁴ and cannot be considered an instrument of “resistance” against modernity. It should be clarified that

in this inquiry the term “law” is used with two different meanings: when “law” appears in relation to Franciscanism, it means what Agamben himself has in mind: the canon law (*ius canonicum*) of the Christian Church of Francis’ time,⁵ of which papal legal decisions (bulls, etc.) constituted the primary source. In this respect, however, it should be kept in mind that the *ius canonicum* was not the only law in Middle Ages, but it rather coexisted with Medieval Roman law and civil law⁶. On the other hand, when in this paper the term “law” appears in relation to “modernity”, “modern biopolitics”, or “modern social ontology”, it refers to the modern laws and norms enacted by the modern biopolitical power.

Before proceeding, some clarifications about the sources and the method of inquiry are necessary. For general knowledge about Franciscanism and the context in which it emerges, I have drawn heavily on two main sources: *The Spiritual Franciscans from Protest to Persecution* (abbrev. *Spiritual Franciscans*)⁷ by David Burr and Giorgio Agamben’s inquiry on *Altissima Povertà* (in the English translation: *The Highest Poverty: Monastic Rules and Form-of-Life*) (abbrev. *Highest Poverty*)⁸. In the first work, the chronological reconstruction of the history of the movement aims to be historically accurate, despite the difficulty of the task, of which Burr is clearly aware (one of Burr’s starting points, for example, is that the term “spiritual Franciscans” is largely a construct of modern historians)⁹. One of his methodological concerns is expressed in terms of a striking comparison:

Reconstructing the image of the Franciscan environment of the XIII-XIV century is a task only comparable to the childish game of “connecting dots and a picture will emerge”: because of the few dots and the great distance, the emerging picture will be, in this case, at best, impressionistic¹⁰.

2 “Queerness” (from Latin “torquere”, to twist) is an “umbrella term” referring to “abrasive” practices of normality: “[Queerness] rejects a minoritizing logic of toleration or simple political interest representation in favor of a more thorough resistance to regimes of the normal” (Donald Hall, *Queer Theories* (NY: Palgrave Macmillan, 2002)). Questioning what is meant by “normal being” is a common terrain of investigation in queer studies. For this reason, a queer inquiry can be seen, among other things, as an ontological inquiry taking as a point of departure the rejection of “labels” and substances. See Hall, *Queer Theories* for a comprehensive introduction to the notion of queer.

3 What is meant by “individualization” should not be confused with “individuation” (or principium individuationis) and it will emerge later in my work through the assessment of the historical and philosophical context in which Olivi operated. However, the term “individualization” might be already defined as a process of increasing primacy of the individual and “private” dimension (of the friar) over a group (the Franciscan Order and even the Church). As a result, it could be observed that the “inner life” of the single Friar, his “private” relationship with God, and his daily activities start acquiring importance over the liturgical accomplishments and duties that he has toward the Church and the Order.

4 Giorgio Agamben, *The Highest Poverty: Monastic Rules and Form-of-Life*, trans. by Adam Kotsko, (Stanford: Stanford University Press, 2013).

5 From the following passage, it is evident that in his inquiry Agamben is referring to the canon law of the Church: “If Franciscanism succeeded in avoiding the conflict with the Church for almost a century after the death of his founder, this is due to the foresight of Francis, who in distinguishing *forma vitae* and *officium*, ‘living according to the form of the Holy Gospel’ and ‘living according to the form of the Holy Roman Church’, had succeed in making of the Minors’ life not an unceasing liturgy, but an element whose *novitas* seems completely extraneous to both civil and canon law. Life according to the form of the Holy Gospel is situated on a level that is so distinct to that of the life according to the form of the Holy Roman Church that it cannot enter into conflict with it. *Altissima paupertas* (Highest Poverty) is the name that *Regula Bullata* gives to this extraneousness to the law” (Agamben, *Highest Poverty*, 121).

6 “Canon Law.” n.d. Obo. <https://www.oxfordbibliographies.com/view/document/obo-9780195396584/obo-9780195396584-0033.xml>.

7 David Burr, *The spiritual Franciscans from protest to persecution* (University Park: Pennsylvania State University Press, 2001).

8 Agamben, *Highest Poverty*.

9 Burr, *Spiritual Franciscans*, 23.

10 Burr, *Spiritual Franciscans*, 40.

As to Agamben's work, it can be stated that, unlike Burr, Agamben does not seem to be particularly concerned to escape the problem of "hermeneutical arbitrariness". As admitted by Agamben himself:

What is at stake is not so much, or not only, the task of investigating [...] the material history of monasticism, but is, first of all, a matter of understanding the dialect that thus comes to be established between the two terms rule and life¹¹.

In other words, Agamben is not interested in giving any accurate historical reconstruction of monastic life, but in presenting "historical phenomena as paradigms or exemplars for ontological philosophemes"¹². His approach is based on the Heideggerian presupposition that "events are not factual historical occurrences, but the taking-place of *a-temporal* Being"¹³. Because of that, one might raise the concern that Agamben can make claims unconstrained by historical evidence¹⁴. It is important to clarify that the purpose of this thesis is neither to explain nor to problematize the Heideggerian metaphysics behind Agamben's philosophical archaeology, much less the validity of Agamben's method for historical research. Because my inquiry is not historical, but a philosophical one, I will leave aside the methodological issues that the conduction of a historical inquiry would typically raise. *I will use and question Agamben's view on Franciscanism as being outside of the (canon) law and, because of that, being able to de-activate the law (i)* without taking into account other parts of Agamben's thought. Finally, I will use Olivi's *Rule Commentary (Expositio super Regulam Fratrum Minorum (abbrev. Es.))*¹⁵ and *De Perfectione Evangelica (abbrev. De Perfectione)*¹⁶ as primary sources for his theological and philosophical positions. These two works will be fundamental to understand the "individualistic" aspect of the vow, his relation to the *usus pauper* and, last but not least, to provide important evidence for my main argument (i).

A historical Excursus on Francis

Francis of Assisi, son of a prosperous Italian merchant,

11 Agamben, *Highest Poverty*, xi.

12 Ian Hunter, "Giorgio Agamben's Form of Life," *Politics, Religion & Ideology* 18, no. 2 (2017): 136.

13 Hunter, "Giorgio," 138.

14 Hunter, "Giorgio," 137.

15 Petrus Johannis Olivi, "Expositio Petri Johannis Olivi super Regulam Fratrum Minorum," In *Peter Olivi's Rule Commentary*, ed. David Flood (Wiesbaden: Franz Steiner Verlag, 1972), 110-196.

16 Petrus Johannis Olivi, "Quaestiones de Perfectione Evangelica," In *Peter Olivi's Rule Commentary*, ed. David Flood (Wiesbaden: Franz Steiner Verlag, 1972), 15-20.

is the founder of *The Friars Minor*, a mendicant Order of brothers preaching and working first in the region of Umbria and then, as their numbers grew rapidly, in the rest of Italy and southern France. In 1209, Francis started to search for approval for his nascent group and obtained the recognition of Pope Innocent III in the same year. It should be noticed that this probably saved his Order from the fate of other "mendicant groups" (such as Waldensians) that had underestimated the importance of the Church's approval and had been declared heretics in the late 12th century¹⁷. In his attempt to reconstruct and summarize the original "philosophy" of S. Francis and his immediate followers, Burr argues that, although poverty (as a manifestation of humility) and obedience are important, these three notions might be insufficient to grasp the very spirit of Francis¹⁸. By "spirit of Francis" (or "philosophy of Francis") I am intentionally leaving aside the "administrative structure"¹⁹ and the numerous theological disputes that will emerge later as a result of the numerical growth of the Order, its "intellectualization" and the need of taking part in *societas humana*. The "philosophy of Saint Francis" (or "Francis' spirit") was not yet an elaborated doctrine, but rather a "lifestyle". For this reason, Francis' spirit might be distinguished from the later "institutionalized" Franciscanism (entailing clear written rules and intellectual elaboration). This distinction will be useful to understand the significance of Olivi's provocative thought *within and outside* the Franciscan Order. To be sure, the need for a written rule emerged already during Francis' life:

As the order grew numerically and spread geographically, Francis was forced to produce something more substantial. He attempted to do so with the rule of 1221 [*Regula non bullata*]], which never received papal approval, and then with the rule of 1223 [*Regula bullata*]], which did²⁰.

Moreover, there exists tangible historical evidence that points to the pertinence of differentiating between two different stages of Franciscanism: an early stage dominated by Francis' *Testament*, which Francis dictated shortly before his death in 1226²¹. According to the *Testament*²² itself, this document was to be binding for the brothers and contained, for instance, *the instruction not to seek papal intervention nor his approbation as well as the prohibition to "place glosses on*

17 Lawrence Cunningham and Ignatius Charles Brady, "The Franciscan Rule," *Encyclopædia Britannica* (Encyclopædia Britannica, inc.), accessed April 22, 2021, <https://www.britannica.com/biography/Saint-Francis-of-Assisi/The-Franciscan-rule>.

18 Burr, *Spiritual Franciscans*, 2.

19 Burr, *Spiritual Franciscans*, 2.

20 Burr, *Spiritual Franciscans*, 2.

21 Burr, *Spiritual Franciscans*, 2.

22 *Test.*

the rule or say "This is what it means"²³. The reason behind these prohibitions was clearly the preoccupation of Francis to secure the integrity and the future of his Order. However, to avoid a major crisis in the Order and its relation to the Church, Pope Gregory IX declared Francis's *Testament* as not binding. This historical fact might be seen as the beginning of the second stage as well as one of the first major compromises that Francis' "utopia" (consisting of simply living Christ *qua* Gospel and realizing an apostolic life) had to yield. The subjection of the Order to the Church meant, to a certain extent, the dependence of a movement aiming to return to the original poor Christian life (and, in this way, filling the gap between *vita* and *regula*), on the most powerful *temporal* authority of that time, an institution within which the gap between life and rule (as faith, liturgy, Christ's model) was arguably unbridgeable. It might be asked, at this point, whether Francis and Franciscans could have *somehow* pursued their project without the support of the temporal and spiritual authority of the Church. The answer might be that they could have not. At any rate, this matter, rather than a philosophical research, would require a counterfactual historical analysis. Thus, it is not germane to my inquiry.

Introduction to *Regula* and *vita*

According to Agamben, "the monastery is perhaps the first place in which life itself – and not only the ascetic techniques that form and regulate it – was presented as an art"²⁴. As pointed out by Hunter²⁵, this claim is difficult to defend from a historical point of view. In fact, it might be objected that, prior or parallel to monasticism, several ethical and philosophical schools (such as stoics, epicureans, and neo-platonic) employed techniques of self-development. However, what Agamben probably meant in the above-mentioned passage is that the novelty of monasticism is represented by the fact that, through a physical place where like-minded people live collectively, the ascetic techniques and spiritual exercises are no longer limited in time and space, but they become one and the same with life (in Franciscan monasticism the whole life of the monk is transformed into an uninterrupted liturgy and, vice versa, liturgy is transformed into life). To sum up:

(a.1) The Franciscan vow is a life-long (indeed eternal, as it extends to the after-life too) commitment in which *vita* and *regula* (as *ars vivendi*) become indistinguishable,

(a.2) whereas with the spiritual exercises of pagan philosophy, the overlapping of *ars vivendi* and *regula* was incomplete and sporadic.

23 Burr, *Spiritual Franciscans*, 4.

24 Agamben, *Highest Poverty*, 33.

25 Hunter, "Giorgio,"

Indeed, the unprecedented "zone of indeterminacy" between *regula* and *vita* that Franciscanism introduces (and its practical implications in terms of a fully "ritualized" and disciplined existence) is one of the arguments used by Agamben to support his main thesis. According to him, Franciscanism represents an ontological transformation of the conceptual relation between life²⁶ and "form" or "law/rule": without this transformation the political and ethical-juridical rationality of modernity would be unthinkable²⁷. For the purpose of this thesis (i) it is necessary for (a.1) to be true or, at least, historically plausible. Thus, I should immediately respond to an objection raised, among the others, by Timothy J. Johnson who, recalling an anecdote reported by Bonaventure²⁸, points out that Francis did conceive divine office as distinct from life. This is because in the anecdote Francis seems to give priority to a *visitatione* (divine visitation) over the *horas* (the reciting of the Office). However, it can be objected that the divine office is not the same as the rule (although it remains an essential part of it). Albeit it would be far-fetched to say that maybe choosing to pay attention to the visitation is another way of pursuing the divine office, it is not unreasonable to consider that choice as part of the rule too. I will later show how Olivi is stating something similar to Francis when he says that life is more important than the Rule. At the same time, this does not mean that the "life" Olivi has in mind is a "life" deprived of the "Rule". Olivi's statement, just as Francis' story, is not foreign to the idea of conjunction between life and Rule. When Olivi uses the word "Rule" is, in fact, referring to the "external form" of the Rule, which constitutes only a part of it, as the Rule cannot be reduced to the divine office. Therefore, Agamben's claim (a.1) can be still considered valid. On the other hand, for the purpose of this thesis (i) it is not necessary to demonstrate that the claim (a.2) is historically true: it is, in fact, more cogent to study the relationship between Franciscanism and *some* aspects of modernity, in order to determine whether sufficient arguments for my main thesis (i) can be found. The question of whether traces of what might be called "totalitarian" biopolitics (where life and rule are one and the same and life becomes an object of study *and* control/regulation by political, or "para-political" agents) can be found in pagan philosophy too, or whether it should be rather considered an innovation of Franciscanism, is interesting, but secondary for my purpose (i). Nonetheless, its answer might contribute to the purpose of this first chapter: the reconstruction of the historical context and the

26 This ontological transformation, in Hunter's view, is understood by Agamben in the Heideggerian sense of ekstasis of Being. See Hunter, "Giorgio," 140-142.

27 Agamben, *Highest Poverty*, 4.

28 In Timothy J. Johnson, "Agamben, Bonaventure and the Poverty of Prayer," *Franciscana - Bollettino della Società Internazionale di Studi Francescani XII* (2015): 38.

definition of the terms *regula*, *vow*, and *usus pauper*. Later in his book, Agamben proposes a thesis that seems to question the claim (a.2):

(b) in distinction from the pagan *devotio*, in which the *devotus* consigned to the gods his body and his biological life, the Christian vow is, so to speak, objectively vowed and *has no other content than the production of a habitus in the will*, whose ultimate result will be a certain form of common life (or, from the liturgical perspective, the realization of a certain *officium* or a certain *religio*).²⁹

It seems that (a.2) and (b) cannot be true at the same time, that is to say, either Franciscanism introduced an unprecedented conjunction between *vita* and *regula*, while in the case of pagan exercise such conjunction was only incomplete and sporadic, or the (*sacrificed*) object of the pagan *devotio* was the biological life, while the (*produced*) object of Christian *devotio* was merely an "*habitus in the will*". To overcome this apparent aporia one might argue that something needs to be added to (b): the object of Christian devotion is *not only* a "*habitus in the will*", but it encompasses biological life too. In fact, in view of the other parts of *Altissima Povertà*, one might wonder why Agamben did not include biological life too in this passage. It might be answered that he meant to emphasize the contrast between Christian *habitus* of the will and pagan devotion through biological life. However, this does not exclude the hypothesis, which is arguably confirmed in the rest of the book, that monks renounce "everything" for God, not only to the will but to their whole bodies, totally devoted to the accomplishment of the liturgy. In fact, whereas Agamben wanted to stress the fact that the *Regula*, which one promises through the vow is ultimately the effort to establish a *habitus of the will* (the only "simple" content of the vow), its result remains the "realization of a certain *officium*" or "*religio*", that is to say, not only a spiritual inclination (or, in contemporary parlance, a "mental state") but a corporeal engagement. In chapter 3, where I will discuss the "individualization" of the vow in Olivian thought and the "paradoxical" renunciation of freedom, the all-encompassing character of the Franciscan "biopolitical" mechanism (as well as the interconnection between life and rule) will emerge more clearly. In fact, without a deep comprehension and contextualization of the vow, there can be no full comprehension of the *Regula* and, without comprehension of the *Regula*, there can be no understanding of the sense of the *Usus pauper*. Before proceeding with the discussion of the vow, a preliminary step will be helpful to better contextualize the Franciscan movement and its ideal of poverty: the idea of *fides* (faith) as performative and its relationship to the *imitatio Christi*.

29 Agamben, *Highest Poverty*, 57.

Introduction to *Imitatio Christi*, Poverty and *Usus Pauper*

It is fundamental to understand that Francis's basic goal was to imitate Christ (*imitatio Christi*), that is to say, the imitation of "the sort of self-emptying he saw in Christ"³⁰. *This goal was pursued through the enactment of poverty*, which was (as I have already said) an expression of humility. From a historical point of view, an important point to grasp is that Franciscanism as well as other mendicant orders had emerged as a critique of the increasing greed and moral corruption of Christians in Europe³¹. However, the peculiarity of Franciscanism lay in the way this "moral revolt" was pursued: through the Franciscan ideal of poverty. This might be considered a form of "proto-political revolt" consisting of the reconciliation of *vita* and *regula*, life and liturgy, materiality, and spirituality. This reconciliation was, in turn, enacted by the realization of poverty in this world as a return to the original spirit of Christ and the Gospel. In practice, as emphasized by Philip Daileader, the reconciliation of "life and liturgy" implied, among other things, that Franciscans, unlike all other mendicant orders, apart from acting as monks, performed certain functions of the clergy, too.³²

The soteriological implications of the Franciscan ideal of poverty are encapsulated in the writings of Bonaventure:

You know brothers that poverty is the special way of salvation, as the stimulus of humility and the root of perfection, whose fruit is manifold but hidden. For this is the treasure of the Gospel hidden in a field, and to buy it, everything must be sold, and the things that cannot be sold must be spurned. (*LMj*)³³

It might be asked what is actually meant by "poverty", as it is not at all obvious. This matter will be discussed in greater detail in chapter (3) where I will deal with the dispute between Olivi and his opponents. For now, it is sufficient to note that all Franciscans (and other mendicant orders too) agreed that:

Basic principle of poverty (BP): Poverty is a compulsory part of the vow and includes chastity and lack of ownership. The

30 Burr, *Spiritual Franciscans*, 2.

31 Julia McLure, "The Globalisation of Franciscan Poverty," *Journal of World History* 30, no. 3 (2019): 337-339.

32 "Like priests, Franciscans actively ministered to laypeople, something that monks did not do. They preached, they heard confessions, they gave out penances, and performed burial rites. Like monks, however, they lived according to a religious rule." (Philip Daileader, "The Franciscan Order: What Made Them Unique in the High Middle Ages?," *The Great Courses Daily*, August 12, 2020, <https://www.thegreatcoursesdaily.com/the-franciscan-order-what-made-them-unique-in-the-high-middle-ages/>).

33 All translations from Latin into English are mine unless otherwise stated.

brothers have no legal right to possess, but merely a natural right to use.

Whether the vow binds Franciscans not only to a mere lack of ownership but to a restricted use too (and what “restricted use” or *usus pauper* should actually mean), was a matter of dispute during Olivi’s time (see chapter 3).

It might be asked why Franciscans can renounce the right to property, but they cannot renounce the right to use. This question is not as naïve as it might appear at first glance. In fact, it is useful to define the limits of Franciscanism in order to conclude that these limits, interestingly but perhaps not surprisingly, do coincide with the limits of what is commonly considered “human”, a notion presupposing what in modern parlance we call “natural rights” and that seems to find its origin in Franciscan thought. The very fact that this question can be formulated in these terms nowadays might be considered the product of a Franciscan innovation: the distinction between “use” (or “consuming”, in modern parlance) and “property” has been a fundamental premise for the development of economic thought: the notion of “use”, second in importance perhaps only to the “free autonomous will”, will be central to most economic theories of modern thinkers.³⁴ The answer that some Franciscans gave at that time was that the *ius utendi*, unlike the right to possess, being a natural right is, by definition, inalienable³⁵. In fact, as was argued by Hugh of Digne in response to the objection that right to property necessarily follows from the necessity (ascribed to the natural law) of using things, the natural right that a person has of making use of those goods without which the self-conservation would be impossible does not imply ownership:

Conserving one’s nature does not in fact represent ownership of food and clothing but use; moreover, it is possible always and everywhere to renounce ownership, but to renounce use never and nowhere³⁶.

This is the reason why even the most radical among

34 As pointed out by Giuseppe Franco and Peter Nickl in their paper: “Research has shown that some of the earliest traditions of market economy are rooted – in many aspects – in scholastic philosophy and theology [...]. The Franciscans, for instance, felt compelled by their understanding of poverty to tackle economic issues – consequently, they contributed to the creation of the Western economic vocabulary and economic analysis. Their views were always focused on ethical aims as the service of the society; their primary goal was the claim that the behavior of tradesmen ought to be determined by considerations of justice”. See Giuseppe Franco, Peter Nickl, “A Certain Seminal Character of Profit which We Commonly Call ‘Capital’: Peter of John Olivi and the Tractatus de contractibus,” *Journal for Markets and Ethics/Zeitschrift für Marktwirtschaft und Ethik* 6, no. 1 (2018): 12.

35 Agamben, *Highest Poverty*, 123.

36 Hugh of Digne, “De finibus paupertatis,” In *Archivium Franciscanum Historicum* 5, ed. C. Florovski (1912), 288-89.

Spiritual Franciscans could not have claimed to renounce “use”: renouncing “use” would have meant to completely renounce not only “humanity”, but even “animality” (the natural right to survive)³⁷. In other words, giving up not only “law”, but even (“naked”) life itself.

Imitatio Christi and the performative character of faith

In this chapter, I will discuss the philosophical and theological concerns that the Franciscan (apparently) straightforward imitation of Christ conceals. In particular, in this second part, the “performative” character of faith will be problematized and one engrossing resemblance with modern social ontology will be presented.

Attempting to realize the *imitatio Christi* in *this* world makes manifest what one might consider the most crucial paradoxes of Christian faith: the mysterious relationship between time and eternity, body and soul, Jesus and Christ, earthly and godly city. Both the *imitatio Christi* and these paradoxes have a long history in Christianity and Christian thought. Augustine, whose thought highly influenced Franciscanism, has been, among the Fathers of Church, perhaps the one most inclined to acknowledge and most engaged to try to overcome the “paradoxical character” of Christian faith³⁸. However, no definitive nor sufficiently satisfying answers have been given to these paradoxical questions (such as how could an eternal God “set bounds” for His power and create a contingent universe? How can Jesus Christ be both mortal and immortal? How can one bridge the gap between temporality and eternity? How can an eternal truth have come into being in time?). Because of that, far from believing that the Christian faith gives “knowledge”, it should rather be said that faith raises doubts. This is perhaps why, in more recent times, the existentialist Christian thinker Kierkegaard suggested that the Christian ideal embraced by Catholicism is a “nihilist” ideal (aiming to “becoming nothing in this world”³⁹). Kierkegaard, similarly to Augustine, fearlessly embraces the “paradoxical character” of faith (“*the eternal truth has come into being in time. This is the paradox*”⁴⁰). To him, the “nihilism” of the Christian

37 The assimilation of the Franciscan form of life to animal life is not a novelty, but it can be found in Bonagratia of Bergamo and Richard of Conington. See Agamben, *Highest Poverty*, 111.

38 See Augustine, *Confessions*, trans. by William Watts, London: William Heinemann (NY: G. P. Putnam’s Sons, 1631). Although it can be argued that some parts of Augustine’s theological philosophy might be interpreted as cataphatic, Augustine’s attitude in addressing God seems to be mostly apophatic.

39 Søren Kierkegaard, “Journalerna,” In *Texter och citat i urval*, ed. David Olson (Skellefteå: Artos & Norma bokförlag, 2013), 48.

40 Kierkegaard, *Journ.*, 200.

ideal resides in the fact that it can be seen as the aspiration to a status that cannot be achieved and, one might add, whose emulation can only take the form of a “performative” *imitatio Christi*. The fact that the *imitatio Christi* can only be “performative” is due to the paradox of wanting to imitate the eternal truth *without being the eternal truth*: how could, in fact, simple men (Franciscans) “become” the paradox that, because of their condition of human beings, they could not grasp? In other words, one of the main concerns that someone embracing Augustine’s and Kierkegaard’s apophatic approach might arise against Franciscanism is that the status of the Christian ideal cannot be achieved because it is impossible to fully explain and overcome the above-mentioned paradox: God, “the eternal truth” has “come into being in time”, that is to say, has been born and has grown up, just as any other individual human being. The paradox of Christian revelation remains for Kierkegaard “the only thing that can be believed”⁴¹. Nonetheless, as long as the paradox is hard or impossible to fully grasp or overcome (at least in the way it is posed by Augustine and Kierkegaard), it must be even more unconceivable for a temporal being to aspire to become an eternal truth that comes into being in time, that is to say, to *be-come* that paradox.

As the “paradoxical” character of faith (which I discussed before) cannot be overcome, faith can only be “self-referential” (“the self-referential experience of the word”⁴²), in the sense that it can find no solid ground outside of the “subject”. Thus, faith can only “enact[s] its meaning through its being uttered”⁴³. In conclusion, faith is performative as “its effectiveness relies on its being performed”⁴⁴. In this respect, it might be said, that although Kierkegaard and Augustine were for obvious reasons unfamiliar with the modern biopolitical terminology proposed by Agamben, they would have been compelled to agree with him: if faith is apophatic, it follows that it must be “self-referential” too, that is to say, it cannot refer to an eternal truth we cannot access, but it can merely refer to ourselves as subjects.

Imitatio Christi and becoming God

The ambitious aspiration of Franciscanism to an ideal that cannot be achieved might be compared to the modern aspiration to “becoming God”. There is plenty of literature on this subject that can be studied and approached utilizing different disciplines and theoretical frameworks. However,

from a philosophical point of view the pivotal moment of the modern aspiration to “becoming God” is arguably Friedrich Nietzsche’s parable of the Madman, where the death of God is announced:

God is dead. God remains dead. And we have killed him. How shall we comfort ourselves, the murderers of all murderers? What was holiest and mightiest of all that the world has yet owned has bled to death under our knives: who will wipe this blood off us? What water is there for us to clean ourselves? What festivals of atonement, what sacred games shall we have to invent? Is not the greatness of this deed too great for us? *Must we ourselves not become gods simply to appear worthy of it?*⁴⁵.

Franciscans came to earth as redeemers, their leader Francis was the new *Salvatore mundi* and his followers the new apostles⁴⁶. If we suppose that God is killed by the immorality and the inconsistency of the Church (embodying the split between material and sacred of a corrupted humanity), then we might suppose that, just as in Nietzsche’s parable, the vacant place has to be taken by the elected Franciscans, the new *Übermenschen*, becoming what they cannot become (Christ) “simply to appear worthy of it”⁴⁷.

Far from providing exhaustive evidence to support this claim, the philosophy of Augustine can help us to find a resemblance between the modern⁴⁸ and the Franciscan social ontology. In different parts of the Augustinian *corpus*, both resemblances and dissimilarities between divine and human faculties are emphasized. In *Confessiones*, it is said that the image of a future event is present even if the event is not yet because *scientia* and *cogitatio* are, in the human mind, separated. Vice versa, this is not the case in the mind of God: *scientia* and *cogitatio* are one and the same⁴⁹. Therefore, in God’s mind, present, past, and future belong to one and the same God’s “eternal present” (the continuous divine *Verbum*, in Augustine parlance)⁵⁰. Similarly, in *De Trinitate*⁵¹, God is compared to a “*locutor*”, a poet-performer whose faculty of speaking is one and the same as his faculty of creating: He speaks and creates at once. His word is the *Verbum* (the

45 Friedrich Nietzsche, *The Gay Science* (1887), para. 125.

46 McLure, “Globalisation,” 354.

47 Nietzsche, *Gay Science*, para. 125.

48 To further complicate my inquiry, one might question my concept of “modernity” by introducing the notion of post-modernity. However, for reasons of space and relevance, I will leave this problem aside.

49 Augustine, “De Trinitate” In *Corpus Christianorum – Series Latina Pars XVI*, (Turnhout: Brepols, 1968), Book XV.

50 Augustine, *Trinitate*, Book XI, Chap. VI.

51 Augustine, *Trinitate*.

41 Walter Kaufmann, *Existentialism from Dostoevsky to Sartre* (Penguin: NY, 1975), 118.

42 Giorgio Agamben, trans., *The Time That Remains: A Commentary on the Letter to the Romans* (Stanford, Stanford University Press, 2005).

43 Agamben, *Time that remains*, 131.

44 Lorenzo Chiesa, “Giorgio Agamben’s Franciscan Ontology,” *Cosmos and History: The Journal of Natural and Social Philosophy* 5, no. 1 (2009): 114.

Word). On the contrary, human beings lack this faculty⁵². It can be argued that, with the promise of the vow (which I will examine in the next chapter in relation to Olivi), the identification between “being” (be-coming Christ), “acting” (acting as Christ), and “saying” (the factual utterance of the promise) takes place in the human mind. However, as I showed, to Augustine this identification can take place in the mind of God alone, which is interestingly the One Franciscans want to imitate. A more concrete example of this identification is reported by Agamben⁵³: *De ebdomario lectore ad mensas* (“Weekly reader in the refectory”) refers that, for a week at a time each of the deans will do the reading at the table from the text of the rule⁵⁴. The reading was about a *lectio continua*. As observed by Agamben:

By reading the rule that prescribes to him the reading of the rule, the reader performatively executes the rule *ipso facto*. His *lectio* realizes, that is to say, the exemplary instance of an enunciation of the rule that coincides with its execution⁵⁵.

If my hypothesis that Franciscanism anticipates the modern biopolitical form of life is correct, the abyss between man and God appears reduced: just as a theatre piece is made actual by the performers and does not come into being until it is made actual⁵⁶, the “elected” Franciscans can *be-come* Christ through the “performance” of Christ: the validity of life *qua* Gospel depends on its being performed in the world. Similarly, it might be noted that, according to the modern notion of queerness, “saying” is equivalent to “acting” and “acting” is equivalent to being, so that, for instance, one is not required to be born in a certain body to become a certain gender⁵⁷.

***Imitatio Christi* and individual merits**

Six centuries after the Franciscans, Kierkegaard wrote that the emphasis on Christ as a model was fundamental in the Middle Ages (perhaps he had in mind Franciscanism itself or other Mendicant movements). However, he noticed

that this was only one aspect of Christianity and that Luther with his Reform showed the other aspect: Protestantism is “earthly from the beginning to the end”⁵⁸ and *Christ is a gift one has to earn through faith and work*. From the point of view of Kierkegaard, it seems that, while Protestantism emphasizes the importance of “*individual (earthly) merits*”, in Catholicism the “good intention” to imitate Christ is sufficient to gain the “right” to Christ. Interestingly, this idea seems to be confirmed by a Franciscan anecdote reported by Giles of Assisi in *the Chronicle of Twenty-Four-Generals* and summarized by Burr:

Giles asked Bonaventure whether an illiterate man could love God as much as a literate man could. Bonaventure assured him that a little old lady could love God as much as a master of theology. At that, Giles rose and went to the part of the garden adjoining the city, crying “Poor, simple, illiterate old lady, you love the Lord God and can be greater than Brother Bonaventure!”⁵⁹.

The context of this passage is the dissatisfaction of Giles due to the increasing intellectualization of the Franciscan movement⁶⁰. Because anyone can love God and be a good Christian, regardless of their education or social status, Giles (and arguably other Franciscans at his time) might have wondered what the role of formal education can possibly be in relation to an “economy of salvation” where *potentially* anyone will be saved. The “illiterate old lady” can love God as much as the great Brother Bonaventure, in the sense that her capacity to love is completely independent of her social and economic status or, in Agambenian terms, it might be observed that her capacity to love God “resides” and “operates” outside of *any* “law”. However, while everybody has the virtual possibility of being saved, according to Franciscans this does not mean that salvation can depend on liturgical accomplishments and disregard every-day actions (much less, the “interior” disposition). In particular, because of its critique against the ecclesiastical split between *regula* and *vita*, between the sacred and the material, as emphasized by Agamben, Franciscanism rejects the idea of the *officio ex opera operato*: while for the Church the sacramental practice of the priest remains valid and efficacious independently of the unworthiness of his life, to Franciscans this is not the case.

If the liturgy is totally transformed into life, then the fundamental principle of the *opus operatum*-which already, beginning with Augustine, sanctioned the indifference of the priest’s moral qualities with regard to the efficacy of his

52 Augustine, *Trinitate*, Book XV, Chap. XV.

53 Agamben, *Highest Poverty*, 80.

54 Agamben, *Highest Poverty*, 80.

55 Agamben, *Highest Poverty*, 82.

56 Tina Rosenberg, *Don't Be Quiet, Start a Riot! Essays on Feminism and Performance* (Stockholm: Stockholm University Press, 2016).

57 For reasons of space and relevance, I cannot offer a comprehensive introduction to the modern notion of queer. Nonetheless, I presume that the brief overview provided in note n. 2 is sufficient to see the pertinence of the parallel between Franciscan and queer performance. I am aware that this analogy would require further inquiry which is not my task here to conduct. As an example of “queer” reading of a medieval spiritual movement see Kristien Justaert, “The power of poverty: queer religious agency past and present,” *Theology & Sexuality* 23 (2017): 164-181.

58 Kierkegaard, *Journ.*, 48.

59 Burr, *Spiritual Franciscans*, 28.

60 Burr, *Spiritual Franciscans*, 28.

office-cannot hold. While the unworthy priest remains in any case a priest, and the sacramental acts he carries out do not lose their validity, an unworthy monk is simply not a monk⁶¹. Agamben points to the fact that Luther was an Augustinian monk and observes that his Protestant Reformation can be seen as “the implacable claim [...] of the monastic liturgy against the Church liturgy”⁶². Thus, it might be concluded that when Kierkegaard opposes Protestantism to Catholicism and describes the former as emphasizing individual merits, he might have had in mind the split within the priestly catholic life, but certainly not the Franciscan attempt to overcome this division. In fact, the movement of Francis represented the greatest attempt (before Protestantism) to reconcile the disjunction between *vita* and *regula*. In view of that, the rejection of the principle of the *opus operatum* might be seen as one of the instruments Franciscans have to restore a deep apostolic-like connection between life and liturgy.

For the purpose of my thesis (i), it should be observed, that the Franciscan principle according to which it is not the office that confers priestly power, but the *meritum vitae* (the moral conduct of life), can be seen as part of a gradual process of “individualization” of the Order and religious life in general: in modern parlance, one might say that the “individual dimension” (and “individual responsibility”) acquired increasing importance at the expense of the *officio*: if the title *per se* is no longer sufficient to bestow power and respectability, the source of power and respectability must be transferred: the “subject” and his “performance” (what he, in reality, does more than what he says) becomes the new source of power and responsibility. This new “attention” to “subjectivity” might be compared to the modern biopolitical technology of the body, through which subjectivities are formed⁶³. In particular, it can be argued, that the attitude embraced by modern capitalism where political institutions and States seem to gradually lose their importance and individuals, seen as an “anti-essentialist” construct⁶⁴ (even her educational titles no longer matter, but only what she can practically do for the market), seem to be left alone, finds an anticipation in this Franciscan “individualization-process”. On the other hand, making the authority of the priest depending on his individual behavior is making it dependent on a much hazier and uncertain principle. The same goes for other aspects of the “individualization”: as I will show in chapter

3.2, in fact, what was at stake in the debate around the *usus pauper* was the fact that, while the condition of ownership is a determinable status (either one owns something or not), the condition of *usus pauper* is not. And this, similarly to the condition of the modern human being, may engender some uncertainty and anxiety and, in the case of Franciscans, even put the Brothers in spiritual danger.

Introduction to Olivi’s thought and his “anti-essentialist ontology”

Petrus Iohannis Olivi was a Franciscan born in Sérignan, in southern France. He entered the Order at the age of twelve, started to study theology at Paris University, and in 1270 he was back in southern France where he became a lector. However, he never managed to become a master, probably “due to lingering doubts about his orthodoxy”⁶⁵: his ideas, in fact, were seen as “original and slightly dangerous from the very beginning”⁶⁶. It should be noticed that to understand the significance of Olivi’s contribution to the debate on the *usus pauper*, other parts of his innovative thought should be briefly presented: his position on the *usus pauper* and vow (which I will soon examine) must be understood in relation to:

- a) his voluntarist view on human agency.
- b) his provocative, although sketched, “political philosophy”.
- c) his apocalyptic-Joachite views.

I will present (c) in the next part as it is directly related to the ideal of Apostolic life and it is more strictly connected to the *usus pauper*, I will now briefly sketch (a) and (b).

Olivi’s voluntarist view on human agency (a) can be summed up in his formula: *libertas proprie non est nisi in voluntate libertas* (properly speaking, freedom is only in the will) (*Olivi’s voluntarist principle*)⁶⁷ and can be even seen as an anticipation of the modern notion of free will.⁶⁸ On his “political philosophy” (b), it can be shortly said that he seems to present a model capable of conceding more space to human freedom than any other system in his time. In particular, as

65 Burr, *Spiritual Franciscans*, 58.

66 Burr, *Spiritual Franciscans*, 58.

67 Peter Nickl, “Libertas Proprie non est nisi in Voluntate: libertà e soggettività in Pietro di Giovanni Olivi,” In *Philosophe et Theologien. Actes du colloque de Philosophie medievale*, ed. Catherine König-Pralong, Oliver Ribordy, Tiziana Suarez-Nani (Fribourg: Université de Fribourg, 24-25 octobre 2008): 358.

68 In the first part of my master thesis (Matteo Iammarrone, “The 13th century debate on intellectualism and voluntarism and its implications for modern political philosophy” (unpublished manuscript, June 2020)) I have suggested that Olivi’s ideas on freedom anticipated the modern liberal notion of free will and individual personal space.

61 Agamben, *Highest Poverty*, 200.

62 Agamben, *Highest Poverty*, 84.

63 See, among the others, Foucault, *Security*.

64 What is here meant by “anti-essentialist construct” will become clearer in the third part where I will present my argument according to which modernity and Franciscanism can probably be subsumed under one and the same social ontology. Nonetheless, the account of “modern ontology” emerging from this paper does not aim to be exhaustive but only sketched. This is mainly because my object of study is primarily Medieval Philosophy.

stressed by Juhana Toivanen⁶⁹, Olivi believed that:

- 1) Humans are free to use political power according to their wills.
- 2) Political power is an extension of the dominion (*dominium*) that humans have over their wills.
- 3) God has willed that there is an area for personal liberty that does not fall under the power of superiors.

Moreover, in what might be considered his analysis of temporal authorities and power (*Quid ponat ius vel dominium* (abbrev. Qp)⁷⁰) he draws the conclusion that temporal authorities do not exist “substantially”. In other words, right (*ius*), authority (*auctoritas*), power (*potestas*) and obligation (*obligatio*) merely refer to relations between subjects and do not pertain to some real natural properties in the subjects involved. For instance, if someone owns a field and then he sells it to another person, it does not seem to be the case that these persons, or the field, undergo any real change with respect to their natural properties:

[...] The field of Petrus, for instance, which he acquired through a contract of sale (*lit.* the right to buy, *ius emptio*) has only a relation of possession with respect to Petrus, and when, through selling or giving (*dationem*) (the relation of possession) is transferred from Petrus to Paulus, what does Petrus lose but the relation of possession or property? It seems (*videtur*), therefore, that such relations have no real basis in those (*in hiis*) to whom they are referred⁷¹.

As rightly observed by Agamben, who mentioned this aspect of Olivi in *Altissima Povertà*, the “reality” of human power and possession is not denied, what is rejected is rather the idea that the human sphere of power might “affect” anything beyond. Nonetheless, it remains true that to Olivi human power is based on a “purely operative and effective ontology”⁷². In his book, Agamben attempts to demonstrate that this shows that the *Regula* whose model is the Gospel cannot be reduced to the form of law and that Franciscanism is, therefore, outside of the (canon) law⁷³. He mentions some patristic authors to prove his point:

Basil and Pachomius are perfectly conscious of the irreducibility of the Christian form of life to the law: Basil, in his treatise on baptism, explicitly

confirms the Pauline principle according to which the Christian dies to the law (apothanein tōi nomōi, [αποτηνεῖν τῷ νομῷ]) [...] ⁷⁴.

To Agamben, the Christian *forma vivendi* itself cannot be exhausted in the observance of a precept, which is to say that it cannot have a legal nature, and this is shown, for instance, by a passage where Tertullian seems to oppose the term “Rule” to the “form of the [Mosaic] law”⁷⁵. Nonetheless, Agamben also admits that both the canon law and its negation (the Franciscan attempt to de-activate the law by a practice situated outside of the law) are equally “existential” and not “essential”⁷⁶ (in the above-mentioned Olivian sense): they are not situated at the level of the *quid est*, but of the *quod est*. Thus, I argue that, even though Agamben might be right about the ability of radical Franciscanism of posing itself outside of the canon law *in the thirteenth century* (just as it could have posed itself against Mosaic law), this is not the case for Franciscanism in the twenty-first century: the “law” of modern biopolitics is such that it does no longer need to legitimize its power through “essentialist arguments” (as the canon law of the Church as well as the Mosaic law arguably did), but through merely “operative” (perhaps even “performative”) justifications, just as Olivi’s Franciscanism. To better illustrate this point, a suggestive parallel between Olivi’s notion of obedience and the modern notion of obedience can be drawn. In one passage of his *Rule Commentary*⁷⁷, Olivi claims that it does not make much sense to “observe obedience” (*tenendo obedientiam*) and apply the norm to life, but rather to “live in obedience” (*vivendo in obedientia*) and apply life to the norm through living the norm:

Note that it makes more sense to say “living in obedience”, etc... than to say “keeping obedience” or “obeying”: in fact, it is said that someone lives in a certain state or work (*opere*) only if his whole life has been applied to it, in which case he is rightly said to be and live and dwell in it⁷⁸.

Similarly, in modern biopolitics, norms that regulate morality inside the private sphere of family and the public sphere of social interactions are no longer presented in the “traditional” form of explicit orders given by definable authorities one is clearly submitted to, but rather “discretely” imposed under the alibi of “free choice” or persuasion, the *forma vivendi* where *regula* and *vita* are almost indistinguishable and social norms are not presented

69 Juhana Toivanen, “Peter Olivi on Political Power, Will, and Human Agency,” *Vivarium* 54 (2016): 22-45.

70 Petrus Johannis Olivi, “Quid Ponat Ius Vel Dominium,” *Oliviana. Mouvements et dissidences spirituels XIIIe-XIVe siècles* (Groupe d’anthropologie scolastique (Centre de recherches historiques-EHESS-CNRS), December 31, 2016), <https://journals.openedition.org/oliviana/882>.

71 Olivi, Qp., 4.

72 Agamben, *Highest Poverty*, 144.

73 Agamben, *Highest Poverty*, 63.

74 Agamben, *Highest Poverty*, 64.

75 Agamben, *Highest Poverty*, 47.

76 Agamben, *Highest Poverty*, 135.

77 Olivi, *Expositio Regula*.

78 Olivi, *Expositio Regula*, 118.

as laws to be applied to life⁷⁹. This seems to confirm my thesis (i). Further arguments clarifying why it is the case that Olivi's thought represents an anticipation of a modern social ontology will be presented in paragraph 3.3.

Olivi and the Eschatological Function of Poverty

In 1283 Olivi was censured by a commission that condemned some of his propositions of which the idea that *usus pauper* is a substantial part of the vow was one of many. According to Burr⁸⁰, however, the Olivian notion of *usus pauper* was not the main reason for condemnation. It is not clear how to make sense of the apparent disregard of the commission for the *usus pauper*. At any rate, when in 1298 Olivi died at Narbonne, he was condemned to *damnatio memoriae*, anyone using his books was declared excommunicated⁸¹ and the Brothers of his province were forced to recite an abjuration. This time his positions on the *usus pauper* seem to have been determining: in fact, the abjuration contained three propositions, one of which was the belief that the *usus pauper* must be part of the vow⁸². This clearly shows that this claim must have been considered typically Olivian and heretical⁸³. It might be asked why another controversial work by Olivi (his *Lectura super Apocalypsim*), written two years before his death, was not officially included among the three items (the other two concerned the wound in Christ's side and the veneration of those who had not been officially canonized)⁸⁴. Olivi's Joachism, in fact, was one of the reasons behind his posthumous persecution: not coincidentally, Boniface VIII commissioned Giles of Rome to produce a refutation of Olivi's *Apocalypse Commentary*⁸⁵. I argue that the reason why neither this work nor Olivi's Joachite ideas are contained in the 1298's formula of abjuration is that they are implicitly included in the first item. As a matter of fact, the belief that the *usus pauper* must be part of the vow relies on the premise that Franciscanism fulfills the "historical function" of purifying the Church through the return to the *apostolic status* of the *usus pauper*. A more explicit condemnation against Olivi's Joachite ideas would be the posthumous attack by Bonagratia of Bergamo, who in 1311 would describe Olivi's *Lectura super Apocalypsim* as containing "false and fantastic prophecies concerning the

Church, calling the Church a great whore"⁸⁶. The provocative character of *Lectura super Apocalypsim* resided probably in the clear identification of the decline of the Church with the beginning of the ecclesiastical state of possession. Furthermore, it was evident that Olivi was referring to the decadence of the Church of his present time, to which he opposed the eschatological role of his Order justified by its superiority: he was, in fact, convinced that Franciscans are "superior to other Orders because they follow the Apostolic pattern"⁸⁷. To be sure, as emphasized by Burr, the equation between Franciscan *Regula* and Apostolic life (the assumption that Apostles rejected both individual and common possessions) was not original to Olivi and rather accepted until the 13th century. According to the traditional Franciscan view, in fact, Christ, the apostles, Adam and Eve, had a natural right to use things necessary for their survival (*ius utendi*), and the very fact of using them (*simplex factus usus*) did not give them dominion over them. In the 13th century this idea started to be seen as problematic. An example of the increasing rejection of this view is represented by Ubertino of Casale, who in his *De altissima paupertate*, departs from the traditional Franciscan position that apostles had no property and allows the word "*dominium*" to enter into the Franciscan camp⁸⁸. Ubertino declares that the apostles had actually *dominium quantum ad usum* (dominion with respect to what they used): it is, in fact, impossible for someone to eat dinner without having dominion over it. A similar argument is presented in the bull *Ad conditorem canonum*⁸⁹, emanated by John XXII: "for consumable things it is impossible to constitute or to have *ius utendi*, if one claims to separate them from ownership of the thing"⁹⁰. This position seems to be held by Thomas Aquinas too⁹¹. However, Francis of Ascoli replies that consumable things (the things whose use is, according to John XXII and those sharing his view, naturally bonded to their property), cannot be possessed simultaneously nor permanently (*simul et permanenter*): according to Francis of Ascoli, the distinction between *ius utendi* and *dominium* can be kept by thinking that *the being of consumable goods (usus corporeus) is tantamount to their becoming*. This position, although not identical to Olivi's one, seems to support Olivi's idea of an *indeterminate* vow (I will discuss this idea in the next chapter).

In conclusion, the Franciscan Ubertino abandons the

79 For a more practical example see Slavoj Žižek: Political Correctness Is a More Dangerous Form of Totalitarianism. YouTube, 2016. <https://www.youtube.com/watch?v=tndXr-oQxxA>.

80 Burr, Spiritual Franciscans, 88.

81 Burr, Spiritual Franciscans, 88.

82 Burr, Spiritual Franciscans, 89.

83 Burr, Spiritual Franciscans, 89.

84 Burr, Spiritual Franciscans, 89.

85 See Burr, Spiritual Franciscans, 89.

86 Burr, Spiritual Franciscans, 76.

87 Burr, Spiritual Franciscans, 78.

88 Burr, Spiritual Franciscans, 271.

89 Pope John XXII. Bulla Ad conditorem canonum, in Corpus iuris canonici (Lyons, 1671).

90 Agamben, Highest Poverty, 130.

91 Thomas Aquinas, Summa Theologiae: Latin text and English translation, introductions, notes, appendices and glossaries, trans. by Thomas Gilby (Cambridge: Cambridge University Press, (2006)), 2a, 2ae, q. 78, art. 1.

idea of the apocalyptic significance of poverty through his argument that apostles had *dominium* over things they consume. In this sense, he departs from Olivi and approaches John XXII and Aquinas' ideas. Along the same line, the Papal bull *Cum inter nonnullos*⁹² affirms that it is heretical to think that Christ and his disciples neither owned anything privately or in common⁹³. The rejection of Olivi's Apocalyptic views on poverty⁹⁴ can be interpreted as the cautious attempt of the Church (and of Franciscans themselves, as Ubertino's case shows) to keep "things as they are" by de-activating the potential of the Spiritual Franciscans' "utopia", the ideal that cannot be realized on this earth, the fully uncompromised *imitatio Christi*: the (apparently simple) thing that is hard to do. Some of the philosophical and theological obstacles and paradoxes of the realization of this ideal *in this world* have already been examined in chapter 2.2.

Olivi and the *usus pauper*'s controversy

After having introduced different aspects of Olivi's thought and, last but not least, his Joachite views, it is opportune now to better explain which were the different positions on the *usus pauper* and better clarify what was actually at stake. The objective in relation to the main purpose of this paper, (i), is to show *how* Olivi's attempt to return to the original spirit of Francis took the form of an "individualization"⁹⁵ and *why*, unlike what Agamben thinks, this "individualization" cannot be thought neither outside of the canon law of that time nor outside of the modern "biopolitical law".

Both Olivi and his opponents agreed that the Franciscan vow included chastity and lack of ownership⁹⁶. It is worth specifying that by "ownership", Burr is referring to "legal ownership" (or *proprietas*) because if he meant *dominium* one could object that this is not true: the Franciscan Ubertino, in fact, thought that Franciscans have also *dominium* over things they consume (see chapter 3.1). Thus, it is worth keeping in mind that with his view Ubertino is not suggesting that Franciscans should have the legal right to possess, but merely that even poor consumption necessarily implies *dominium*, which however remains distinct from *proprietas*.

92 Pope John XXII. Bulla *Cum inter nonnullos*, in *Codex Iuris Canonici* (Leipzig: Tauchnitz, 1879).

93 Burr, *Spiritual Franciscans*, 276.

94 Ludwig Hödl has emphasized that poverty had eschatological significance for Olivi. See Ludwig Hödl, "Universale christliche Ethik und partikuläres christliches Ethos im unterschiedlichen Verständnis der scholastischen Theologie von der *perfectio evangelica*." In *Universalismus und Partikularismus im Mittelalter*, (Berlin: Wilpert, 1968), 20-41.

95 In the sense of an increasing primacy of the individual friar, his actual actions and inner disposition over his liturgical duties toward the Order and the Church.

96 Burr, *Spiritual Franciscans*, 53.

This distinction is maintained by influential Franciscan scholars (Bonaventure and Bonagratia of Bergamo, among the others) and, as noticed by Bart Wilson, remained in civil law⁹⁷. Given that the distinction between *proprietas* and *dominium* was largely accepted, the problem at stake, according to Burr, was mainly on whether the vow bounds Franciscans to the restricted use of goods or merely to lack of legal ownership. Most remarkably, if one agreed that the vow bounds to restricted use (*usus pauper*), what should and should not count as "restricted use"? These questions are not easy to answer, especially since Franciscans were preaching in different parts of the world, extremely different social, political, cultural, and climatic conditions. Because of that, by making the *usus pauper* a compulsory part of the vow, as Olivi suggested, one would have risked putting his spiritual salvation in jeopardy: spiritual salvation was a serious matter for Franciscans; thus, according to Olivi's opponents, it should not rely on such a fuzzy notion as the *usus pauper*. As pointed out by Burr:

Since the vower ([the one who vows]) is placing his soul in jeopardy if he violates the vow, he must be able to envisage a precise line beyond which such violations occur. Ownership provides that sort of line. One either owns a thing or one does not. *Usus pauper* is a much fuzzier notion. Precisely how limited does such use have to be in order to qualify?⁹⁸

The question of "fuzziness" of the *usus pauper* is essentially an ontological problem. Olivi's opponents were worried by the fact that, while ownership (the condition of someone who owns something) is somehow a determinable status, *usus pauper* is not. In regard to ownership, it can be said that one either owns something or not, but the same is not the case for use and consumption of something: the definition of what is necessary, in fact, largely depends on earthly circumstances which are much more volatile than the legal status of someone possessing property. Because such "volatile circumstances" are those particular cases that the canon law did not want or did not manage to codify, Agamben draws the conclusion that the Franciscan practice of *usus pauper* is a "novelty consisting in the attempt to realize a human life and practice absolutely *outside of the determinations of the law*"⁹⁹. However, as I have already shown, by comparison to modern biopolitics, which relies on a "non-essentialist" and relativist ontology, it is possible to "capture" a canon-lawful practice of *usus pauper*, however fuzzy it may appear to be. Therefore, it is naïve to think that *usus pauper* can be placed outside of the canon law.

97 Bart Wilson, *The Property Species: Mine, Yours, and the Human Mind* (Oxford: Oxford University Press, 2020), 92.

98 Burr, *Spiritual Franciscans*, 52.

99 Agamben, *Highest Poverty*, 110.

But let me return to Olivi. How did he try to answer the concern raised by his opponents? He argued that there are two parts of the vow: one has to be vowed determinately and one indeterminately. The *usus pauper* is the part of the vow that is to be vowed *indeterminately*. Moreover, he claimed that only the violation of *praeceptorie* entailed mortal sin: in fact, “no legislator binds his subjects to all elements of his law equally”¹⁰⁰. This sophistication seems to find support in the bull *Exiit Qui Seminatus*¹⁰¹, promulgated in 1279 on behalf of pope Nicholas III. In the text, in fact, it is clarified that the Franciscan vow is not absolute, since a promise to observe the Gospel, taken absolutely, could not be kept¹⁰². Thus, while some evangelical counsels are to be considered binding precepts (*praeceptorie vel inhibitorie*), others are merely non-binding “recommendations”, expressed through words of exhortation, admonition, and advice¹⁰³. The bull can be interpreted as an attempt to appease the diatribe with Spirituals: through the promotion of the separation between *usus pauper*, which Franciscans retained, and property, belonging to the Church, Bonaventure’s idea of Franciscans as “children of the Father”¹⁰⁴ was reaffirmed: Franciscans were allowed to use things the Church possessed. In this respect, they were children of the Church. From a radical perspective, it might be said that, while with the *Exiit Qui Seminatus* Franciscans and their lifestyle were once again approved and recognized, the role of Franciscans as submitted to the Church was also reiterated.

It is worth noting that there is at least one important difference between Olivi’s position and the bull of Pope Nicholas III: while, according to the bull, the distinction between what is binding and cannot be violated without committing mortal sin and what is not binding (namely *praeceptorie* and *consuls*) is intrinsic to the rule itself, to Olivi this seems to be a matter that one might decide by himself. In order to support the idea of an “indeterminate vow”, while at the same time admonishing his opponents of laxity, Olivi seems to present the illustrious Bonaventure as a virtuous model showing his notion of *indeterminate vows* and resistance against laxity. As noticed by Burr, in fact, Olivi represents his opponents as using the actual laxity of many members of the Order (included Bonaventure, in their eyes) as an excuse to disregard the *usus pauper*¹⁰⁵:

[Bonaventure] was of the best and most pious inner disposition, and in his words, he always endorsed whatever is consistent with perfect purity [...] He was not among the numbers of those defending relaxations [...]. *On the contrary, if he shared any of them, he did so with sorrow and lamentation. Such defects, I believe, are not to be considered mortal sins unless, all circumstances considered, they are very great*¹⁰⁶.

In this passage, Olivi admits that Bonaventure could violate the vow without committing mortal sin because “his general tendency was in the right direction”¹⁰⁷. This is significant of the fact that Olivi’s *indeterminate vow* is a product of the combination between his “political philosophy” and his views on human agency (which I have already sketched in chapter 3.1): rather than fighting against laxity through the affirmation of a stricter *Regula*, Olivi seems to have faith in the fact that more “space” for personal freedom and freedom of judgment should be sufficient against degeneration and laxity. Consider, for instance, the *Quaestio* n. 14 of *De Perfectione Evangelica* where he argues that the Pope cannot absolve from evangelical vow since vow is a matter between the brothers and God¹⁰⁸. A further example is the *Quaestio* n. 16 where it is said that the Papal authority can be wrong and, in that case, it must be fought against¹⁰⁹. Further evidence of Olivi’s “indeterminate vow” can be found, for instance, in a passage of his *Rule Commentary*:

[...] Note, in fact, that under the two words this definition and his specification is posed, that is to say, (under the words of) *observare* and *vivendo in order to show that the rule is not mathematical nor does it merely consist of the obligations and profession of the vow*. [In fact], the immovable essentially consists of verbal and vital works and in the actual application of the habits [...] ¹¹⁰.

The application of the rule cannot be reduced to the obligations and profession of the vow (regardless of what

be an essential part of the vow, because ‘today the Friars Minor eat and drink well, frequently dress well, and have big, beautiful dwellings, yet the pope has confirmed their status anyway’ and because ‘Bonaventure and others who wrote about these matters lived very laxly’”. See Burr, *Spiritual Franciscans*, 59.

106 Burr, *Spiritual Franciscans*, 60.

107 Burr, *Spiritual Franciscans*, 60.

108 “It is asked whether the pope can absolve from all vows, especially the evangelical vow” (“Quaeritur an papa possit in omni voto dispensare et specialiter an in votis evangelicis”). See Olivi, *De Perfectione*, *Quaestio* 14.

109 “It is asked whether, in matters of faith and conduct, the Roman Pope should be obeyed by every catholic as an infallible rule” (“Quaeritur an romano pontifici in fide et moribus sit ab omnibus catholicis tamquam regulae inerrabili obediendum”). See Olivi, *De Perfectione*, *Quaestio* 16.

110 Olivi, *De Perfectione*, *Quaestio* 16.

100 Burr, *Spiritual Franciscans*, 56.

101 Pope Nicholas III. Bulla *Exiit qui seminatus*, in *Western Medieval Manuscripts*, MS151/ff. 14r-50r. Edinburgh University Library Special Collections. http://lac-archives-live.is.ed.ac.uk:8081/repositories/2/archival_objects/145903. Accessed 09/07/2020.

102 Pope Nicholas III, Bulla *Exiit qui seminatus*.

103 Burr, *Spiritual Franciscans*, 60.

104 See Wilhelm Kölmel, *Apologia pauperum: die Armutslehre Bonaventuras da Bagnoregio als soziale Theorie* (Freiburg: Alber, 1974).

105 “[Olivi] depicts his opponents as arguing that *usus pauper* could not

these obligations are). What matters, in fact, are the “verbal and vital works” (*verbali et vitali opera*). It must be noted that this major emphasis on “individual responsibility” to take initiatives that fall outside of the liturgical obligations gives more importance to the “individual soul”. The individual soul, in turn, is freed from the external circumstances of the earthly life (of which the canon law, the Church, and other human institutions are an integral part). As a result, it is very tempting to assume that Olivi’s view is both more authentically “Christian” and more genuinely “Franciscan”¹¹¹. Nonetheless, just as the “fuzziness” of the *usus pauper* was comprehensibly perceived as a danger, it might be said that the actual pre-eminence of the soul over the body (through the Olivian “individualization”, that is to say, the promotion of “verbal and vital works” falling outside of liturgical duties) and of the autonomous free will (*voluntas libera*) over canon law and written *Regula* is equally hazy and dangerous; this is because the soul, being invisible, is hazier than the body and therefore harder to take control over by forces external to the individual (such as the Order or the Church). As a result, such an “individualization” carries the risk of engendering uncertainty and anxiety by jeopardizing the relationship between the single Franciscan and the Order. It must be noticed that whenever one transfers Olivi’s attitude from the moral and “proto-political” level of the admonition it certainly was in the Middle Ages to the biopolitical level of responsibility and trust that modern legislators have sometimes to assume in those who are subjected to their laws, it becomes evident that Agamben’s thesis of Franciscanism as being outside of the canon law should be rejected. In fact, if Olivi’s “individualization” can be thought of as a part of the biopolitical law, then it could theoretically be thought of as a part of the canon law too. In Agamben’s parlance, the enactment of the *imitatio Christi* through the *usus pauper* cannot “invert the [current] sequence between sovereignty and bare life (*vita nuda*)”¹¹². There are two possible hypotheses for this. The first is that the “laws”¹¹³ Franciscanism aims to de-activate enjoy a “higher” ontological status so that the mere performance of *imitatio Christi* (see chapter 2.1) is incapable of rendering these “laws” inoperative. The second is that, even if Agamben’s optimism were justified and there were no such a thing as a “higher ontological status” enjoyed by the ruling “laws”, it could still be objected that power and “laws” might also be “forms of life” (as Franciscanism) which, unlike Franciscanism,

111 However, an attempt to answer the question of whether Olivi’s emphasis on “individual freedom” makes him more “Franciscan” or even more “Christian” than his opponents exceeds the purpose of this inquiry.

112 Chiesa, 115.

113 “Laws” is here referred to both the canon law of the Church of Francis’ time (the one Agamben has in mind) and the law(s) of modern biopolitics. In fact, I assume that my argument that Franciscanism is unable to “de-activate the law” is valid for both canon law and modern biopolitical law(s).

“accidentally” (through, perhaps, the enactment of a cynical “thrasymachean” mechanism of justice¹¹⁴) happened to be the ruling ones. It should be anticipated, ironically enough, that further evidence provided in other chapters of this paper has corroborated the second hypothesis. Thus, there seems to be a common ground between the Franciscan “performative” form of life and the anti-essentialist foundation of the modern biopolitical power.

Olivi’s Rule Commentary and its exegetical approach to the Rule

I will now turn my attention to another of Olivi’s works. The *Rule Commentary* will be useful to show a further aspect of Olivi’s ontology. Interestingly, this aspect will reveal the “ambiguity” both Franciscanism and modern ontology consist of: on the one hand, the formal renunciation to substances paves the way for the “indeterminacy”¹¹⁵ of individual freedom; on the other hand, the *actual* promotion of a stricter conjunction of *vita* and *regula* and the emergence of new mechanisms of control make life impossible to be thought without *the Rule*. Both Olivi’s ontology and my notion of modern biopolitics have this ambiguity in common. This can be considered a piece of evidence in favor of my main thesis (i).

In his *Rule Commentary*¹¹⁶ Olivi aims to “spell out what the rule contains so that even the simple friars will live in a way corresponding to his ideal of the Order”¹¹⁷. The intention behind this work is very ambitious and almost astonishing to a modern reader: Rather than making a gloss of the Rule, Olivi wants to bring forth the *authentic Franciscan message* explaining “how Francis’ mind worked”¹¹⁸. This is shown by the following passages contained in the *Prologus*:

[...] the sublime perfection and the intellectual depth of the rule of the Friars Minor can become clear through the seraphic and “Christ-like” (*christiferum*) elevated to the Heaven: Nonetheless, in order to simply give (*dandam*) a short and easy guide (*manuductionem*) to the more simple people, *we (will) shortly treat the literal content of the rule, the process, and its right, pure and simple sense, in the spirit of true and discrete simplicity*. It completely illustrates in us, directs

114 Thrasymachus, one of the protagonists of Plato’s Republic, has famously declared that “justice is the advantage of the stronger” (Plato, Republic 338c).

115 Unlike the intellectualist understanding of liberty, freedom in the Olivian-voluntarist view has no pre-given “content” and therefore it is “indeterminate”. For a comprehensive account of the different approaches to liberty and human agency of Olivi’s time see Tobias Hoffman, “Intellectualism and Voluntarism,” Cambridge Histories Online 105 (2011): 231-123.

116 Olivi, *Expositio Regula*.

117 Olivi, *Expositio Regula*, 91.

118 Olivi, *Expositio Regula*, 91.

and conducts, the very simple and extremely perspicacious (*perspicacissimus*) spirit of Christ and his servant Francis and his followers (*sociorumque*) and his whole order and the Church of God [...].¹¹⁹

[...] And, therefore, I do not know why they are considered followers of this, especially since they detest those who said that the intention of the father comes first, indeed they said that it does not have to be taken into account [...].¹²⁰

Olivi's ambition is following the "intention of the father", his wish is to stick to the "pure", "simple" and "discrete" spirit of the Rule, which is the original spirit of Francis. Olivi's avowed opposition to giving a subjective interpretation (in the form of a gloss, for instance) of the Rule finds justification in the *Testament* of Francis itself, which forbade Brothers to place glosses on the Rule. Because of that, this ambitious task might be seen as further evidence of Olivi's effort to restore the original spirit of Francis.

It might be asked; in which way is Olivi's ambition of giving an exegetical interpretation of the Rule completely faithful to the one of Francis interesting for my main purpose (i)? The conviction of an objective exegetical truth discovered by Olivi (whom we might suppose have thought himself as illuminated by the spirit of Christ in Francis) is related to the moral (and, in a larger sense, political) conviction of the necessity of one model fitting good life. This conviction is, in turn, grounded on the rejection of any subjective interpretation and the belief in an objective and superior "scientific" truth. The idea of one model fitting good life is expressed even clearer in the *Quaestio XI* of *De Perfectione Evangelica*: in this work, the Order is seen as nothing but the institutionalization of the social dimension of a perfect life¹²¹. The legitimacy of Franciscanism is defended by a sort of "naturalistic argument": The Order becomes the necessary and natural home for the life most worth living. This "naturalistic" basis of Olivi's theoretical construction may apparently be used against my main thesis that Olivi's Franciscanism shows similarities with modern ontology (i). To this objection, I reply that in modern ontology the rejection of a naturalistic ground in favor of a "performative" or "functional" ground is, paradoxically enough, only apparent. This rejection relies on a further naturalistic argument: the view that the only life worth living is the modern life: the life organized and regulated by the modern social ontological apparatus, the life where *regula* and *vita*, just as in Franciscanism, are one and the same. The argument that western modern societies

are the least bad social organizations we have managed to create, for example, although disguised as "functionalist", is tacitly based on a "naturalistic" presupposition; asserting that the only functioning system is the current one is assuming that *there is only one way of determining whether a system is working*. Whether someone may be prone to object that Olivi's idea of one model fitting good life is actually in opposition to the modern social ontology depends on which side one takes between two strands of a debate. On the one hand, those who see the plural modern ontology as being what it appears to be, on the other hand, those who see it as a mystification concealing, on the ontological level, the promotion of one form of life (which arguably corresponds to *homo economicus*¹²²) rather than many.

Concluding Remarks

The main purpose (i) of this paper was to show that Franciscanism, and in particular Olivi's thought, *although being a form of "resistance" against the institutional Church (and its corrupted power entailing the split between regula and vita), can be understood as the anticipation of a new type of "undefined" social ontology on which modern biopolitics relies*. In order to prove my main argument (i), after a brief historical excursus on Francis and the introduction of some relevant notions to the inquiry (chapter 1), I have tried to demonstrate, with Augustine and Kierkegaard, that from the "apophatic" character of faith must necessarily be derived its "self-referential" and "performative" character (chapter 2.1). In other words, faith can only be a "performance" independent of the eternal truth we cannot access and rather dependent on its "being performed" and on ourselves as subjects. In this sense, *I concluded that the (apparently straightforward) imitatio Christi Franciscans aspire to, is the "performative" realization of an unsolved paradox (chapters 2.1 and 2.2)*. In the same chapter (2) the first two resemblances between Franciscanism and a more modern social ontology are presented:

1. The identification between "being" (be-coming Christ), "acting" (acting as Christ), and "saying" (the factual utterance of the promise) of the Franciscan *imitatio Christi* relates to the modern notion of queerness.
2. The rejection of the principle of the *opus operatum*, being a form of "individualization" of the liturgy, can be understood as an anticipation of some form of modern individualism.

In chapter 3.1, I have introduced Olivi's thought and tried to show that his position on the *indeterminate vow* must be understood in the light of his innovative "political

119 Olivi, *Expositio Regula*, 115, 5.

120 "Et ideo quidam nescio qui dicti sectatores ipsius sunt plurimum quoad hoc detestandi qui praefati patris intentionem in intelligentia huius regulae dixerunt vel dicunt non esse curandam" (Olivi, *Expositio Regula*, 115, 19).

121 Olivi, *De Perfectione*.

122 Sergio Caruso emphasized the danger of using the notion of *homo economicus* (economic man) as defining the essence of what is human. See Sergio Caruso, *Homo oeconomicus. Paradigma, critiche, revisioni* (Florence: Firenze University Press, 2012).

philosophy”, his ideas on an autonomous free will (3.1) and, partly, his apocalyptic thought (3.2). chapter 3.2 is entirely dedicated to the dispute on the *usus pauper*. I have suggested that Olivi’s idea of an *indeterminate vow* can be interpreted as his solution against the increasing laxity in the Order; rather than fighting against laxity through the affirmation of a stricter *Regula*, Olivi seems to have faith in the fact that more “space” for personal freedom and freedom of judgment should be sufficient against degeneration. In the same chapter a further parallel between Olivi’s “individualization” of the vow and modern social ontology is drawn:

1) Just as to Olivi it does not make any sense to “observe obedience” and apply the norm to life, but rather to “live in obedience” and apply life to the norm through living the norm, in modern biopolitics, norms that regulate morality inside the private sphere of family (as well as the public sphere of social interactions) are no longer presented in the “traditional” form of explicit orders given by definable authorities one is clearly submitted to.

In chapter 3.4 I have considered the exegetical approach Olivi applied to the Rule in his *Rule Commentary*: The will of not offering a subjective interpretation or a gloss, but rather presenting the authentic message of Francis as if he could get access to his mind. I have argued that, although the will to reject subjective interpretations might have appeared unexpected by someone embracing a subjective ontology, this is not the case and this ambiguity characterizes modern ontology too:

2) On the one hand, the formal renunciation of substances paves the way for the “indeterminacy” of individual freedom; on the other hand, the actual promotion of a stricter conjunction of *vita* and *regula* and the emergence of new mechanisms of control make life impossible to be thought without *the Rule*.

After having summarized the main arguments, in order to draw my conclusion, I need first to clarify for the reader how the arguments I have presented below can be understood in relation to Agamben’s book *Highest Poverty*¹²³. Agamben suggests that the “revolutionary” character of Franciscanism resides:

a) In its reconciliation between *regula* and *vita* (in opposition to the split between sacred and material enacted by the Church);

b) In its extraneousness to the canon law.

As to the first idea (a), I have embraced it on the basis that all sources on Franciscanism I have consulted give the picture of a clear aspiration to the realization of what in chapter 3.2 I called the “Franciscan utopia”, the ideal that cannot be realized on this earth, the fully uncompromised *imitatio Christi*. The palpability of this attempt is historically

confirmed by the conflict with the Church, just as its defeat can be seen in the gradual yielding to the pressure of the Church (representing the “law”). An example of this pressure is the gradual rejection of the idea that Christ and his disciples did not own anything either privately or in common (see chapter 3.3). However, in order to prove my main thesis (i), I had to reject the second Agamben idea (b). My rejection is based on the following assumption: if Franciscanism were “extraneous” to the law, then it could not share the same ontology of the “law”. Since I have provided arguments to prove (i) that Franciscanism, especially Olivi’s Franciscanism, can be understood as an anticipation of a modern social ontology and this modern social ontology is the ontology of the modern *law*, (b) can be rejected¹²⁴.

By “law” I do not have in mind the Medieval Church, but modern biopolitics. In fact, as I have conceded in different parts of this thesis, (b) might be partly true especially in regards to the earliest historical attempts to realize the Franciscan ideal. However, (b) remains incorrect in regards to later attempts and especially in regards to Franciscanism in the 21st century: as shown in chapter 3, whenever property can be defined “positively” and “essentially”, the *usus pauper* and the Franciscan identity, in general, can only be defined “negatively”¹²⁵. From this, unlike what Agamben thinks, does not follow that Franciscanism can be seen as “outside of the law”. This is because modern biopolitics works in such a way that what is “negative” (the “performative” faith enacted through poverty and *imitatio Christi*) is easily subsumed under what is “positive” (the law). As I have already shown, by comparison to modern biopolitics, which relies on a “non-essentialist” and relativist ontology, it is possible to “capture” a canon-lawful practice of *usus pauper*, however fuzzy it may appear to be to us and Olivi’s opponents. Therefore, the main thesis (i) is confirmed: Franciscanism and especially Olivi’s thought can be seen as presenting, to a certain extent,

124 However paradoxical it might seem for a law to be founded on a “non-essentialist” ontology, I assume here that this is perfectly possible and that this is the case for modern biopolitics.

125 Agamben himself seems to be aware of this “flaw” of Franciscanism. Nonetheless, he maintains that Franciscanism can be thought as being “outside of the (canon) law”: “Once the status of poverty was defined with purely negative arguments with respect to the law and according to modalities that presupposed the collaboration of the Curia, which reserved for itself the ownership of the goods of which the Franciscans had the use, it was clear that the doctrine of the *usus facti* represented for the Friars Minor a very fragile shield against the heavy artillery of the Curial jurists” (see Agamben, *Highest Poverty*, 168). It might be objected that the poverty vow could also be seen as “positive” as it corresponds to the “positive” affirmation of “*piena libertà dell’uomo*” (full human freedom) (Ovidio Capitani, *Storia dell’Italia medievale* (Milan: Mondadori, 1986)). I reply that this “affirmation” is not “positive”, but “negative” as it is not the affirmation of something, but it rather remains the renunciation of something (or, at best, “affirmation” from something): what the highest freedom deriving from the renunciation of material goods consists of remains arguably vague and problematic.

123 Agamben, *Highest Poverty*.

similarities with a modern social ontology. Therefore, it is naïve to think that the Franciscan *imitatio Christi* and *usus pauper* can be placed outside of the canon “law” without

being subsumed under it. The same goes for whatever forms of “protest” or “movement” sharing the same ontological premises of the “law” they intend to fight against.

