Illich and Agamben on the Church and the Kingdom: Institutions in Light of the End[1]

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Introduction: The duplicity of human institutions

Giorgio Agamben was, avowedly, a latecomer to the work of Ivan Illich, and yet he would come to know him as 'the most acute critic of modernity' (Agamben, *Where are we now?* 63[2]).

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[1] The present work was originally planned as a talk at the European Consortium for Political Research, General Conference, Biopolitics Panel, University College Dublin, 12th–15th August 2024. Thanks to Marco Piasentier for the invitation to participate and for his unflagging equanimity; and yet, in the end, the text could not be written on time, due ultimately to a love which in its unravelling rendered life within the author's 'home' institution almost impossible to bear; and at just the same time as he was being ushered into the alienated time that runs between the serving of an eviction notice and the final end of a tenancy — only then to move on to another house which proved to be almost as unhomely.

Agamben points out that *dispositivo*, the apparatus or device that stands in some crucial but obscure relation with the institution, might be translated by the archaic English term 'dispositor' or 'dispository' — a designation taken from the vocabulary of astrology which describes the way in which a constellation might steer or derail the fate of those who fall under its sign (Agamben 2005). The author had the disorienting experience of witnessing what he came to think of as his two North Stars simultaneously falling from the sky during the gestation of the present work: no doubt some of its blemishes and unevennesses can be attributed to the very genuine torment that followed.

In any case, it proved impossible even truly to begin writing the text at the originally appointed hour, a text that might well have stood in some relation with another that was to be devoted to the subject of breath — and perhaps the Illichian 'conspiration' — the deadline for which fell during the same dreadful Summer, and which also had to be abandoned, perhaps forever.

The present text was resumed in the winter of 2024 and the Spring of 2025, just as the author's own relation to the British academic institution had, after deteriorating still further, become stretched to breaking point, or at best to the most diaphanous of weaves. Our experience of institutions has always been one of reliance and alienation, frequently taking the form of a furtive skirting around their margins; both Illich and Agamben experienced institutional life in a similar vein — even if they were allowed to maintain a somewhat free relationship with the university on account of their greatly superior position of strength.

I must thank Sinéad Murphy for introducing me to Ivan Illich and for living what seems to me to be an exemplary Illichian life, even in relation to the institution she felt forced to leave; and German Primera, for an important conversation on the topic of destitution. But perhaps this essay might be dedicated to a fallen friend, Hilary Chapman, who took her leave of us whilst the essay was being composed, and whose illness involved her in a relation to the institution of the hospital that encompassed a radical dependence and an infinite abhorrence.

[2] Cf. '«La nostalgia non basta, ma è un buon punto di inizio». Intervista con Giorgio Agamben (with Valeria Montebello)', Lo Sguardo: Rivista di Filosofia 19 (2015), 21; & 'Pro Memoria Ivan

But we must ask in what respect does Ivan Illich come closest to the heart of our age? Based on a reading of a number of references to Illich in Agamben's corpus, we have elected to propose the hypothesis that it concerns the nature of our modern *institutions* and their (theological) genealogy.

Roberto Esposito has recently suggested that a theory of the institution is lacking in Agamben's work:[3] one epiphenomenal benefit of bringing the latter explicitly into conjunction with Illich's thought is that it allows us to rebut this suggestion. It just so happens that Agamben speaks most of an institution from which those of his critics who are more inclined towards the secular — in a naïve sense — might be prone to averting their gaze: the church.

Ivan Illich began there, but he did not end there; indeed, as Agamben points out in both the Preface to the collection of Illich's writings which were given the name *The Powerless Church* and in the Introduction to his Complete Works in Italian, the conceptual armoury developed by Illich in his intimate encounter with the church, allowed him later to make sense of the other institutions of human life that he came to examine (schools, hospitals, transport, and so on).[4]

Illich', 17th December 2012, available at https://www.youtube.com/watch?v=Egy6xRwHrwE (accessed 16th April 2025).

[3] For Esposito, life is a 'continuous "establishment" [or "instituting"], the capacity to create ever new meanings', which implies that the separation of life from bare life can never come about under any circumstance: 'In the expression *institutio vitae* [...], life is both the subject and the object of institution: it is instituent and instituted at the same time. [...] [H]uman life has always and in all cases been instituted, that is, inscribed in a historical and symbolic fabric from which it cannot be separated' (Esposito, *Institution*, 90).

Esposito explicitly affirms this instituent life to be synonymous with 'form of life', even though he dispenses with the hyphenation that Agamben employs to indicate the inseparability of life and its qualification, an inseparability which keeps life from sinking to the level of bare life: 'there has never been a life that is completely stripped of its formal characteristics — not even in the extreme situation of the extermination camps. Even when reduced to its lowest level and [whilst] facing imminent death, until it is extinguished, life remains a form of life' (Esposito, *Institution*, 91).

To develop his own theory of institutions, Esposito attempts to reconcile the opposition between institution and *movement* in the sense of mobility in general but also in the sense of those protest groups which might ordinarily consider themselves to be *anti*-institutional and anti-State, even anarchistic. He suggests that we need to conceive of an institution that would itself be capable of movement (*Institution,* 10ff). This rethinking of institutions is crucial if one is to avoid what Esposito takes to be Agamben's 'anti-institutional' stance, which he also describes as 'neo-anarchism'. Such a position takes institutions to be opposed to freedom, a freedom which can only be achieved in the absence of institutions or in their 'destitution' (*Institution*, 43). 'Ever since the concept of biopolitics first appeared, it has been tied to the fall of institutional mediations in favour of a direct implication between politics and life. But this definition presupposed, on the one hand, the static character of institutions, viewed as incapable of incorporating vital processes; and, on the other, a notion of "life" conceived as resistant to recognising its dual character: instituent and instituted' (*Institution,* 95).

A fuller account of Esposito's notions may be found in Lewis 2023, 90ff.

[4] 'The hypothesis I would like to suggest is that the concepts of Illich as a critic of modernity and archaeologist of conviviality originate as a radical and coherent development of theological

As Agamben puts it in what might have been deemed an aside: Illich could not unambiguously remain within the church, and — it will turn out — this is perhaps because the church in the modern age is itself ambiguous: 'It is not possible to find the truth if one does not first exit from the situation — or institution — that impedes access. The philosopher must become a stranger in his own city; Illich had to somehow leave the church and Simone Weil could never decide to enter it' (*Self-Portrait in the Studio,* 55). The esteemed company of Weil, Agamben's early inspiration in the critique of law, should encourage us to take seriously the significance of Illich in relation to his work. And if Weil considered that a human community governed by *law* would never be adequate to a truly *just* relation in which the simple cry of the other's affliction (*malheur*) might properly be answered, Illich himself would wonder from the start whether a human relationship governed by an institution could be fully human — at least once that institution had gone the way of all institutions once they pass over a certain threshold, and become 'counterproductive'.

Agamben himself will already have spoken about the nature of our juridical identity in the advent of the messiah, an event which St. Paul announces as having already occurred with the death and resurrection of Christ.[5] At that moment, his kingdom has already come, and thus our identity and that of our institutions would be rent asunder, put out of kilter, 'as not' (*hōs mē*) what they seem to us to be.

After *The Time that Remains: A Commentary on the Letter to the Romans,* a text that stems, significantly enough, from the year 2000, Agamben would return to this affair in a number of texts that revolve around the notion of 'kingdom', a return which one might presume to be in part the result of his late encounter with Ivan Illich, sometime in the new millennium.[6]

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categories already present in the thought of the priest' (Agamben, 'Laughter and the Kingdom', *supra*, 12–13). Elsewhere, Agamben tells us that what makes Illich's critique of modernity 'incomparably more fruitful than those that have been produced in the last hundred years on both the right and the left' is its 'theological depth' ('Pro Memoria Ivan Illich').

[5] Agamben at one point specifies that the contrast which is important here is that between the resurrection and the *birth* of Jesus — or his incarnation in Mary's womb — which is not taken by Paul to be the messianic event (Agamben, *The Time that Remains*, 63).

[6] What exactly is the relation between our concern with the church as an institution and the theme of the messianic (or — literally — the Christian)? In Agamben's great treatise on the latter, *The Time that Remains*, he suggests that in parallel with the history of the church, which gradually eliminates the eschatological side of its nature, there is a hermeneutic tradition which does the same with respect to St. Paul. Thus, Agamben speaks of his intention to 'restore Paul's Letters to the status of the fundamental messianic text for the Western tradition', 'since two thousand years of translation and commentary coinciding with the history of the Christian church have literally cancelled out the messianic, and the word *Messiah* itself, from Paul's text' (TTR 1). And already on the first page of the text he broaches the problematic nature of the church as an institution: 'a messianic institution — or rather, a messianic community that wants to present itself as an institution — faces a paradoxical task' (TTR 1). He suggests here that an understanding of messianic *time* ('as a paradigm of historical time' [TTR 3]), the time of the now, *ho nun kairos*, is a necessary *precondition* for the work on the institution that will occupy him later on in the

If Agamben's text on St. Paul considered the situation of the early Christians, anticipating an immanent battle between good and evil, Christ and Antichrist, at the end of the world, with the unfolding of a further two thousand years of history, Agamben deems it timely to emphasise that the moment of Paul's legibility has arrived,[7] just when the moment of its (eschatological) realisation has been missed[8] — a discrepancy has opened up between the messianic event (if that is the resurrection) and the *eschaton*, the last day, on which the final judgement of all history is passed.[9]

2000s: 'Only after this can we raise the question of how something like a messianic community is in fact possible' (TTR 2).

The notion of the messianic now, of the messiah as having already arrived and inflected every juridical identity with an 'as not', might easily be taken to be a version of the more Greek ontological moment of Agamben's thought with respect to inoperativity (and perhaps destitution): if so, we should raise the question as to whether we have yet found a satisfactory way of understanding the relation between this messianic and eschatological aspect of Agamben's work, and his (perhaps) less obviously Christian ontology? A fuller reading of both the *Kingdom and the Glory* and *The Time that Remains* (if not a number of other texts that would speak of 'hypostasis' as one of the moments in which a certain Greek philosophical tradition intersects with the history of Christian thought) is beyond the scope of this already lengthy article, but it would presumably be essential. Since we are primarily intent upon the question of institutions, the necessary preliminary investigation of messianic time and the stripping away of the messianic from the interpretation of St. Paul, along with the question of the relation between Greek philosophy and Christian theology, will be deferred to another occasion.

[7] Agamben suggested as much in *The Time that Remains,* in an account of the potential constellation of St. Paul and Walter Benjamin that guides much of his thought on the messianic: 'the entire vocabulary of the theses [Benjamin's 'Theses on the Philosophy of History'] appears to be truly stamped Pauline' (TTR 144); 'there is no reason to doubt that these two fundamental messianic texts of our tradition, separated by almost two thousand years, both written in a situation of radical crisis, form a constellation whose time of legibility has finally come today' (TTR 145). Cf. Agamben's Preface to the Complete Works of Ivan Illich: 'only today is Illich's work experiencing what Walter Benjamin called the 'now of legibility' (*supra*, 1).

[8] Agamben has recently devoted a book to the notion of *The Unrealisable* in which he considers the relation between philosophy as such and its supposed 'realisation' in politics, and he refers at one point to Adorno's aphorism on the survival of philosophy due to its having missed the moment of its realisation (cf. Agamben 2022, 6). Soon after, Agamben explicitly invokes the Kingdom and the messiah: 'the messianic acts in the historical happening only by remaining unrealisable in it. Only in this way does it preserve possibility, which is its most precious gift [...]. It is necessary to stop thinking of the possible and the real as two functionally connected parts of a system that we can call the ontological-political machine of the West. Possibility is not something that must, by passing into action, be realised: it is, on the contrary, the absolutely unrealisable [...]. The radical heterogeneity of the messianic allows neither plans nor calculations for its reversal into a new historical order, but it can only appear in this as an absolutely destitute real instance. And a power that never allows itself to be realised in a constituted power is defined as destituent' (*L'irrealizzabile,* 15). Thus Agamben renders apparent an intimate connection between our own concern with the Kingdom and the (destitute) institution, and his apparently more purely philosophical work on the nature of possibility.

[9] Although Agamben suggests this chronologisation is blasphemous. Karl Löwith attributes this perspective to 'Jewish futurism (expecting the Messiah in the future instead of recognising him in

What happened in that lapse of time that falls between the resurrection and the year 2000 is that Christian love (charity, *caritas, agapē*) as the binding force of the early Christian communities has been transformed into an *institution*, the universal Church. And what has thus come to stand in need of consideration is the role that this church plays in relation to the kingdom. For Agamben, Illich's interpretation of the bible is one in which the *katechon* of Paul's Second Letter to

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the presence of Jesus' (Karl Löwith, *Meaning in History* [Chicago: University of Chicago Press, 1949], 189: he also describes the New Testament's message as opposed to 'the apocalyptic *calculations* of the last events by Jews as well as by Christians' (ibid., 189). Agamben certainly knows this book, referring to it at least once (TTR 63), in part critically since Löwith is considered to stand alongside Hans Blumenberg in mistaking the messianic for the eschatological.

'The time of the messiah cannot designate a chronological period or duration but, instead, must represent nothing less than a qualitative change in how time is experienced. For this reason it is inconceivable to speak of a chronological delay in this context as though one were speaking of a train's being delayed. Because there is no place in messianic time for a fixed and final habitation, there is no time for delay' (Agamben, *The Church and the Kingdom,* 4–5). Agamben explains why this is so in the following way: 'The sojourning of the Church on earth can last — and indeed has lasted — not only centuries but millennia without altering its messianic experience of time. This point requires special emphasis as it is opposed to what is often called a "delay of the *parousia*". According to this position — which has always seemed blasphemous to me — the initial Christian community, expecting as it did the imminent arrival of the messiah and thus the end of time, found itself confronted with an inexplicable delay. In response to this delay there was a reorientation to stabilise the institutional and juridical organisation of the early Church' (ibid., 2–4). Agamben suggests that one reason why this might be described as blasphemous is that it makes the Church all too at home in the world, in the secular: 'The consequence of this position is that the Christian community has ceased to *paroikein,* to sojourn as a foreigner, so as to begin to *katoikein,* to live as a citizen and thus function like any other worldly institution' (ibid., 4).

Thus, Agamben distinguishes between '*messianic* time and *apocalyptic* time' (*Church and the Kingdom,* 8, cf. TTR 62), as 'the time of the end' (a phrase he finds in Gianni Carchia [cf. TTR 62]) and 'the end of time', and yet when he speaks of eschatology he seems to remain somewhere between the two, or at least to speak in the context of institutions that are developing in such a way that they are approaching an *apokalypsis*. How are we to understand this? Is it that what has come to be missed by the church and by all institutions is the very messianic moment itself, and that the transformation of institutions — if it is not heading towards a final moment of battle and revelation — sees them becoming altogether mired in the immobility of an entirely evil and 'counterproductive' form? As if the split in the Church between the heavenly and the earthly were to be altogether replaced by an earthy institution, just as the king or the sovereign 'rules but does not govern', and eventually abdicates, leaving the throne empty so as to make way for the hypertrophy of administration and management that we live with today, along with an entirely superficial and stupefying 'glorification' of power that conceals this very emptiness.

Here a consideration of the relation between God and his 'economy' (kingdom and government, sovereignty and 'economy' in the sense of *oikonomia*) which Agamben develops so extensively in *The Kingdom and the Glory* may become necessary, since it seems that this separation of the divine from earthly governance, which ends up existing solely for its own sake, may be analogous to the fate of institutions that we are here examining. In *The Church and the Kingdom,* Agamben himself makes the connection explicit, speaking of 'an infinite economy of the world', and the risk that the Church 'lose itself in time' (*Church and the Kingdom*, 41).

the Thessalonians, the institution which holds back the Antichrist and thus delays the 'final battle' (Agamben, *Mystery of Evil*, 33) which will herald the arrival of the Kingdom of God on earth and in heaven, is the church.[10]

Our hypothesis is that Agamben inherits from Illich the notion that the nature and fate of the Christian Church may be taken as a model for *all* human institutions, at least in the modern age.

Illich himself demonstrates, in his life and in his letters, a way in which to conceive the logic of the church as an institution, and a way in which to generalise it. Agamben might even be taken to be saying as much in the following passage from his Introduction to the Italian translation of Illich's *Gender:* 'in this historical drama, the *eschaton*, the final day, coincides with the present, with St. Paul's "now-time", where the divided nature — both Christian and Anti-Christian — not only of

[10] '[T]he absolutely decisive category of the early Illich's thought is precisely the eschatological concept of Kingdom' (Agamben, 'Laughter and the Kingdom', 13). What perhaps made it impossible for Illich ever to reconcile himself with the church was the fact that its eschatological vocation had become neglected (in *The Rivers North of the Future*, Illich points out that '[w]hat is impressive [*sic*; Illich's idiosyncratic English perhaps lets him down here; 'what cannot but impress itself upon us'] about the transition from the early Church to the established Western Church is how thoroughly this mystery [of evil, of lawlessness, of the Antichrist] disappeared from the Church's teaching and the concerns of most of its members' [*Rivers North of the Future*, 60]).

Agamben himself intervenes in the very institution of the church in this respect, preaching to the bishops of Paris themselves that, '[a]n evocation of final things, of ultimate things, has so completely disappeared from the statements of the Church that it has been said, not without irony, that the Roman Church has closed its eschatological office [*sportello*: the English translation gives the banal 'window' here]' (Agamben, *Church and the Kingdom*, 27/15); 'the Church can be a living institution only on the condition that it maintains an immediate relation to its end' (ibid., 41). Agamben concludes by assimilating the church to every other human institution, but also by wondering whether some alternative to the general trend of institutions may be presented by the church specifically: 'the question I came here today to ask you [...] is this: Will the Church finally grasp the historical occasion and recover its messianic vocation? If it does not, the risk is clear enough: it will be swept away by the disaster menacing every government and every institution on earth' (ibid., 41).

Agamben speaks of the church as institution in *The Mystery of Evil*: 'The structure of eschatological time — this is Paul's message — is twofold: there is, on the one hand, a slowing element (the *katechon*, whether it is identified with the Empire or with the Church, in any case an institution, and, on the other, a decisive element (the messiah)' (ME 33). Perhaps the entirety of the *Mystery of Evil* is concerned with the *katechon*, and the question of what it means — empire, state, or church, but in any case an institution. Illich is cited as one of the principal proponents of the view that the *katechon* is the Church: he is described here as 'a brilliant theologian who is underappreciated by the Church [...]. According to Illich the *mysterium iniquitatis* of which the Apostle [Paul] speaks is none other than the *corruptio optimi pessima* [the generally imperfect English translation here gives the rather dubious rendition, 'the worst corruption of the best'; rather, it is that the corruption of the best (Christian love) is the worst of things — ML]), namely the perversion of the Church that, by institutionalising itself more and more as an alleged *societas perfecta,* has furnished the modern State with the model for completely taking charge of humanity' (ME 11).

the Church, but of *every human institution*, finds its apocalyptic revelation' ('Introduction to Ivan Illich, *Gender*', *supra,* 9–10, emphasis added).

The nature of institutions in Illich's work

So, first of all, let us establish what Ivan Illich has to say about the church and about institutions more generally, before investigating the way in which Agamben himself develops these ideas.

If Illich's work begins with a consideration of the institution of the school and the hospital, his model was always the church and the liturgical rituals by means of which the Christian community was bound together, both in its early days and particularly after the watershed moment in history which Illich often dates to the 12th Century after Christ.

The church has proved exemplary not least in the way in which it took the love that bound the early Christian communities together and institutionalised it in the form of the Church. The effect of this was to transform love itself into a *need*, since only in that way could the Church posit itself as the sole entity which could *meet* that need. This is what Illich refers to as 'monopolisation'[11] and it is an essential precondition for the process of institutionalisation.

Illich later came to realise that this monopolisation of needs by one particular institution could only become possible if the general notion was abroad that the means for satisfying these needs were 'scarce'. From being scarce, the means by which the need could be met are then reduced to just *one*. This led Illich to his partly unfinished project of writing a history of the very notion of scarcity. And if Illich was so long preoccupied with this, it was because the notion of scarcity stood at the basis of all modern institutions (Illich, *Shadow Work*, 123). Only one single profession was then deemed capable of supplying this scarce resource (whether it be teaching or medicating, or indeed providing balm for the soul of one's parishioners). The professional institution can then control the process of certification which alone produces qualified 'experts' who from that moment onwards are the only ones officially sanctioned to 'service' needs that had previously been dealt with in other ways. We then have a cadre of 'experts' or 'professionals'.

In the church, this meant that charitable love degenerated into a 'care' that could be administered exclusively by a priest, and the Christian community could be bound together only by the rituals which he performed.

We should be careful to specify that it is not simply that the church, in its own institutionalisation, provides a model that Illich will deploy in order to understand the institutions of the modern industrial age; the Church in turn comes to mimic its secular progeny: in other words, the Church loses its own religious or

[11] 'By "radical monopoly" I mean the dominance of one type of product rather than the dominance of one brand. I speak about radical monopoly when one industrial production process exercises an exclusive control over the satisfaction of a pressing need, and excludes nonindustrial activities from competition' (Illich, *Tools for Conviviality*, 66).

transcendent vocation in the transition to modernity, if not from the very beginning. We shall see Agamben specify that this amounts to a loss of clarity with respect to the eschatological, which, as Illich also seems to aver, allows the prophetic pronouncements of apocalypse to be taken over by the natural scientists and others who propound the notion of an end of the world in plague, ecological devastation, and nuclear war: 'in the *Constitution* of the Second Vatican Council (1964), the Catholic Church, which had served in the past as the prime model for the evolution of secular service organisations, aligns itself explicitly in the image of its secular imitations' (Illich, *Shadow Work*, 60).[12] And this for Illich is the worst of things.

The juridicalisation of human relations in institutions: corruption, perversion, and the mystery of evil

Now we need to understand just why this transformation that wrought the church is considered by Illich to be so malign.

Illich addresses this in most detail in his two books of conversation with David Cayley, and above all in the second, entitled *The Rivers North of the Future*. In general this book shares a great many concerns with Agamben's work as a whole, and Agamben refers to it with some regularity. It may therefore be especially illuminating if we draw the greater part of our account from that text.

In *Rivers North of the Future,* Illich speaks of the theological genealogy of the modern institution in the following way: 'Wherever I look for the roots of modernity, I find them in the attempts of the churches to institutionalise, legitimise, and manage Christian vocation' (*Rivers,* 48). With the 'institutionalisation of neighbourliness' (*Rivers*, 55), 'the attempt to be open to all who are in need results in a degradation of hospitality and its replacement by caregiving institutions' (*Rivers*, 55).[13]

The breath of the loving kiss that was named *'conspiratio'* in very early Christianity becomes the *'conjuratio'* of the oath or pact (cf. *Rivers,* 85–6).[14] What

[12] 'If the Church seems to have closed its eschatological office, today it is above all the scientists, transformed into apocalyptic prophets, who announce the imminent end of life on earth' (Agamben, *Creation and Anarchy: The Work of Art and the Religion of Capitalism*, 74).

[13] 'The way I judge and hope to accept modern institutions is not as plain evil but as sinful, as the attempt to provide by human means what only God calling through the beaten up Jew could give to the Samaritan, the invitation to act in charity' (*Rivers*, 180).

[14] Illich describes the communion that was taken in the early Christian communities in the following way: 'the body of Christ [...] came into being through a sharing of the breath of peace [...], a *conspiratio'*, the breathing together or commingling of breaths (*Rivers*, 192). 'Historically it [the *conspiratio*] consistently turned into a *conjuratio*, a *conjuratio* to defend the *conspiratio. Conjuratio* means a swearing together, witnessed by God, by which men of the Middle Ages tried to give worldly stability to their peace and concord. And, consistently, the *conjuratio* remained, while the *conspiratio* was forgotten, or relegated to second place, or reduced to a symbolic handshake' (ibid.).

Illich returns to the theme more than once and quite explicitly describes the *conjuratio* as a matter of the incursion of legality: 'At the same time as sin is being criminalised, the Church is being made into a separate, legal entity' (*Rivers*, 218); 'in order to understand the general idea

seems to take place here is precisely a subordination of love to the *law*, a 'juridicalisation' of human relations. Christian love, first of all in the incarnate form of God's son, the messiah in his very arrival, was to have overcome the Jewish law. It is the very renewed imposition of law *upon* this Christian love that Illich considers to be a corruption or perversion that he deems the worst, and which could not have happened outside of the Christian context in which law had originally been left behind.

Christianity's charitable love for the stranger, which Illich also describes as 'neighbourliness' or 'hospitality', is transformed into a service, and this opens up an unheard-of insatiability within the need itself, and thus an unprecedented suffering:

> The personal freedom to choose who will be my other has been transformed into the use of power and money to provide a service. This not only deprives the idea of the neighbour of the quality of freedom implied in the story of the Samaritan. It also creates an impersonal view of how a good society ought to work. It creates needs, so-called, for service commodities, needs which can never be satisfied — is there enough health yet, enough education? — and therefore a type of suffering completely unknown outside of Western culture with its roots in Christianity. (*Rivers*, 56)

It is in this sense that the very best, which for Illich is the fundamental Christian virtue of love, undergoes what he frequently calls both a 'perversion' and a 'corruption' [15] — to become the worst that we have seen, worse than anything that could have been produced outside of Christian Europe: 'I'm concerned with how unprecedented, glorious attempts to discover what you and I can do and be, when institutionalised, can become evil and destructive beyond anything one could imagine' (*Ivan Illich in Conversation*, 214–15).[16] 'This is what I call the *perversio optimi quae est pessima.* I may even be a good Christian and attend to the one who asks, but I still need charitable institutions for those whom I leave unattended' (*Rivers*, 56).

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of *corruptio optimi quae est pessima* as it applies to the political, it is necessary to observe throughout history this fading of the *conspiratio,* and the monumental elaboration of the *conjuratio*, or contractual arrangement' (*Rivers*, 218).

[15] Illich seems to make no distinction between the two, as in the following *vel:* 'corruption, or perversion' (*Rivers*, 56).

[16] Ideas imported by Christianity have been 'perverted into normative notions of a cruelty, of a *horrifying* darkness, which no other culture has ever known' (*Ivan Illich in Conversation*, 213). 'Most of my concern with the Middle Ages is precisely to observe the process of flipping by which a notion which goes beyond what I find in any other culture in bringing out the glory of being you and me is then institutionalised by the Church and becomes something more destructive and worse than anything I can find anywhere else' (*Ivan Illich in Conversation*, 214).

This perversion amounts to the Church losing its heavenly vocation and degenerating into a purely worldly or secular institution, serving needs: faith, when it devolves upon a secular institution, becomes something worse than the absence of faith would have been, since the object of faith is rendered subordinate to worldly powers, just as love is to the law: 'the perversion of faith is not simply evil. It is something more. It is sin, because sin is the decision to make faith into something that is subject to the power of this world' (*Rivers,* 57).

Although the effects of this transformation introduce an illimitable suffering, what makes this perversion the very worst thing — and what ultimately explains the infinity of this suffering and just what is so awful about it — seems ultimately to be that it amounts to a transformation of the love which overcame the Mosaic law *back* into a certain form of law; it transplants Christian virtue back into the realm of the juridical that the human community had only just found a way to escape — but this time it seems to be an earthly law, rather than a table of commandments handed down from on high: 'The Western Church, in its earnest effort to institutionalise this freedom [the freedom of the Samaritan to choose those to whom he extends his hospitality], has tended to transform supreme folly [the 'foolishness' of Christian faith] first into desirable duty, and then into legislated duty' (*Rivers,* 58); or as Illich puts the matter later on in the same book: 'Christ came to free us from the law, but Christianity allowed the legal mentality to be brought into the very heart of love' (*Rivers*, 87). It is this undoing of the liberation from law that Illich describes very precisely as a 'perversion': the 'perversion of that act of liberation from the law for which the gospel stands' (*Rivers*, 90). Law and the bad infinity of an infinite task — which Hegel associates with Judaism — thus reintroduce the insatiability of need that the Christian messianic event was supposed to have overcome in a 'true infinity' that does not set itself off from the finite and thus exclude it, impugning its own infinitude in the process.

In any case, we can conclude from the preceding analysis that the corruption of the best is the institutionalisation of Christian love in the church, and that institutionalisation and juridicalisation — the recurrence of law and its insatiable demand — constitute one and the same process for Illich.[17]

This juridicising perversion of love through its institutionalisation is how Illich understands the *mysterium iniquitatis* of Paul's Second Letter to the

[17] Just as Agamben does with respect to Franciscan monasticism in the *Highest Poverty,* and in conversation with one of Agamben's own great influences, Paolo Prodi, Illich reflects upon 'the way in which the Western, Roman Church attempted to give a juridical shape to the household rules by which monastic communities lived together. This attempt to create a canonical establishment, that's the technical term, out of the way of life of Franciscans or Dominicans, was the only way of preserving a certain spirit in an institutional form, but it produced a deep corruption. It led, as it has always led historically, even in the first generation, to a toning down of the message of the founder and to an abstract formulation of the melody in which he sang the Gospel' (*Rivers*, 80–81).

Already in *The Time that Remains,* Agamben had spoken of the 'juridicising of all human relations in their entirety' (TTR 135; cf. *Church and the Kingdom,* 40).

Thessalonians, which in the Greek used by Paul of Tarsus is *mystērion tēs anomias*, the mystery of lawlessness: 'this inversion of the extraordinary folly [that of neighbourly love] that became possible through the Gospel represents a mystery of evil' (*Rivers,* 58).

The mystery (in the Greek sense of *'mystērion'*) is the historical drama that plays itself out — on Illich's interpretation — in the growing presence of evil (or lawlessness, anti-Christian vice), which is described by Paul as the amassing of forces in the name of the 'anti-Christ', that which counters or confronts the Messiah (the *christos*), within the Christian church: 'the final evil that would bring the world to an end was already present. This evil was called Anti-Christ, and the Church was identified as the milieu in which it would nest. The Church had gone [*sic*; rather, become] pregnant with an evil which would have found no nesting place in the Old Testament. Paul in the second chapter of his second letter to the Thessalonians calls this new reality the *mysterium iniquitatis,* the mystery of evil' (*Rivers*, 59).

A return to conviviality beyond institutions?

What are we to do in such a perverse situation? What is the fate of the human community, and does it demand that we leave these institutions altogether behind? Here it seems generally to be thought that there is an evolution in Illich's approach over time, from a certain 'optimism' with respect to institutions, to a more pervasive 'pessimism' that verges on the 'anti-institutional'.

In one of his early theoretical manifestos, *Tools for Conviviality,* from 1973, Illich had already demonstrated that the perversion of the modern, industrial institution in general — its becoming 'counterproductive' with respect to its avowed purpose[18] — was at the heart of his concerns. Instead of Christian *caritas*, Illich here has a tendency to speak of at least two related things: what is lost with the monopolisation of needs by professionalised 'service' institutions is what Illich calls the 'vernacular', the culturally specific skilful 'coping' that he also describes as an inherent part of the activities of 'subsistence' cultures, which is to say at least pre-industrial societies.[19]

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[18] Illich describes this counterproductivity in the following way: 'When an enterprise grows beyond a certain point on this scale, it first frustrates the end for which it was originally designed, and then rapidly becomes a threat to society itself. These scales must be identified and the parameters of human endeavours within which human life remains viable must be explored' (*Tools*, 11).

[19] Of 'subsistence', Illich says this: 'Should I use the term? Until a few years ago in English it was monopolised by "subsistence agriculture": this meant billions living on "bare survival" [...] To avoid these confusions [...] I have proposed the use of the term "vernacular"' (*Shadow Work*, 132).

And Illich defines 'vernacular' in the following way: 'unpaid activities which provide and improve livelihood, but which are totally refractory to any analysis utilising concepts developed in formal economics. [...]. I suggest that we restore this simple term "vernacular" to oppose commodities and their shadow [shadow work, the unpaid labour which is necessary in industrial economies to render a commodity usable]. It allows me to distinguish between the expansion of

If the vernacular ability to fulfil one's own needs (and those of one's community) is lost with industrialisation (and so institutionalisation, professionalisation or monopolisation), then we should not imagine that it is possible to return to a pre-industrial state: Illich frequently rails against 'romanticism' and the romantic interpretation of his own work. We can, he tells us, nevertheless, aspire to the condition which he names 'conviviality'.[20] This term, in the 1970's, covers both what is valuable in pre-industrial cultures and the 'post-industrial' condition to be desired. Later on, one is tempted to say that Illich, as the accusation of romanticism perhaps came to sting more acutely, tended to use other words, or at least to specify that he was speaking (even on those occasions when he did use the word 'convivial') of a certain use of 'tools' in the present that would salvage something from the ruins of the industrial age — the age of which he professed himself to be writing the 'epilogue' (*Tools for Conviviality*, 9).

In *Tools for Conviviality,* Illich could speak of an 'institutional spectrum', of the tools and institutions that were more or less conducive to conviviality, but it is true that in his later work of the 1990s and early 2000s, it perhaps becomes easier to read Illich as suggesting that institutions *as such* constitute a perversion of the Christian notion of love (or whatever need they invent themselves in order to monopolise). In this later work, he is more prone to speak in terms not so much of *agapē* as *philia* or friendship.[21] Speaking of a convivial gathering of friends, he suggests that this *symposium* embodies 'a willingness to accept discipline without

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the shadow economy and its inverse — the expansion of the vernacular domain' (*Shadow Work*, 24). The vernacular in Roman law was the opposite of a commodity: it referred to '[u]se-value oriented activities, non-monetary transactions, embedded economic activities, substantive economics' (*Shadow Work*, 132).

[20] 'Convivial' is a technical term that Illich uses to 'designate a modern society of responsibly limited tools' (*Tools,* 12), tools and institutions in other words that are designed so as to make it difficult for them to step over the threshold into counterproductivity, at which point the end they were designed to meet becomes impossible to achieve and the means is forced to become the end: 'The setting of abstract impossible goals turns the means by which these are to be achieved into ends' (*Tools*, 54). Illich later describes how, in *Tools for Conviviality,* he demonstrated that, 'tools, when they grow beyond a certain intensity, inevitably turn from means into ends, and frustrate the possibility of the achievement of an end' (*Ivan Illich in Conversation*, 110).

At stake is a society in which independence prevails over dependency: 'A convivial society should be designed to allow all its members the most autonomous action by means of tools least controlled by others. People feel joy, as opposed to mere pleasure, to the extent that their activities are creative; while the growth of tools beyond a certain point increases regimentation, dependence, exploitation, and impotence' (*Tools*, 34). Conviviality is the 'autonomous and creative intercourse among persons, and the intercourse of persons with their environment' (*Tools*, 24). *'Such a society, in which modern technologies serve politically interrelated individuals rather than managers, I will call "convivial"'* (*Tools*, 12).

[21] In the context of the future beyond the neuter of *homo œconomicus* and the odd interpersonal relations it makes possible in comparison with the world of gender, Illich insists: 'I refuse to speculate on the probabilities of a cure for the regime of sex. That's not my task. Each one of us will have to invent, in friendship — in which I believe — his own anodyne, medicine, or ray of hope' (*Ivan Illich in Conversation*, 189).

having formally stated rules', which clearly situates the philiac relationship outside of institutions, since Illich immediately goes on to say that, 'the moment you make rules you are already on the way to institutionalisation' (*Rivers*, 151).

Thus Illich no longer simply aligns institutions with a certain juridical character, but sets them in contrast with a non-juridical community, as if the convivial bond of the *conspiratio* could return, if only one could form a relationship that eluded the rules of the institution, or slipped the bonds of the institution as such, in some way. He would never stop cautioning against the reading of his work which imputed to it a certain romanticism or 'sentimentalism', a desire to return to a pre-industrial age, or an age without institutions *tout court*, one might say; and yet some remnants of that former life (he would speak of the 'rests', as in the 'rests of gender') do seem to endure as potentialities, perhaps squirrelled away in the more obscure corners of institutional and juridical life, just out of sight of the law's gaze. Perhaps this cautioning against both nostalgia and hope was his way of warding off the great sadness he occasionally describes himself as feeling when faced with the disaster of the industrial corruption of human relations.[22] One can only imagine how he would have felt about what has been deemed 'autistic society disorder', a regularisation of ordinary society as if it were peopled exclusively by autistics, a playschool which seems to have been modelled upon the paradigm of the intensely punitive hyper-juridicalisation of almost every aspect of human behaviour that was attempted in 2020–22.[23]

One way in which any lingering semblance of romanticism might be cast off is by reference to Giorgio Agamben's attitude towards the law in a time — the present time — which he describes in the context of a reading of St. Paul as 'messianic'. This is a gesture that takes many names, but which is here described, and in general is perhaps most frequently described as 'rendering inoperative' or 'deactivating' — a notion which later on, and in the context of the institution, will be described by Agamben as 'destituent' or 'destituting'. A certain type of negation that it would be necessary to understand very carefully, and perhaps first of all upon the model of the quintessentially Christian and Pauline notion of the *'hōs mē'*, the 'as not', that characterises our juridically assigned identity in the light of the messiah's advent. This negation amounts to inhabiting a certain role, or dwelling within an institution, without assuming another guise and without leaving the institution for another, or heading into exile, but by dwelling not primarily in the actuality of the place, but with an eye to the possibilities that remain alive within it, and which were cast into shadow by the particular actualisation that here took place.

[22] Illich confides to David Cayley that one reason for resisting the twin temptations of 'apocalyptic randiness' (imagining worse and worse futures to come) and romanticism (imagining a better past) is 'in order to be able to face the kind of society we live in and have created, in order to be able, but barely able, to bear the anguish of looking at it' (*Ivan Illich in Conversation*, 146).
[23] Cf. Sinéad Murphy, *Autistic Society Disorder*. N.p.: Lulu Press, 2024.

Agamben: *The Mystery of Evil*

We have seen then that the church's travails in its institutionalisation are taken by Ivan Illich to be the model for all modern industrial institutions, and that this process is so profoundly troubling since it not only rescinds the progress made by Christian love with respect to Judaic law but eventually leads to a suffocating and all-pervading juridification of social life. And we have seen that the unfolding of this horrific drama in Western history may be described by the Pauline notion of the 'mystery of evil'.

In 2013, Agamben himself devotes a book to the *mysterium iniquitatis* (or *mystērion tēs anomias*) under that very title — *The Mystery of Evil*.[24] Here the mystery is also shown to describe the history of the church as an institution. Agamben understands this institution as a machine with two poles, one of which (the eschatological) has been sacrificed on the altar of the other — hence the parlous state of the church today, which has allowed itself to devolve into a purely worldly institution.

The book is subtitled *Benedict XVI and the End of Days* and attempts to bring together an event in the present (Benedict's — or Joseph Ratzinger's — abdication), and an event from the past (when Celestine V did the same), both spurred by a certain sense of the corruption of the Church with respect to its spiritual as opposed to its earthly and juridical vocation; in this way, both acts of quitting an institution are explained in light of a certain conception of history, which involves both its end (its messianic end — Agamben refers to both texts comprised within this book as 'think[ing] one single problem: that of the political meaning of the messianic theme of the end of days' [ME xi]) and that which holds back the end — in this case, something like the Church, or perhaps indeed the Roman Empire or State more generally: these are the two interpretations of the *katechon* which Agamben considers. The former is the interpretation given by Illich, as Agamben points out, and it is here that, by indicating the decision that was made in that direction, by Tyconius first of all (upon whom Ratzinger had written and who was on his mind during his final days in pontifical office [cf. ME 5]), and then by the likes of Illich, in contrast with the decision taken by Carl Schmitt, Agamben enriches the discussion that Illich himself carries out by illuminating its historical and theoretical context, and by insisting upon both the eschatological nature of Illich's own critique of the church (which he left, as Benedict did) and the particular Pauline-messianic understanding of that eschatology that Agamben himself will have insisted upon even before his engagement with Illich himself.[25]

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[24] Giorgio Agamben, *The Mystery of Evil: Benedict XVI and the End of Days*. Trans. A. Kotsko. Stanford, CA: Stanford UP, 2017 [2013].

[25] Later on in the text, Agamben will say the following: 'My hypothesis is that grasping what the *mysterium iniquitatis* is means nothing less than understanding the Pauline conception of messianic time (which is to say, of historical time, if it is true that eschatology is only an abbreviation or a model in miniature of humanity's history)' (ME 27). One might imagine that these later works on the Kingdom are in part a way for Agamben to compensate for a certain

What Agamben is about to do is to examine the history of the church and its current character in terms of the relation between legitimacy and actual law. He will go on to use this as an example of how we are to understand all of our institutions in the modern or perhaps post-modern age.[26]

Benedict's resignation is of such importance for us, and for an understanding of our 'democracies' — as well as our 'democratic *institutions'* (ME 3, emphasis added)[27] — because it 'calls attention to the distinction between two essential principles of our ethico-political tradition, of which our societies seem to have lost all awareness: legitimacy and legality' (ME 2). The seriousness of the crisis afflicting our society is a result of its calling into question 'only the *legality* of institutions', not their legitimacy. Agamben formulates the distinction between legality and legitimacy in terms of power in the following way: 'not only [...] the rules and modalities of the exercise of power [legality], but the very principle that founds and legitimates it [legitimacy]' (ME 2).[28]

Illegality is not delegitimation: 'rather the contrary is true, namely that illegality is so diffuse and generalised because the powers have lost all awareness [*sic*; rather, 'sense', ML] of their legitimacy' (ME 2–3). This crisis of legitimacy 'cannot be resolved solely at the level of the law. The hypertrophy of law, which presumes to legislate over everything, on the contrary betrays, through an excess of formal legality, the loss of all substantial legitimacy. Modernity's attempt to make legality and legitimacy coincide, by seeking to secure through positive law the legitimacy of a power, is completely inadequate, as is clear from the inexorable process of decline into which our democratic institutions have entered' (ME 3).

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curious deficiency in *The Time that Remains,* his great work on messianism from the year 2000: there, even if Tyconius is mentioned in other contexts (cf. TTR 76 & TTR 92–3), the Illichian interpretation of the *katechon* as church is *not* broached, though another is added in its place, in which the *katechon* is taken simply to be God himself (cf. TTR 108ff).

[26] In truth the terms, 'legitimacy' and 'legality' do not in the end feature very heavily in what follows, and we find in their stead a string of related terms: if one were reading the book with Walter Benjamin in mind, one might well consider that the most illuminating among them are *law* and *justice*. The connection that Agamben makes elsewhere between Ivan Illich and Simone Weil provides some ballast for this terminological decision.

[27] When speaking of the *katechon* as either church or empire, Agamben makes it clear that he is in any case speaking of *institutions*: 'whether it [the *katechon*] is identified with the Empire or with the Church, in any case an institution [...]' (ME 33).

[28] In *The Church and the Kingdom*, Agamben reiterates this distinction, and makes the unique suggestion that the Church provides not only a model for the decline of institutions in a non-eschatological, non-messianic direction, but also — if such a redemption is possible — a potential model for the way in which other institutions might extricate themselves from this trough: 'With the eclipse of the messianic experience of the culmination of the law and of time comes an unprecedented hypertrophy of law — one that, under the guise of legislating everything, traduces its legitimacy through legalistic excess. I say the following with words carefully weighed: nowhere on earth today is a legitimate power to be found; [...] the Church can be a living institution only on the condition that it maintains an immediate relation to its end. [...] Will the Church finally grasp the historical occasion and recover its messianic vocation?' (CK 40–41).

Agamben himself suggests that a focus on 'justice' (and 'law') as a privileged term, might not be unjustified, in the following passage, in which, at the end of the first of the two essays which comprise *The Mystery of Evil,* entitled 'The Mystery of the Church', he reiterates what was said at the beginning, of Benedict's gesture: 'if this gesture interests us, this certainly is not solely insofar as it refers to a problem internal to the Church, but much more because it allows us to focus on a genuinely political theme, that of justice, which like legitimacy cannot be eliminated from the praxis of our society' (ME 17). The Church is the most extreme exemplar of an institution that should be divided between its earthly and heavenly functions, and so it stands as a particularly stark reminder to other institutions, when it falls into a purely worldly — and that means in part juridical — state.

Agamben explicitly compares our (democratic) society with the Church itself, in the following terms: 'the body of our political society is also bipartite, like that of the Church and perhaps even more seriously so, mixing evil and good, crime and honesty, injustice and justice' (ME 17). And yet modern democracies take this to be 'not a political and substantial problem, but a juridical and procedural one' (ME 17). 'From the perspective of the laissez-faire ideology that is dominant today, the paradigm of the self-regulating market has taken the place of that of justice and pretends to be able to govern an ever more ungovernable society according to exclusively technical criteria' (ME 17).

As if rejecting an interpretation of justice as a Kantian idea that can only asymptotically be approached, Agamben insists that the proper conception of the messianic will prevent such a bad infinite (and perhaps a Derridean conception of Justice as undeconstructible) from forming: 'a society can function only if justice (which corresponds to eschatology in the Church) does not remain a mere idea, entirely inert and impotent in the face of law and economy, but succeeds in finding political expression in a force capable of counterbalancing the progressive levelling out onto a single technico-economic plane of the two coordinated but radically heterogeneous principles — legitimacy and legality [the title of a book by Carl Schmitt who hovers in the background here], spiritual power and temporal power, *auctoritas* and *potestas,* justice and law — that constitute the most precious patrimony of European culture' (ME 17–18).[29]

[29] One wonders if the reason why the significance of these texts on eschatology and kingdom has not fully been taken into account by scholars of Agamben is due to a much more significant elision, only now very slowly being rectified, which is the failure to take into account the effect upon the notions laid out in the early parts of the Homo Sacer project of the *Kingdom and the Glory* and its notion of 'economic theology' in contrast with 'political theology' and its stress on sovereignty alone: kinghood, kingdom, as opposed to the angelic function of governance, management, or administration: 'two broadly speaking political paradigms, antinomical but functionally related to one another, derive from Christian theology: political theology, which founds the transcendence of sovereign power on the single [*sic*; rather, the one, unique] God, and economic theology, which replaces this transcendence with the idea of an *oikonomia,* conceived as an immanent ordering — domestic and not political in a strict sense — of both divine and human life. Political philosophy and the modern theory of sovereignty derive from the first

paradigm; modern biopolitics up to the current triumph of economy and government over every other aspect of social life derive from the second paradigm' (KG 1). And the 'history of economic theology [...] has been left in the shadows' and is even said to have been subject to 'repression' (ibid.). Agamben almost immediately turns to Carl Schmitt as a representative of political theology, which, as he clearly states, demands to be 'supplemented' (KG 3).

It is indeed the relation between this kingly sovereignty and the notion of economy that Agamben seems here to be thinking, the two poles of this machine having collapsed, and their distinction and its traces having been forgotten. The refusal to return romantically to the earlier state of distinction may be a result of Agamben's wariness when it comes to a chronological understanding of the messiah, in the sense that our only future can be one in which we come to realise that the messiah already walks among us, and the inoperativity of the machine that bestows upon us our juridical identity has already been attained: the task is not to restart the classical machine which establishes oppositional distinctions, but to rethink the *in*distinction of two opposites in a new way, a way that could take as its model the disabling character of the 'as not'. Can we understand inoperativity apart from a messianic context? Is this theological element in the genealogy of the concept, central to Agamben's ontology and political thought, indispensable? (Cf. 'The Machine in Esposito and Agamben', *Journal of Italian Philosophy,* Volume 5 (2022) for an initial attempt to achieve some clarity on these points.)

One would have to go still further in order to achieve a complete account of the supplements that must be added to the original Homo Sacer project, and indeed one would need to move beyond *The Kingdom and the Glory* itself and into *The Kingdom and the Garden* which seems to supplement the former with an alternative to the entire notion of a redemption of humanity by means of the 'economy of salvation'. As Agamben puts it: 'the Garden of Eden [...] has been tenaciously displaced to the margins of the tradition of Western thought [...]. While the Kingdom, with its economic-trinitarian counterpart, has indeed never ceased to influence the forms and structures of profane power, the Garden, despite its constitutive political vocation (it was "planted" in Eden for the happy habitation of humanity), has remained substantially alien to it' (*Kingdom and the Garden,* 3). The following passage alone suggests that an account of power cannot do without the supplement that *The Kingdom and the Garden* provides: 'not only is it not possible to separate the Garden from the Kingdom, but they are on the contrary so frequently and so intimately intertwined that it is likely that precisely a study of their intersections and their divergences would end up reshaping to a significant extent the cartography of Western power' (ibid., 3–4).

The way in which Agamben presents this is in terms of, on the one hand, St. Augustine's conception of human nature as originally sinful, and the opposite account, given in the Pelagian heresy, which enjoys a belated renaissance in the work of John Scotus Eriugena, for whom human nature (symbolised by the paradise garden) has no need of salvation: 'paradise — that is, human nature — is completely alien to sin and the history of the fall narrated by Genesis must be understood to have happened outside of it. There is not properly a history of salvation, because human nature is always already saved. Paradise — life in all its forms — was never lost' (*Kingdom and the Garden*, 73).

Agamben ultimately links the notion of an earthly paradise in the sense of an earthly kingdom that according to some theologians will precede the kingdom of god in heaven — lasting for a thousand years according to the 'chiliasts' or 'millenarians' — to the problem of the Church: 'If the Kingdom is the essential content of the Gospel proclamation [...] then the question of the modalities of its reality with respect to the reality of the Church become decisive in every sense. This problematic knot comes to light in the fact that the theology of the Kingdom of Irenaeus and the early fathers [which tended to include a notion of an earthly paradise at the end of time, a redemption of man here on earth and a restoration of human nature to its original integrity] is

This 'levelling out' is the way in which Agamben expresses — or rather, rethinks — what is at stake in Illich's notion of counterproductivity.

If Roberto Esposito speaks of his own attempt to reinvent the notion of an institution in a sense that would not oppose it to (social) 'movements' as an institution which does not ossify but remains in motion, Agamben speaks of an institution that remains 'living' (or which may be revivified): 'A society's institutions remain living only if both principles [legitimacy and legality] (which in our tradition have also received the name of natural law and positive law, spiritual power and temporal power, or in Rome, *auctoritas* and *potestas*) remain present and act in

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progressively eliminated in step with the strengthening of the institutional organisation of the Church' (*Kingdom and the Garden,* 140).

Thus what might come to replace a church which has 'closed its eschatological office' is perhaps not simply a reformed church (that would replace one which has become all too secular in its concerns) but rather something like an earthly paradise. Augustine's influence is — according to Agamben — malign here, and we have cause to lament the success of his polemic against the 'chiliasts' or 'millenarians': 'Augustine's decisive performance is, however, the neutralisation of what is said in the passage from John in which one reads unequivocally that "the just will reign with him [Christ] for a thousand years". With a gesture that was to have a long posterity in the history of the Church and in Christian historiography, he simply identifies the Kingdom with the time of the Church, the very one in which the just and the wicked live together [this is the 'mystery of lawlessness', the drama of the struggle between Christ and Antichrist within the church — ML] up to the moment when they will be separated on the day of Judgment' (*Kingdom and the Garden,* 144). In other words, Augustine is responsible for the elision of the earthly kingdom of God in any sense other than that of the Church (ibid., 145). Thus the possibility of an earthly garden of delights that is not the institutional church is obliterated. Thus the possibility of thinking a politics, a place and a way for human beings to dwell together, perhaps outside of *all* institutions, is erased from the history of theology: 'Insofar as it coincides with the historical existence of the Church, the Kingdom is emptied of all political significance' (ibid., 145). Agamben goes on, in *The Kingdom and the Garden*, to explicitly compare this paradisiacal Kingdom with the messianic state in Paul's letters, which form the subject of Agamben's almost infinitely rich commentary, *The Time that Remains* (*Kingdom and the Garden,* 149ff).

Agamben concludes his book with the following lines: 'the earthly paradise and the Kingdom are the two partitions that result from theologians' attempts to think human nature and its possible beatitude. They are split into a pre-historical element (the Garden of Eden) and a post-historical element, the Kingdom, which nevertheless remain separate and without communication and, as such, [remain] inaccessible [to one another]. The steady polemic against the chiliasts, who tend to identify the earthly kingdom with the paradise of origins, has precisely this function. The Garden must be driven back into an archi-past, which it is no longer possible to obtain in any way; the Kingdom, when it is not simply flattened into the Church and in this way neutralised, is projected into the future and displaced into the heavens. [/] Against this forced separation of the two poles, we must remember, with the chiliasts and Dante, that the Garden and the Kingdom result from the split of one sole experience of the present and that in the present they can therefore be rejoined' (*Kingdom and the Garden,* 151–52).

The model of whatever is to replace the church on Agamben's account is thus paradise. Although this notion seems not to have received a sustained elaboration in Agamben's subsequent works, one may presume that it is a theological analogue — human rather than divine — of god's sabbatical 'inoperativity'. A comparison with Agamben's earlier work on grace, clothing, and nudity in the Garden of Eden would be instructive here (cf. *Nudities*).

them without ever claiming to coincide' (ME 3) — a coincidence that modernity has explicitly avowed itself as having attempted.

Agamben specifies that legitimacy is not 'hierarchically superior' to legality, but that, on his account at least, 'legitimacy and legality are the two parts of one single political machine, which not only must never be flattened out into [*sic*: this is a rather Espositoan phrase which demands a different method of translation — ML] one another, but must also remain in some way operative so that the machine can function' (ME 4).

There are two forms in which the eradication of this polarity can take place: one totalitarian and one democratic, the former insisting on its own legitimacy in a way that is above the law, and the latter (today, in the modern age) insisting solely on legality, without a thought for legitimacy. Totalitarianism, like the church of the middle ages with its all-pervasive juridical sway, 'lays claim to a spiritual power to which the temporal power of the Empire or the State must remain subordinate' (ME 4), which is the same as to say that 'legitimacy insists on doing without legality'. For modern democracy, on the other hand, where 'the legitimating principle of popular sovereignty is reduced to the electoral moment and is dissolved into procedural rules that are juridically fixed in advance, legitimacy runs the risk of disappearing into legality and the political machine is equally paralysed' (ME 4).

In the institution of the Church, which appears to have gone the way of modern democracy, as opposed to totalitarianism and the church's own character in the middle ages, 'law' (on Agamben's account) is represented by the (present day) 'curia', 'that, completely oblivious to its own legitimacy, stubbornly pursues the motives of economy and temporal power' (ME 4–5). In the face of that curia, 'Benedict XVI has chosen to use only spiritual power, in the only way that seemed possible to him, namely by renouncing the exercise of the vicarship [*sic*] of Christ. In this way, the Church itself has been called into question to its very root' (ME 5). This is why Benedict's gesture is of such interest to us today, since it presents us with a gesture that responds to the purely legalistic character of modern institutions and the desuetude of the political machine that has over the last century merely oscillated between democracy and totalitarianism (or as Agamben sometimes puts it, which has come to rest in a form in which these two, like peace and war, have become indistinguishable from one another).

The bipartite nature of the church

So what is the nature of the church as such?

According to Tyconius, who provides the model for Benedict's conception of the church, and also at least implicitly for Ivan Illich's, the body of the Church has two sides, one guilty and one blessed, as is inevitable for an institution that must exist upon earth whilst serving at least primarily to render a portion of that earth somewhat less worldly and so to prepare Christians for another life, and subsisting only in the delay that temporarily holds back the coming of the Kingdom (ME 6). The church is inevitably afflicted with the sinful elements of secular life. 'The

consequence of this radical thesis, which divides and at the same time unites a Church of the wicked and a Church of the just, is, according to Ratzinger, that the Church is, until the Last Judgement, both Church of Christ and Church of the Antichrist' (ME 7).

On the chronological account that Agamben will elsewhere deem incompatible with a true conception of the Messiah as already being present here and *now*, he describes the thought of Tyconius as one in which this division will precisely be overcome in the end, when one of its poles will simply be defeated in the final battle of good against evil: 'in the present state, the Church's two bodies are inseparably mixed, but they will be divided at the end of days' (ME 7). Indeed, Agamben suggests that it is precisely this admixture, this bipartite nature itself that allows the church to delay the second coming — 'the bipartition of the Church's body, acting as *katechon,* seems destined to delay [Christ's second coming]' (ME 13). 'Tyconius therefore knows of [*sic*; rather 'conceives of' — ML] an eschatological time in which the separation of the two Churches and of the two groups of people will be accomplished; already at the end of the fourth century, then, there existed a school of thought that saw in the Roman Church, more precisely *in the bipartite character of its body*, the cause of the delay of the *parousia*' (ME 10, emphasis added).[30]

The Church is merely a place-holder on earth for the kingdom of Christ that will eventually prevail at the end of days. In this context, Agamben expands on the precise philological background of Illich's notion of the *mysterium iniquitatis*, which — as we have seen — stems from the Second Epistle of Paul to the Thessalonians, which contains a prophecy on the end of days.

'Mysterium iniquitatis' is the Vulgate's translation of Paul's phrase, *mystērion tēs anomias*, the mystery of lawlessness. Mystery is here to be understood in the Greek sense of a drama (cf. ME 14): lawlessness, or the man of lawlessness (the man of evil or 'iniquity') was, some time after Paul, identified with the Antichrist or anti-messiah (from the First Epistle of St. John) (ME 9). The lawless antichrist is at work in our world, and our institutions, dividing them at the heart. The role of the church is understood to be that of *to katechon* (the withholding power, the restraint) — what is restraining the man of lawlessness (*anomias*). This seems to mean the prevention of his triumph, and yet he can only be held off for so long until the moment when he will emerge, not triumphant, but in a millenarian battle against the forces of Christ, in which he will finally be defeated: the antichrist or *anomos* is the one 'whom the Lord Jesus will eliminate with the breath of his mouth, rendering him inoperative with the manifestation of his [Christ's?] coming' (ME 9). The church keeps the evil of the world in check until the time is ripe for its final vanquishment at the hands of the messiah in his second coming.

[30] 'Parousia' is here taken to mean what happens at the end of days and that is the 'second coming' of Christ, the Messiah (cf. ME 11): as Agamben says of St. Paul, 'Paul decomposes the messianic event into two times: resurrection and *parousia,* the second coming of Jesus at the end of time' (TTR 69).

An alternative interpretation of the restraining power stems from St. Jerome: on this reading, it is the Roman Empire, or, by metonymy, the State. Jerome's reading was 'vindicated [*sic;* rather, 'championed' ML] in the twentieth century by a great Catholic jurist, Carl Schmitt, who saw in the doctrine of the *katechon* the only possibility of conceiving history from a Christian point of view' (ME 11), which in Schmitt's case meant reconciling the very notion of history and its philosophy with the notion of an *eschaton* that would otherwise seem to bring history to an end or simply 'paralyse' it, by — one assumes — rendering redundant any intervention one might make within it, or any event which occurs *before* the last day.[31]

One might presume that the reason why Agamben will not accept this reading is connected with the fact that his thought is attempting to move some way beyond political theology to its essential supplement, economic theology, the former being insufficient due to its exclusive concern with sovereignty and a kingship that holds itself apart from the historical forms that the governance of the world takes. The second hypothesis on the nature of the *katechon* is thus described by Agamben in the following way, as having been taken up, after Tyconius (and, in truth, before Benedict) by 'a brilliant theologian who is underappreciated by the Church, Ivan Illich' (ME 11). According to Illich, the *mysterium iniquitatis* of the Apostle Paul — the progressive expansion of lawless evil within the Church and the world which it attempts to govern and shepherd towards the heavenly Kingdom — is the (historical) *corruptio optimi pessima*, which Agamben glosses as 'the perversion of the Church that, by institutionalising itself more and more as an alleged *societas perfecta,* has furnished the modern State with the model for completely taking charge [*sic*; one wonders if 'managing' would be closer to Illich's and Agamben's intention — ML] of humanity' (ME 11).[32]

The distinction between the two parts of the body of the Church is 'something that must orient *here and now* the conduct of every Christian and, in

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[31] 'The original historical force of the figure of a *katechon*, however, remains and is capable of overcoming the otherwise occurring [*sic*] eschatological paralysis' (Carl Schmitt, 'Three Possibilities for a Christian Conception of History'. Trans. anon. Telos 147 (Summer 2009), 169); cf. *The* Nomos *of the Earth: In the International Law of the* Jus Publicum Europaeum. Trans. G. L. Ulmen. New York: Telos Press, 2006*,* Ch. 3 (pp. 56ff, esp. 59–60).

[32] In an unpublished talk from around the time of the *Mystery of Evil,* entitled 'Pro Memoria Ivan Illich', Agamben affirms that it becomes apparent from the last works of Illich, and in particular the interviews with David Cayley, that 'it is on the correct interpretation of this expression *mysterium iniquitatis* that the correct understanding of Illich's thought also depends'.

If Illich is considered by Agamben to be our most profound critic of modernity, he here specifies the precise reason as to why this is the case: his critique is 'incomparably more fruitful than those that have been produced in the last hundred years on both the right and the left' because of its 'theological depth' ('Pro Memoria Ivan Illich').

(Many thanks to Arianna Bove for supplying a transcription of this talk; we had hoped to publish either a translation of the transcript or its elaboration in the present issue of the Journal of Italian Philosophy, having contacted the author about such a possibility; but this elaboration may in the end have proved impossible since effectively, as it turns out, *The Mystery of Evil* might be said to be in part at least this very elaboration.)

the first place, that of the pontiff' (ME15). Benedict's action (which Agamben describes, perhaps thinking of Pontius Pilate's attitude towards passing judgement on Jesus Christ, as the 'great refusal', at least twice in *The Mystery of Evil* [cf. ME 15]) 'reminds us [...] that it is not possible for the Church to survive if it passively defers until the end of days the solution of the conflict that tears its "bipartite body" apart [*sic*; better, 'is rending its bipartite body asunder']' (ME 15).

In other words, the church must not accept that the only thing to be done with the evil that mars its body is to wait until it bursts its banks at the end of time, when it can be defeated by the Christ; this chronological conception of the messianic — together with the fatalistic and 'paralysing' conception of history that corresponds to it — will not do for Agamben, as we have seen: 'As with the problem of legitimacy, so also the problem of what is just and what is unjust cannot be eliminated from the historical life of the Church, but must inspire in every instant the awareness of [*sic*; rather, its awareness with respect to? — ML] its decisions in the world. If one pretends to be ignorant, as the Church has often done, of the bipartite body, then the *fusca* [dark, evil] Church ends up prevailing over the *decora* [beautiful, good], and the eschatological drama loses all sense' (ME 15).

In the Church, throughout its history, stand two irreconcilable elements: economy and eschatology, 'the worldly-temporal element and that that which keeps itself connected with the end of time and the end of the world' (ME 16). These are the two poles of whatever machine may be said to be embodied by the Christian church as an institution. When the eschatological element disappears (as it has) the worldly economy becomes infinite, which is to say pervasive, and without an aim that would stand beyond it: Agamben often uses the metaphor of a pointless gyration or eternally recurring rotation in this context — which we might think of as a rendition of what Illich is attempting to think when he speaks of a means which becomes its own end at the threshold of counterproductivity (cf. ME 4): 'The paradox of the Church is that, from the eschatological point of view, it must renounce the world, but it cannot do this because, from the point of view of the economy, it is of the world, which it cannot renounce without renouncing itself. But this is exactly where the decisive crisis is situated: because courage — and this seems to us to be the ultimate sense of Benedict XVI's message — is nothing but the capacity to keep oneself connected with one's own end' (ME 16). It is thus effectively with a lack of courage that Agamben is charging the Church when he speaks to the Parisian clergy in *The Church and the Kingdom*. And one might even wonder if he learnt something of this courage from Ivan Illich.

Agamben tells us that the antichrist or the man of lawlessness, the man of evil or iniquity, in fact *resembles* the Christian, given that the messiah 'renders the law inoperative', and so *himself* inaugurates a lawless state, 'that coincides with messianic time and in this way frees the *anomos,* the outlaw, who is in this way very similar to the Christian' (ME 33).

This helps us to understand the role of institutions in messianic time: they are *katechonta*, they hold back; but they hold back two things: both the lawlessness

of the antichrist and the lawlessness of the messianic state, which they are perfectly capable of concealing (presumably this is what happens when the Church becomes a purely worldly authority and closes its eschatological office): 'The *katechon* is the power — the Empire, but also the Church, like [*sic*; better, 'as with' — ML] every juridically constituted authority [meaning every 'institution', perhaps — ML] — that opposes and conceals the lawlessness that defines messianic time and in this way slows the revelation of the "mystery of lawlessness". The unveiling of this mystery coincides with the manifestation of the inoperativity of the law and with the essential *illegitimacy of every power in messianic time'* (ME 34, emphasis added).[33]

Agamben adds immediately, in parentheses: '(And by all appearances this is what is happening today under our noses, when the powers of state act openly as outside the law. In this sense, the *anomos* does not represent anything but the unveiling of the *lawlessness that today defines every constituted power*, within which State and terrorism form a single system' (ME 34, emphasis added).

Thus institutions are both illegitimate and illegal in messianic times: perhaps this is the challenge for any institution today — to propose neither its own legality nor its own legitimacy, but to endure in such a way as to demonstrate the inadequacy of all law and every juridically constituted identity, which are merely to be 'used', freely.

A restoration of the eschatological-messianic element to institutions is a precondition not just for a functional church but for what Agamben describes as 'political action' of any kind: 'I believe that only if the *mysterium iniquitatis* is restored to its eschatological context can a political action again become possible, in the theological sphere as in the profane. Evil is not a gloomy *theological* drama that paralyses every action and renders it enigmatic and ambiguous, but it is a *historical* drama in which each person's decision is always in question' (ME 38). It just such a decision and perhaps such a (political) action that Benedict XVI presented us with.

Agamben concludes *The Mystery of Evil* with the following assertion, that one must accept and affirm the fact that when one participates in the mystery of evil, one is participating in a historical drama that is *not* without end, and so hellish (for the Inferno is the only part of god's creation that continues to be ruled over, to be governed, by law, after the last Judgement), but which must constantly take up its relation to its end; and Agamben, having just invoked the relevance of this theological affair for the profane sphere of politics, ends by insisting that profane institutions are to follow in the footsteps of the church: 'the bipartite nature of the Church's body, *as of every profane institution* is finally reaching its apocalyptic unveiling — it is in this drama, always underway, that all are called to play their part without reservation and without ambiguity' (ME 39, emphasis added). Such is the

[33] Cf. *The Time that Remains,* which Agamben is almost citing here: 'The unveiling of this mystery [the mystery of lawlessness, evil or iniquity] entails bringing to light the inoperativity of the law and the substantial illegitimacy of each and every power in messianic time' (TTR 111).

exemplary nature of Benedict's action in withdrawing from the church and effectively decapitating it.

Pilate and Jesus

At the same time as Pope Benedict was resigning from the church, and perhaps as part of his attempt to comprehend the meaning of this gesture and what it implies for the notion of the church as an institution (which had lost sight of the second pole of the institutional machine — the messianic or eschatological), Agamben writes a text entitled *Pilate and Jesus*.

Pontius Pilate was a historical figure, added to the Nicene Creed at the Council of Constantinople in 381 to make it clear that history itself is a crucial part of the Christian religion. The son of God stands trial before Pilate, partaking thereby in a 'process' which embodies the encounter between the heavenly and the worldly, and in a way that is somewhat distinct from the encounter that we have just delineated with the mystery of evil — another meeting between the messiah and the law. Although as it shall turn out, Pilate is in his own peculiar way exemplary, even if not in quite the same way as Benedict,[34] in his hesitation — or even his 'great refusal' — to apply the law in Jesus's case.

Agamben tells us that if the incarnation is a historical fact, then the trial of Jesus is 'one of the key moments of human history, in which eternity has passed into history at a decisive point' (PJ 1). Agamben here poses the question as to 'how and why this crossing [passing] between the temporal and the eternal and between the divine and the human assumed precisely the form of a *krisis*, that is, of a juridical trial' (PJ 2).

And yet it is a curious form of trial which ultimately reaches no judgement: as Agamben insists, throughout the course of the trial, Pilate tries to avoid pronouncing a verdict.

What Pilate and the trial of Jesus seem to represent is the possibility of a real human being intervening in a history which might otherwise have passed for 'fate', one which Agamben calls the 'economy of salvation': 'The role of the prefect of Judea and of the judgement, the *krisis* that he must pronounce is not inscribed into the economy of salvation as a passive instrument but as a real character in a historical drama, with his passions and doubts, his caprices and scruples' (PJ 30). A historical figure, then, in much the same sense as Benedict was.

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[34] Benedict, Ratzinger, the student of Tyconius, might be said to have resigned in the name of an eschatological vocation which had been forgotten: Agamben is particularly clear on this point in an obituary notice he wrote upon the death of Benedict XVI in 2022: 'Benedict XVI reminded a curia concerned only with its own worldly continuation of the spiritual meaning of the last things' (Agamben, 'Benedict's Great Resignation', 31st December 2022, Compact Magazine, https://www.compactmag.com/article/benedict-s-great-resignation/ [accessed 20th April 2025]). And further, '[b]y calling into question the unity and legitimacy of the Church, Benedict XVI, who was at the head of the oldest existing institution in the West, called into question the meaning and legitimacy of all institutions' (ibid.).

The Christian conception of history as the execution of the divine economy of salvation (which, as if to intimate our reading, Agamben also compares to its secularised version: 'a realisation of the unbreakable laws immanent to it [history]') 'must be, at least in our case, revised' (PJ 30).

Agamben's account lays some stress on the notion of 'handing over', first in the sense in which Pilate refused explicitly to pronounce judgement and yet nevertheless delivered Jesus over to his fate in the hands of the Jews and the executioner, and second in the sense of the tradition that would form the fundamental element of history: 'With the judgement of Pilate history bursts into the economy and suspends its "handing over". The historical *krisis* is also and above all a crisis of "tradition"' (PJ 30).

'As a Roman magistrate, Pilate must exercise his judgement and does exercise it in his own way without taking account of that economy of "handing over" of which he is ignorant and to which he will yield in the end only because he seems to be convinced that a king of the Jews is in some way politically problematic' (PJ 30–31).

In other words, Pilate, and, as we shall see, Jesus in his own way, give us two examples, from two different points of view, of the way in which a purely '*oikonomic*' view of an institution can be modified, a view which we might surmise to be identical with a purely eschatological reading of the messianic which Schmitt perhaps rightly saw as paralysing with respect to any individual intervention within history. In the one case, that of the Prefect, we have an earthy institution which is the law, with which Pilate is wrestling, and with Jesus we find a heavenly kingdom, a messianic state, in which the law has become inoperative; and yet because Jesus is on earth, and the church as an institution must span the heaven and the earth, he submits himself to whatever the outcome of the Pilatean trial may be: 'The representative of the earthly kingdom is competent to judge the "kingdom that is not from here" and Jesus [...] acknowledges his authority, which comes to him "from above"' (PJ 31). As Agamben puts it, it is certain that Christ 'did not want to escape judgement' (PJ 31).

But what a curious kind of judgement it is, if it even may be said to be one at all: 'Here two judgements and two kingdoms truly stand before one another without managing to come to a conclusion. It is not at all clear who judges whom, whether it is the judge legally invested with earthly power or the one who is made a judge through scorn [Jesus clothed in purple robes and adorned with a crown of thorns], who represents the kingdom that is not from this world. It is possible, in fact, that neither of the two truly pronounces a judgement' (PJ 37).

As Agamben points out, a radical critique of every judgement is an essential part of Jesus's teaching (PJ 37). To judgement is opposed salvation: God does not want to judge the world but to save it — at least until the *eschaton*, the Judgement to end all judgements (save for the damned of hell).

It is just this encounter between salvation and legal judgement that Agamben's text comes to centre around. Thus the text and the encounter between

Pilate and Jesus may well have something to teach us about the somewhat obscure notion of the 'unsaveable' (or perhaps irredeemable) character of human life in the desuetude of the various apparatuses that keep us captive, which Agamben refers to in a number of his works in a fashion that can seem allusive.

Agamben tells us that Pilate and Christ embody the same irresolvable contradiction: the antithesis of economy and history, temporal and eternal, justice and salvation, 'that Dante's doctrine seeks in vain to reconcile [this doctrine suggests that Christ had to be subject to crucifixion as a legitimate punishment ordered by a judge who had jurisdiction over the entire human race — since he represented the Roman Empire — and thus the punishment is supposed to redeem the entire race]. Pilate *is* this contradiction. And Christ, insofar as the word in him has been made flesh, is this contradiction *par excellence*' (PJ 40).

Agamben affirms that in the context of the trial, at least, and despite Christ's testifying to his kingdom that resides and stems from elsewhere, here both he and Pilate are merely human: 'he [Jesus] must testify *in* this world that his kingdom is not from this world — not that he is *here* a simple human being but *elsewhere* a God' (PJ 41). It seems that whilst both humans are involved in a trial, in neither case can they either avoid it or go through with it. In any case, Agamben describes Pilate here as Jesus's 'alter ego': 'From the point of view of law his [Jesus's] testimony [to his kingdom, whose provenance is elsewhere] can only fail and end in a farce [...]. He — who has not come to judge the world but to save it — finds himself, perhaps precisely for this reason, having to respond in a trial, to submit to a judgement, which his *alter ego,* Pilate, in the end will not pronounce, cannot pronounce' (PJ 44).

Agamben comes to his conclusion by speaking of the irreconcilability of justice and salvation, as if this were to explain both the necessity of the trial and its inevitable failure to conclude with an actual judgement: 'Justice and salvation cannot be reconciled; every time, they return to a situation in which they mutually exclude and call for one another. Judgement is implacable and at the same time impossible, because in it things appear as lost and unsaveable; salvation is merciful and nevertheless ineffective, because in it things appear as unjudgeable' (PJ 44–45).

The world is unsaveable, Agamben tells us, and that seems to be because those with their feet planted firmly upon its surface understand only the law, and judgement in accordance with the law; not its beyond — is this another instance of the forgetting of the eschatological, not on the part of the church but on the part of the judiciary? Even though Pilate himself refuses to carry his judgement through and thereby attempts to save justice from itself, Agamben nevertheless ends the main part of *Pilate and Jesus* with the following words: 'to testify, here and now, to the truth of the kingdom that is not here means accepting that what we want to save will judge us [i.e. the earthly kingdom will judge Jesus, who wanted only to save it]. This is because the world, in its fallenness, does not want salvation but rather it wants justice. And it wants it precisely because it is not asking to be saved. As

unsaveable, creatures judge the eternal: this is the paradox that in the end, before Pilate, cuts Jesus short. Here is the cross; here is history' (PJ 45).

Pilate cannot judge (he merely hands Jesus over) and in this context Jesus cannot save. What conclusions can we draw from this mutual failure?

Agamben suggests, in the Glosses that follow the main body of the text, *Pilate and Jesus,* that a trial without a judgement is itself effectively (thanks to Pilate, it might be said) the most effective way in which the juridical order can render itself inoperative: it is 'the most severe objection that can be raised against the juridical order'. And Agamben links this explicitly with the *messianic* gesture of the fulfilment and suspension of law: 'The one who has come to fulfil the law, who has been sent into the world not to judge it but to save it, must submit himself to a trial without judgement' (PJ 51–52).

Agamben might be taken, on the basis of these Glosses, to be suggesting that in fact judgement and salvation enter into a zone of indiscernibility here, and that precisely because no judgement is ultimately given in the trial: '[t]he trial of Jesus is thus not properly a trial but something that remains for us to define and for which it is likely that we will not manage to find a name' (PJ 49). This is the perhaps the nameless act which, employing terms that are hereby being surpassed, as if the two poles of a machine were entering a state of confusion, Agamben elsewhere speaks of as the saving of the unsaveable, the salvation of the unsalvageable.[35]

And yet Agamben goes on to suggest that in *this* trial, at least, the two, judgement and salvation, do not touch: 'Judgement and salvation remain up to the end unrelated and incommunicable' (PJ 54).

This point may perhaps be clarified by the fact that Agamben here attempts to juxtapose the trial of Jesus that is no proper trial, with the messianic thesis of St. Paul, the critique of the Law as such and of the identity of those who stand within the juridical realm: 'It is possible that Paul, when he elaborates his critique of the law in the Letter to the Romans, may be aware of narratives of Jesus's trial that are later brought together in the Gospels. His peremptory thesis — no one can be justified through the law but only through faith — corresponds point by point with the fact that Jesus could not actually be judged. Just as the law cannot justify anyone, so also can it judge no one' (PJ 52). At this point, Christ — the messianic aspect of the human being, Jesus of Nazareth — evades judgement even by a law that places itself in abeyance. This ultimately indicates the difference that separates Pilate from Benedict: in Pilate we discern a character who *refuses* to decide and thus effectively delivers Christ up to his fate, a gesture which in the end might be interpreted as quite distinct from the decisive resignation of *Benedict*, since it fails to turn the law

[35] As to saveability and the unsaveable, one might refer in the first instance to *The Time that Remains:* 'He who upholds himself in the messianic vocation [...] knows that in messianic time the saved world coincides with the world that is irretrievably lost'. And '[t]he saving God is the God who abandons him [...]. The messianic subject does not contemplate the world as though it were saved. In Benjamin's words, he contemplates salvation only to the extent that he loses himself in what cannot be saved; this is how difficult it is to dwell in the calling' (TTR 42).

and the unfolding of history in an eschatologico-messianic direction. What more can one expect of the sovereign in charge of the judiciary as opposed to the head of the universal church?

Something like this reading is perhaps suggested bv the way in which Agamben brings *Pilate and Jesus* to its conclusion, in a manner that suggests some analogy between Pilate's gesture and the permanent state of exception, in contrast to Jesus Messiah who suspends law in a quite different manner. Agamben is in the process of demonstrating the relation between the inconclusive trial of Jesus at the hands of Pilate and the present moment of our own history: he adverts to the fact that modernity is prone to understanding history itself as a trial; but like the trial of Jesus, this process does not conclude, and remains undecided, or unproven. Agamben describes this interminable trial without judgement as a 'state of permanent crisis', which we might also read as the state of exception or emergency, in which law is suspended by law itself (by the sovereign who rules over the legal domain) — as the trial itself, the execution of the law, continues but without finding its consummation and end in an actual judgement. The law, the realm of the juridical, extends itself everywhere, to the farthest reaches of the human world and to its most intimate and secret moments, precisely by hindering, perhaps forever, the imposition of a judgement, and without even revealing the crime of which we are accused, which might have justified such surveillance.

As ever with Agamben's thought, the task is to disable the law, but in a different manner to the suspension of law carried out in the state of exception; we are seeking a different kind of suspension, an inoperativity that will allow something like a salvation of the unsaveable order of juridical judgement — a redemption of this earthly institution which might yet make of it a paradise.

For one last time, Agamben returns to the closure of the church's eschatological offices, as if the church itself had forgotten the lesson of Pilate and Jesus, and their role in the process of salvation: 'In this sense the trial of Jesus is an allegory of our time that, like every historical epoch with respect to itself, should have the eschatological form of a *novissima dies* ['last day', 'end of days'] but has been deprived of this by the tacit, progressive exhaustion of the dogma of the Universal Judgement, which the Church no longer wants to hear about' (PJ 57–58).

Conclusion

The very least that can be said in light of the foregoing, is that Roberto Esposito is wrong to assume that Agamben's work is lacking in a profound theory of institutions and their history. A reference to Agamben's texts on messianism and the Kingdom suffices to establish this. This work began in earnest in the third millennium, once it had become clear that a chronological understanding of the second coming had suffered a terminal blow. At the same time, perhaps in 2005, when *The Rivers North of the Future* was finally published, Agamben found a companion to his thought of the Church and the Kingdom in Ivan Illich, who had demonstrated that where the church led, often many centuries in advance, modern

institutions were sure eventually to follow. Perhaps it was then that to the list of possible candidates for the mysterious *katechon* that Agamben had broached in *The Time that Remains,* he added the church, first and foremost.

At stake in Illich's account of the institutionalisation of the Christian religion was the perversion of the Christian or messianic gesture of the overcoming of law through charitable love, which the established Christian church came to juridify once again. In the process, it condemned its parishioners to a state of permanent dependence upon their all too established church, which thus was able to achieve a monopoly on the servicing of their needs that Agamben more than Illich is prone to speak of in terms of an unprecedented 'power'.

The task of the critic of modernity and its institutions is then to work out how to disable the law and the juridical apparatus of the modern institution so as to allow another kind of community — or amity — to flourish, or at least to sustain itself in the more obscure corners of a world which has in recent years rendered even the drawing of breath, let alone its commingling in a conspiratorial kiss, quite literally illegal.

What Illich was perhaps too modest to insist upon or too extroverted to realise was his own potential role in the history of institutions, for as Agamben points out, in the wake of his experiences with Benedict, Pilate, Jesus, and even Illich himself — all of whom in their own way remained on the margin that separates church from law — we would be well advised not to view the evil of our institutions as a matter of fate that we must simply wait out until a final apocalyptic battle breaks out, for good or ill. All it takes is to be sure not to interpret the messianic in a chronological manner, to resist the apocalypticism that our culture in its constant lust for the declaration of various 'states of emergency' is so enamoured with. In place of apocalyptic prophets, Agamben places those figures who seek each other out amidst the crumbling ruins of what was once the best, and attempt to find the right way in which to resist the urge not just to think apocalyptically but also to romance about the way in which their institutions once were. It is not implausible that something in Agamben's notion of an institution become destitute, and a form-of-life that cannot be rendered bare by the sovereign decision that would subject it absolutely, always and everywhere, to the rule of law, might provide us with a way to protect Illich still more securely against the accusation of a romantic attachment to the vernacular, convivial life which his critics would rather scoff at.

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Bibliography

Agamben, Giorgio, *The Time that Remains: A Commentary on the Letter to the Romans*. Trans. P. Dailey. Stanford, CA: Stanford University Press, 2005 [originally, 2000].

— 'What is a Dispositive?' Talk given at the European Graduate School, 2005. https://www.youtube.com/watch?v=ua7ElsQFZPo&list=PLX9HYG3Fkpkg7QAJsDOHHbFf_XYWq_x82&index=3&ab_channel=EuropeanGraduateSchoolVideoLectures (accessed 25th April 2025).
— *The Kingdom and the Glory: For a Theological Genealogy of Economy and Government.* Trans. L. Chiesa (with M. Mandarini). Stanford, CA: Stanford University Press, 2011 [2007].
— *Nudities*. Trans. David Kishik and Stefan Pedatella. Stanford: Stanford UP, 2011 [2009].
— *The Church and the Kingdom*. Trans. Leland de la Durantaye. London: Seagull, 2012; *La Chiesa e il Regno.* Rome: Nottetempo, 2010.
— 'Pro Memoria Ivan Illich', 17th December 2012 (?), available at https://www.youtube.com/watch?v=Egy6xRwHrwE (accessed 16th April 2025).
— *The Mystery of Evil: Benedict XVI and the End of Days.* Trans. A. Kotsko. Stanford, CA: Stanford UP, 2017 [2013].
— *Pilate and Jesus*. Trans. A. Kotsko. Stanford, CA: Stanford University Press, 2015 [2013].
— 'Introduction to Ivan Illich, *Gender: Per una Critica Storica Dell'Uguaglianza*'. Trans. Arianna Bove. Journal of Italian Philosophy 8 (2025). From Ivan Illich, *Gender: Per una Critica Storica Dell'Uguaglianza* (Towards a Critical History of Equality). Trans. Ettore Capriolo. Ed. Fabio Milana. Vicenza: Neri Pozza, 2013.
— '«La nostalgia non basta, ma è un buon punto di inizio». Intervista con Giorgio Agamben' (with Valeria Montebello), Lo Sguardo: Rivista di Filosofia 19 (2015): 19–22.
— *Creation and Anarchy: The Work of Art and the Religion of Capitalism*. Trans. Adam Kotsko. Stanford: Stanford UP, 2019 [2017].
— *Self-Portrait in the Studio.* Trans. Kevin Attell. London: Seagull, 2024 [2017].
— 'Laughter and the Kingdom'. Trans. L. Chiesa. Foreword to Ivan Illich, *The Powerless Church and Other Selected Writings, 1955–1985*. Eds. Valentina Borremans & Sajay Samuel. University Park, PA: The Pennsylvania State University Press, 2018. Reprinted with revisions in Journal of Italian Philosophy 8 (2025).
— *The Kingdom and the Garden*. Trans. A. Kotsko. London: Seagull, 2020 [2019].
— 'Preface to the Complete Works of Ivan Illich'. Trans. Arianna Bove. Journal of Italian Philosophy 8 (2025). From Ivan Illich, *Celebrare la consapevolezza. Scritti 1951–1971. Opere complete, Volume I.* Ed. Fabio Milana. Vicenza: Neri Pozza, 2020.
— 'Una comunità nella società' (A Community within Society), https://www.quodlibet.it/giorgio-agamben-una-comunit-14-ella-societa?fbclid=IwAR3YdHDt3XO2q8AQTXsc_kPG3StvVndUV5NUP39-MJPxPd2Ef2jOFduDUyk, 17th September 2021 (accessed 27th April 2025).
— *Where are we now? The Epidemic as Politics.* Trans. Valeria Dani. London: Eris, 2021 [2020/2021].
— 'Benedict's Great Resignation', 31st December 2022, Compact Magazine, https://www.compactmag.com/article/benedict-s-great-resignation/ (accessed 20th April 2025).
— *L'irrealizzabile. Per una politica dell'ontologia.* Turin: Einaudi, 2022. Translation forthcoming as *The Unrealisable: Towards a Politics of Ontology.* Trans. A. Toscano. London: Seagull, 2025.

Esposito, Roberto, 'Vitam instituere', Trans. Emma Catherine Gainsforth. European Journal of Psychoanalysis, 26th March 2020, http://www.journal-psychoanalysis.eu/vitam-instituere/ (This text was removed from the journal's website, among a number of others, in order for it to be republished in Fernando Castrillón & Thomas Marchevsky (eds.),

Coronavirus, Psychoanalysis, and Philosophy: Conversations on Pandemics, Politics, and Society. London: Routledge, 2021: 87–88.
— *Instituting Thought: Three Paradigms of Political Ontology.* Trans. M. W. Epstein. Cambridge: Polity, 2021 [2020].
— *Institution.* Trans. Z. Hanafi. Cambridge: Polity, 2022 [2021].
— *Vitam Instituere: A Genealogy of the Institution.* Trans. Z. Hanafi. Cambridge: Polity, 2025 [2023].

Illich, Ivan, *Tools for Conviviality*. London: Calder & Boyars, 1973.
— *Limits to Medicine. Medical Nemesis: The Expropriation of Health.* London: Marion Boyars, 1976.
— *The Right to Useful Unemployment and its Professional Enemies.* London: Marion Boyars, 1978.
— *Shadow Work*. London; New York: Marion Boyars, 1981/2009.
— *Gender*. London; New York: Marion Boyars, 1983.
— (with David Cayley), *Ivan Illich in Conversation.* Toronto: House of Anansi, 1992.
— 'The Obsession with Perfect Health'. Trans. Antonio Cerella. Journal for Cultural Research 21:3 (2017), 286–91 [1999].
— (with David Cayley), *The Rivers North of the Future: The Testament of Ivan Illich as told to David Cayley.* Toronto: House of Anansi, 2005.

Lewis, Michael, 'The Machine in Esposito and Agamben', *Journal of Italian Philosophy,* Volume 5 (2022).
— *Philosophy, Biopolitics, and the Virus: The Elision of an Alternative*. Lanham, MD: Lexington, 2023.

Löwith, Karl, *Meaning in History*. Chicago: University of Chicago Press, 1949.

Murphy, Sinéad, *Autistic Society Disorder*. N.p.: Lulu Press, 2024.

Schmitt, Carl, 'Three Possibilities for a Christian Conception of History'. Trans. anon. Telos 147 (Summer 2009): 167–70.
— *The* Nomos *of the Earth: In the International Law of the* Jus Publicum Europaeum. Trans. G. L. Ulmen. New York: Telos Press, 2006.