

Rule and law in the work of Giorgio Agamben

Abstract

This work addresses concepts of rule and law in the context of the works of Giorgio Agamben. Agamben uses several historical legal institutes to introduce these concepts. He bases his thinking on works of other philosophers as well. This work presents mentioned institutes and philosophers so they could be put in joint connections in order to expose nature of law and rule so as the whole juridical order. For better understanding of these natures this work utilizes examples from the current juridical order of Czech Republic so as from area of life itself.

At its beginning this work presents state of exception which was created in Carl Schmitts *Political theology* and on which Agamben elaborates his description of a law intertwined with life. State of exception is a situation that is originally something external to juridical order but the very moment it encounters a law it is instantly internalized by a law in order to become inseparable part of a law. This process reveals fundamental structures of juridical order and its approach to life. State of exception sheds light on the nature of a law that does not allow life lived outside it. The proof of this nature is *homo sacer*. A human that is exposed to the force of law the most by the abandonment of law, becomes a life that can be killed but not murdered.

Afterwards this work focuses on rule intertwined with life. The laws approach to life is either by regulating every aspect of human life (i.e. for every possible situation there is a prescribed legal rule) or by regulating nothing (but there still is one rule in a form “do as you wish”). Agamben explains this on monastic orders from Middle Ages, in which life of monk has become indistinguishable from rules he followed. Agamben finds solution for this inseparable entanglement of life and a rule in form-of-life.

At the end of this work are utilized presented remarks so that Giorgio Agambens view of the nature of law and rule could be presented. Based on this is shown the original relation between law and life, that is relation by abandonment. As is revealed the nature of legal commands, that requires a “have-to-be” (i.e. what is set by a rule) to come into existence thus transform into being.

Key words: Rule, law, form-of-life