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# Searching for a Life beyond Law: Agamben, Henry, and a Coming Christianity

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**Abstract:** This paper addresses the claim that the social orders of Western civilization operate on the basis of the law's presumed sovereignty over life. I demonstrate how the respective works of Italian philosopher Giorgio Agamben and French phenomenologist Michel Henry are joined in their concern over this issue, and in their shared belief that life can be made sovereign over the law through a communal life based upon habit. At the same time, I argue that their respective conceptions of this communal life are flawed, and that they would benefit from being brought into a productive dialogue with one another. More specifically, I show that Henry's account of a Christian communal life based upon the habitual practice of love moves at least some way toward addressing Agamben's account of a coming community that is decidedly abstract and lacking in a substantial ethic. However, I maintain that Henry's own account of this community is founded upon a problematic conception of potentiality that would benefit from Agamben's study of the matter. By bringing these two figures together and drawing out the lessons that can be learnt from each of them, this work provides a more concrete and substantial account of how a coming Christian community can play a role in making life sovereign over the force of the law.

**Keywords:** life; law; potentiality; habit; form of life; love; Christianity



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## 1. Introduction

An ever-growing litany of events in modern Western civilization, such as the detention camps at Guantánamo Bay, continue to fan the flames of Italian philosopher Giorgio Agamben's contention that its myriad social orders (i.e., moral, legal, and political systems) are founded upon a "space of exception" (Agamben 2005, p. 13). As Agamben has it, during such emergencies, which stand outside the parameters of the law, the latter puts itself out of play to address the situation (ibid., p. 80). In so doing, what is revealed is a presumption that Agamben views as prevailing over the history of Western civilization: that the law enjoys an unbounded power and sovereignty over life.

Despite their varying backgrounds, Agamben and French phenomenologist Michel Henry are united in their contention that the various social orders of modern Western civilization are indeed secretly founded upon the limitless power and violence of legal sanctions. Their respective bodies of work present us with two of the most sustained and powerful attempts to undermine the presumed sovereignty of law over life, and to liberate the latter from this most destructive model.

Yet if we take seriously the idea that, in order to impede the violence wrought by the force of law, we need to upend the sovereignty of the juridico-political order by making life sovereign over law, then there is the very real and pressing issue of how this might be achieved. In this paper, I argue that while Agamben and Henry are united in suggesting that this goal can only be accomplished through a communal life of habit (i.e., an ethos), their respective accounts of this communal life betray significant flaws and would benefit from a productive exchange with one another.

Toward this end, I begin by clarifying Agamben's account of the relation between infancy, potentiality, and habit (or form of life). I demonstrate how, on Agamben's account,

it is a communal life of habit that gives form and personality to one's life while simultaneously allowing life to retain its potentiality. In so doing, this communal life makes life sovereign over law. At the same time, I contend that Agamben's view of this communal life remains too abstract and lacks a substantial ethic. In my view, Henry's account of a Christian communal life of habit can help address these shortcomings in Agamben's work. However, by the same token, I maintain that Henry's understanding of the potentiality of communal life is deeply problematic and would benefit from taking a lesson from Agamben's study of the matter.

What results from this critical inquiry is a more substantial and concrete account of how a Christian community may help undermine the violence caused by legal sanctions and make life sovereign over law. In providing this account, my paper highlights how a philosophy of Christianity can be integral in addressing pressing issues in contemporary political life, and it helps lay the groundwork for future studies on this front.

## 2. Infancy, Potentiality, and Habit in Agamben

At the heart of Agamben's effort to make life sovereign over law is his attempt to undermine the ontological priority that much of traditional Western thought has assigned to actuality over potentiality. Indeed, Agamben claims that the political realm largely regards life as a mere biological fact (i.e., zoē). Within the political world, this natural life is prioritized over the way in which it is lived (i.e., *bios*), over its potentialities. In seeking to undermine this presumption, Agamben sees himself as erecting a "new and coherent ontology of potentiality" (Agamben 2008, p. 44). His study of the infancy of the human being is central to this goal. Agamben describes infancy as an essential structure in the human being's relation to language. Throughout the duration of its life, the human being remains infantile in that a part of it always resides in an indeterminate zone between humanity and animality, a zone in which articulate human speech (*logos*) and animal sound (*phōnḗ*) remain indistinguishable, as evidenced in the babble of babies and in the joyous howls and disappointed mumbling of adults (Agamben 1993a, p. 52). In their infancy, human beings possesses the faculty of language, they have the capacity for it, and yet they are without speech (Agamben 1999a, p. 179).

According to Agamben, the fact that human beings possess the capacity for language and yet lack speech reveals something fundamental about human life. It reveals life's potentiality. More specifically, it reveals something that, in Agamben's view, has generally been overlooked about potentiality. It reveals that for a human being to have a faculty is for it "*to have* a privation" (ibid.). As Agamben further explains,

> [*d*]*ynamis*, potentiality, maintains itself in relation to its own privation, its own *stérēsis*, its own non-Being. This relation constitutes the essence of potentiality. To be potential means: to be one's own lack, *to be in relation to one's own incapacity*. Beings that exist in the mode of potentiality *are capable of their own impotentiality*, and only in this way do they become potential. They *can be* because they are in relation to their own non-Being. In potentiality, sensation is in relation to anesthesia, knowledge to ignorance, vision to darkness. (ibid., p. 182)

It is precisely because, unlike other animals, human beings are not wholly absorbed in language, but, owing to their infancy, reside in it and yet lack speech, that they have the potential to speak and use language. Better, owing to their permanent infancy, Agamben asserts that human beings always have the ability (i.e., the potential) to speak and use language or not, hence his suggestion that potentiality involves an impotentiality (ibid., p. 180).

In Agamben's view, this account of infancy and potentiality sheds light on the human way of being in the world. It indicates that the human being must always transcend what she actually says and does. The subject's speech and action never exhaust her infancy. The human being does not simply say and do things but has the ability to say and do things or not. On this account, then, what defines a human being is not what one says or does, but the sheer ability to say or do this or that (Stahl 2020, p. 237).

With the emphasis he places upon the impotentiality of humanity, Agamben diverges from Aristotle's widely influential account of potentiality.[1] In contrast to the latter, Agamben points out that potentiality does not have to be actualized; it is not a lack that finds its fulfilment in actuality. Human potentialities can be actualized or not, and neither one nor the other has to take place. Rather, Agamben contends that potentiality is founded upon an absolute contingency. As he writes, the contingent is that "which can be or not be and which coincides with the domain of human freedom in its opposition to necessity" (Agamben 1999a, p. 261). While other living creatures are only capable of doing things that are written into their biological makeup, the human being, in its contingency, is an animal who is able to freely choose to do something or not, and this is what distinguishes the human way of being.

In contrast to Aristotle, then, Agamben finds that the human being does not possess a characteristic work to fulfil. There is "no essence, no spiritual vocation, no biological destiny that humans must enact or realize" (Agamben 1993b, p. 42). Instead, all that any human being must be "*is the simple fact of its own existence as possibility or potentiality*" (ibid.).

This conception of the human being serves to overturn the tendency in classical Western thought to privilege actuality over potentiality. Where the general tendency in Western philosophy is to assume that the privation that is potentiality necessarily finds its validation in actuality, and thus in the realization of some task or work, Agamben argues that the potential of human life does not exist for the sake of any such work. As far as human life is concerned, possibility is higher than actuality in that it is, in and of itself, "the being most proper to humankind" (ibid.).

Agamben seizes upon Herman Melville's Bartleby as the model of this human mode of being (Agamben 1999a, p. 253). While Bartleby works at a law firm as a typist, his employer recounts how, when prompted to carry out basic tasks associated with his position, he would occasionally remark that he "'would prefer not to'" (ibid., p. 254). By exclaiming this, Bartleby, who is able to write, reveals his freedom with respect to the law, and that "the categories of the man of the law have no power" over him (ibid.). Bartleby's exclamation bears out life's sovereignty over the law; it reveals that, at heart, human life, such as Bartleby himself, is never exhausted by what it actually is at any given moment, and that life always has the potential to diverge from what it has been so far.

This is not to say that a few errant declarations of one's preference to forgo engaging in basic daily tasks is enough to mount an effective opposition to the force of the law. To attain such effectiveness, a practice must become a habit, or what Agamben refers to as a form of life, understood as a regularly recurring action that can or cannot be carried out at any given moment. As such, habitual action provides the human being's life with form and personality, but without binding life to the brute force of some law or necessity, which would stipulate that one must do this or that. Instead, habit functions as a different kind of rule, one that is optional rather than necessary, and which always maintains a relation with one's potentiality (Stahl 2020, p. 234). Such forms of life are thus ways of being that serve to manifest life's potentiality and to give it form outside the parameters of the law.

By doing so, habitual life makes life sovereign over the law. It accomplishes this in two ways: (i) by demonstrating that, contrary to the prevailing wisdom, actuality serves potentiality and not the other way around; and (ii) by revealing that human life, in its potentiality, can give itself form outside the realm of the law.

## 3. A Critique of Agamben's Coming Community

In Agamben's view, to truly undermine social orders premised upon the force of law, we need to establish forms of communal life that are based upon habit. He believes that communities founded upon habit, which are inherently "elective and inclusive", rather than legal sanctions, which are inherently "compulsive and exclusionary", can subvert the destructiveness of the latter and make life sovereign over the law (Stahl 2020, p. 246).

Agamben finds a historical example of this in the Christian monastic traditions, specifically that of the Franciscans (Agamben 2013, p. 13). As he observes, the monastic tradition

rests upon a shared "*habitus*", understood as a shared "rule and [ . . . ] form of life" (ibid., p. 16). Rather than operate on the basis of a set of compulsory laws separate from life, the Franciscan social order was founded upon a form of life (i.e., a way of being) that was optional. As William Stahl explains, "[w]hat mattered to the monastic order was not to repeat the acts of Christ, nor to obey the word of Christ, but simply to live like Christ" (Stahl 2020, p. 242). This was exemplified in the Franciscans, who renounced inheritance and property in order to better emulate their Lord Jesus Christ (Agamben 2013, p. 99). For the Franciscans, as Agamben notes, it was "not a matter so much of applying a form (or norm) to life, but of *living* according to that form, that is of a life that, in its sequence, makes itself that very form, coincides with it" (ibid.). By devoting themselves to this shared way of life, the Franciscans created a social order that gave form and integrity to the individual lives of its members, and which effectively rendered the force of law inoperative by revealing it to be patently unnecessary for the community's basic subsistence (ibid., p. 136).

For all that, Agamben is not suggesting we return to such monastic traditions in a bid to make life sovereign over the law. Though the monastics radically transformed human practice and communal life by making it apparent that both can subsist outside the realm of the law, Agamben acknowledges that the monastic orders have since fallen under the thumb of the law of the Catholic Church. Agamben is only interested in monastic orders insofar as they help reveal life's *ability* to forge inclusive political communities that subsist outside the law. In the spirit of Friedirch Hölderlin's claim that "where danger threatens/That which saves from it also grows", Agamben believes that, however destructive they may be, recent political events in the Western world are also paving the way for the rise of a new form of human life, one based upon its sheer potentiality, which, in his eyes, stands outside any and all historical traditions (Hölderlin 1998, p. 243). As a result, the "coming community" for which he advocates is one that, similar to life itself, stands outside any particular tradition (Agamben 1993b, p. 85).

However, since this coming community stands outside any particular historical tradition, it also stands outside any particular ethic. What interests Agamben is reminding people of the sheer potentiality of ethics, and not of any particular ethical tradition, which would make stipulations on how one should behave. In other words, Agamben seeks to remind human beings of the revolutionary potential of human life. He seeks to remind people that, however deeply ensnared they may be in various traditions and cultures and their myriad boons and burdens, in the spirit of Bartleby, human beings always retain the ability to resist the violence of the law, to say "I would prefer not to", and to create new and different social orders and ways of life. That is to say, Agamben seeks to remind people that human life always retains its fundamental freedom, its ability to do or not do anything at all.

In this case, though, Agamben's coming community is decidedly abstract, negative, and lacking in a substantial ethic. In basing this community on life's potentiality, on its ability to resist any and all powers outside itself, Agamben points out that all human beings already belong together in a basic human community before they have actually engaged in any objective action at all. He reveals that human beings always already belong together simply by virtue of existing, that is, by virtue of existing as creatures who possess the potential to exist in particular communities. While Agamben thus provides insight into a primordial human community, into an arch-community that makes each particular community possible, he provides little else besides. He fails to provide any insight into how those in this community interact, or into specific shared habits through which an ethic might be forged and through such a community might subvert the law's sovereignty over life. A robust understanding of community requires exactly this—it requires an account of how those in a community engage with one another, and of the habits, customs, and norms that help sustain it. Therefore, although Agamben's insights into life's potentiality, and the primal sense of community to which it gives rise, lay some of the groundwork for how life may yet be made sovereign over the law, he does not provide the concrete sense of community or collective forms of action that are required to realize that goal.

As it is, Agamben's coming community is not only skeletal but potentially dangerous to human life and to its ability to pursue real sociopolitical transformation. As Jessica Whyte notes,

> [b]y turning away from active political interventions in the present, Agamben risks valorizing a subject that is no subject [ . . . ] Indeed, he is too willing to find grounds for hope in individual forms of desubjectivization, which signal not to a life of potentiality but to extraordinarily constrained possibility for living. (Whyte 2013, p. 45)

Given his view of this new and still rising human subject as the embodiment of a complete withdrawal from sovereign power, Agamben ends up idealizing figures of humanity, such as Bartleby and the *Muselmann* (Agamben 1999b, p. 52), who, granted, by renouncing and shutting themselves off from outside laws and identities, undermine and escape the force of law.[2] Yet, in so doing, what emerges is a mere husk of a human being. In this state, the human being becomes so cut off from the outside world that their ability to live in the world, much less transform it, is decidedly diminished.

In light of these considerations, what is needed is a more robust account of this new human subject, of this new human life that may yet escape the grasp of sovereign power, and of the concrete historical actions, customs, and norms that can expand our possibilities for communal life.

## 4. Henry's Genealogy of the Law

On each of these fronts, much can be learned from Henry's phenomenology of life. Henry's phenomenology shares with Agamben the goal of renewing the search for a life beyond the law. He pursues this goal by undertaking a phenomenological study of the genesis of the law from life. In so doing, as we will see, he not only shows how the law rises to a position of dominance over life, but he enriches our understanding of the subject and of those concrete habits and norms through which life might be made sovereign over the law.

As with Agamben, Henry sees the law's sovereignty over life as dating back to the very beginning of Western philosophy and politics. In his view, the law's reign begins with what he regards as the most basic assumption in all knowledge and theoretical inquiry: the phenomenologically unwarranted assumption that there is only one mode of appearance, namely, that of the world, which is structured by the transcendence of intentional consciousness (Henry 1973, p. 74). Because of this ontological monism, Western civilization has generally regarded appearing as object-manifestation, as the appearing of an object to the perceptual gaze of consciousness. In this case, something wins its phenomenality and can be said to possess phenomenological reality if and only if it is at least in principle possible for it to be glimpsed within the subject's field of representation.

By engaging in a critical examination of how objects are given, Henry's project picks up from the transcendental phenomenology of Edmund Husserl.[3] As Husserl notes in a set of lectures from 1907 entitled *The Idea of Phenomenology*, phenomenology is essentially concerned with how objects appear, which is to say, with their mode of givenness, appearing itself (Husserl 1999, p. 24). However, Henry contends that while Husserl's reflective phenomenology, which is beholden to the metaphysical prejudice that intentionality is the only mode of appearing, is able to account for how the appearing of objects is given, it is fundamentally incapable of accounting for how this appearing (i.e., intentionality) is itself given (Henry 2008, pp. 5–6, 26–27). Consequently, Husserl's phenomenology is unable to make good on its claim of being able to clarify the ultimate foundation of all appearing and knowledge. According to Henry, to overcome this dilemma and finally realize Husserl's ambition of a transcendental phenomenology that would adequately clarify the ultimate condition of appearing, it is necessary to suspend our assumption that there is only an intentional mode of appearing. For, in so doing, as Henry tells us, we free ourselves up to grasp that, in fact, the ecstatic appearing of intentionality is founded upon an altogether different mode of appearing, namely, the radically immanent appearing of life (ibid., p. 17).

Thus, while Henry's phenomenology of life upsets the primacy of intentionality in Husserl's phenomenology, he sees his project as the realization of Husserl's attempt to establish a truly transcendental phenomenology.

Yet, it bears noting that the life of which Henry speaks is not our biological life; it is not a life that consists of the blind activity of neurons and molecules. Instead, with the term "life", Henry has in mind the subject's phenomenological (i.e., transcendental) life, meaning the way in which the subject first experiences herself in a radically immanent way from her own first-person point of view. As Henry will insist throughout the entirety of his oeuvre, the subject first experiences herself as the immanent and nonintentional self-affection of life (Henry 2008, p. 3), "without the intermediary of any sense whatsoever" (Henry 1973, p. 462). Life, on this account, is the subject's essential way of being, which is unique and independent of any intentional relatedness to the world. Toward the later stage of his work, while Henry continues to contend that all of life is radically immanent, he begins to describe life as possessing two senses, both a strong (eternal and absolute) and a weak (finite and relative) sense. According to Henry, in passively suffering her own life in its immediate and inescapable self-embrace, each subject also feels herself as immanently engendered in the eternal self-generation of absolute life (i.e., God) (Henry 2003, p. 57). At the heart of her flesh, each living subject thus feels herself to be relative to the absolute life that continuously engenders and sustains her; she feels herself "being lived", being sustained and moved, by another life, by the life of Christ, God Himself in the flesh (ibid., p. 108).

By engaging in this phenomenological study of life, Henry takes at least some steps toward preparing the way for life's liberation and renewal from the force of law. For his study sheds light on the often overlooked capacities of life. It reveals life to be a mode of appearing, knowledge, and value in its own right. Indeed, on Henry's account, life is the very foundation of appearing, knowledge, and value. It is only life, Henry claims, that, by taking hold of itself in this immediate way, well and truly explains how consciousness first comes into itself and is able to transcend itself and to relate to things outside itself (Henry 2008, p. 117). Therefore, prior to and outside of any intentional or reflective self-awareness, the subject experiences and knows herself in the prereflective and nonobjectifying self-sensing of life.

Similarly, Henry finds in life the source of all value. By coming into and affecting itself, life functions as a superabundant power that continuously produces itself and all of the powers and needs that it suffers and enjoys. Thus, life continuously engenders itself as an unrelenting movement or drive that is bent on the growth of its own self-experience, of its own ability to sense and act (Henry 2012a, p. 5). In this primordial self-experience, the self is said to know itself to be good, and this renders life the supreme value and mode of evaluation on which all others are based (Henry 1993, p. 248). Consequently, it may be said that, on Henry's account, the nonobjectifying drive of life determines all values—i.e., according to whether it feels the entity in question to be agreeable or disagreeable to its need for self-growth—and that the values we formulate through objectifying acts of consciousness are but the abstract translation "of the living actualizations from which they proceed" (ibid.).

Henry thus enriches our understanding of the human subject by spotlighting how it appears, knows, and evaluates things through life's nonobjectifying self-sensing, and through the objectifying acts of consciousness that turn it open to the world. This account similarly indicates that whereas life is the foundation and phenomenological material or reality of all these matters, the world is but their unreal translation. Since life, as the stuff of reality, can never step outside itself and into the visible display of the world, and thus remains forever refractory to all intuition or understanding, it relegates the world to the status of mere unreality (Henry 2003, p. 29).

In drawing these findings, Henry subverts the ontological priority that has traditionally been assigned to the transcendence of the world over the immanence of life. The visible

display of the world is founded upon the invisible self-embrace of life, such that the latter's nonobjectifying drive unilaterally founds and directs all of our conscious acts.

At the same time, in providing this account of the twofold nature of the subject, Henry also provides an account of exactly how the world comes to play some role in life's wellbeing. Despite being an unreality, Henry maintains that the unreal world of representation somehow threatens to sap life's will to live. For the forgetting of life is said to result in the devaluation, or even denial, of its immediate knowledge, value, and evaluative power. Under the lure of the world's tantalizing display, subjects are increasingly guided, not by life, which is now not only out of sight but out of mind, but by another form of knowledge and evaluation, by scientism, which stipulates that reality is reducible to "geometrical or mathematical being", such that something is if and only if it can conform to the ideal and objective determinations employed in these fields and in the sciences more generally (Henry 2012a, p. 63). As a result, living subjects, who no longer regard life as divine, gradually turn away from ways of life that are befitting of them and which satisfy them as sons of God. Increasingly, living subjects come to regard life as zoē, as biological life, and, accordingly, they gradually turn toward more barren lives, toward lives that are largely concerned with the basic administration of biological life.

Here we witness the genesis of life's subordination to the law. In fact, though Henry does not explicitly make this point himself, his account of Western philosophy's ontological monism can be understood as a transcendental account of how life has come to be subordinated to the law in the Western world. Henry makes it clear that the force of the law is that of the world. The law, indeed the entire political realm, is structured by the world's "horizon of visibility" and therefore privileges its objectivity and those forms of action, knowledge, and evaluation that conform to it (Henry 2014, p. 100).

Though the real content of the juridico-political realm is subjective activities, such that life is its true foundation and substance, the juridico-political realm engages in an "ontological subversion" by denying this and by reducing all of human existence to its objective forms (ibid., p. 83). Under the rule of the juridical-political system, as Henry explains,

> action in its very being [ . . . ] is changed; it is no longer subjective but objective. Instead of being produced in the life of individuals and instead of putting into play the powers that they experience internally, this action—or what continues to be wrongly identified by this term—subsequently occurs before the regard of thought. It occurs as a set of objective processes that are analogous to natural processes. These natural processes—physical, electro-magnetic, chemical, biological, or others like them—will come to define the being of action, instead of and in place of the living, suffering, and acting subjectivity of human beings. (ibid.)

That is to say, under the rule of the juridical-political system, in whatever form it takes, human action becomes an objective, natural process that is subject to the individual's free will (or thought), which, in turn, is itself directed towards the goal of attesting to and preserving the primacy of the legal sanctions on which society is now believed to rest.

On this account, then, the juridico-political system is the arbiter of all action, justice, and goodness. The law enjoys a sovereign power over life and is free to exercise its force over living individuals as it sees fit. It does so, as we have now seen, by negating the singular lived reality of the subject—i.e., by denying life any validity—and by considering her only in terms of her position within this system. For Henry, this is tantamount to the murder of the singular living individual (ibid., p. 109). While "[s]uch murders are usually only carried out symbolically, in the form of a political theory or philosophy", they can also take the form of the physical "murder of the individual in the name of the political essence" (ibid., p. 103). Indeed, to be sure, history contains no shortage of examples of individual human beings being sacrificed in the name of idealized abstractions such as the law, goodness, the nation, history, progress, security, and so forth. Consequently, as Henry remarks, "when politics appears on the centre of the stage and claims to direct the plot, dangerous times are announced" (ibid.).

## 5. The Potentiality of Life

In keeping with Hölderlin's contention that "where danger threatens/That which saves from it also grows" (Hölderlin 1998, p. 243), Henry finds that life, as the perennial fount of the world, is never entirely eliminated but continues to grow and to offer opportunities for its renewal and liberation from the force of law. In his view, life can never be reduced to biological life. As with Agamben, Henry maintains that this liberation of life requires a radically new ontology of potentiality. Yet, Henry's account of life and its potentiality differs markedly from that of Agamben, and Henry himself provides a more concrete and substantial, if still flawed, account of communal life and of those particular habits which can play a role in subverting the law's sovereign power.

As we have seen, in contrast to Agamben, who is concerned with the possibilities and potentialities of the human being's natural life, Henry is concerned with the subject's transcendental life. That is to say, he is concerned with life as an arch-presence or actuality, as an immanent and affective mode of givenness that he regards as causally and ontologically irreducible to the natural life of the worldly subject. Henry maintains that it is only this immanent self-givenness of life, in which the subject passively receives, suffers, and enjoys herself, without defense or the possibility of escape, that makes possible the many possibilities and potentialities of the human being's natural life.

As the effective basis of all our potentialities, Henry maintains that potentiality must be rethought on the basis of this transcendental life. As he writes, in light of his analysis,

> power's phenomenological status, Potentiality, can no longer be understood as, or based on, the Ek-stasis of a world. Our body is the whole of our power over the world; through all its senses it weaves the strands binding us to that world; it has eyes, ears, feet, and hands. But the original hyperpower through which we grasp each of those powers in order to harness them, through which we can as Descartes observed, dispose of and use them whenever we want—that hyperpower contains none of those powers, nor does it accomplish itself through their intervention. It has no need of them, but they need it. There is an original body, an Archi-Body, in which that hyperpower resides and deploys its essence as identical to it. The body has eyes, ears, and hands, but the Archi-Body does not. Yet only through it are eyes and hand, the original possibility of seeing or taking, given to us as the very thing we are, as our body. Therefore, we are actually always slightly more than what we are, more than our body. Material phenomenology is the radical theory of that "more," which Nietzsche imagined as will to power, Life's hyperpower. Will to power is the Archi-Body in which our body first comes into itself as everything living and as life itself. (Henry 1993, p. 325)

As we can see here, if we examine potentiality from its proper basis in the transcendental life of the subject, then we find that it really consists of the original power by which life engenders itself outside of all natural processes. At its heart, potentiality (i.e., arch-potentiality) is really a matter of life's productive power or movement. For it is, after all, life that, by coming into and affecting itself, gives us a primordial sense of power and possibility by engendering and enjoining us to ourselves in the first place as this subjective body that in some immediate way we know ourselves to be. It is life that, by coming into itself, gives the subjective body it's habitual life, understood as "the phenomenon in which the being of the body encloses in its ontological present all possible knowledges of the world" (Henry 1975, p. 102). By doing so, as Henry describes, life makes possible all of our empirical body's myriad powers and possibilities for action in the world.

Furthermore, if potentiality consists in the real productive power of this absolute life, then it follows that we should no longer understand potentiality as an ideality. As Henry writes,

> [i]f power is described as the possibility of those acts, then that possibility must be understood in turn not as an ideal, which can never produce reality, but as the original ontological possibility that constitutes reality—in this case, the original

> ontological possibility of prehension that constitutes the reality of the hand and finally of the body itself as my being's fundamental "I can." This ontological possibility is called Potentiality. (Henry 1993, p. 324)

Far from being an ideality, life's arch-potentiality is an actual productive force that makes up the phenomenological reality of human life as we know it.

Indeed, as a matter of life's immanent self-embrace, which does not admit any gap or distance, Henry, in contrast to Agamben, finds that the potentiality of life is not based upon an absolute contingency, on our ability to freely engage in an action or not. In his eyes, the potentiality of life does not have anything to do with a human freedom that is opposed to all natural necessity, but with life's productive power and drive.

In this case, potentiality remains, as it does in Agamben, something that does not find its fulfilment or validation in worldly action. Yet, contrary to Agamben, this is not the case because the potentiality of life is based upon a privation, which gives it the ability to engage or not engage in any given action, but because, in its radical immanence, it is said to be wholly independent of and refractory to the transcendence of the world and the objective forms of action that belong to it. As in Agamben, then, the human subject is indeed aways more than what it says and does within the world. However, in Henry, this surplus of the subject does not consist of its ability to say "no" and to refrain from action. On the contrary, it consists of the fact that the subject is driven by the needs of absolute life, which stands outside all natural processes.

It follows that, in Henry's account, it is this new sense of potentiality that allows human life to resist any and all powers and laws outside itself. In other words, it is this newfound sense of potentiality that makes it possible for human beings to undermine the sovereign power of the law and to restore life to its sovereignty over the latter. Therefore, any true attempt to make life sovereign over the law requires what Henry calls a second birth (Henry 2003, p. 165). It requires the subject to reawaken to her basis in life and to well and truly act on the basis of life and nothing else besides.

## 6. Renewing Christian Communal Life

Especially during his middle and late period, Henry moves on to provide some indication of the communal forms of habitual action that help sustain life in its sovereignty over the law. In fact, though Henry maintains that it is always life, in its absolute priority over intentionality, that is the necessary cause of any and all transformations in life, he simultaneously contends that one's second birth generally occurs through one's participation in what he regards as high culture (i.e., participation in art, ethics, and religion). Insofar as this is the case, it follows that such actions can contribute to restoring life to its independence over the law, even if they can never themselves guarantee it.[4]

Among those actions that he sees as supporting life's rebirth, Henry gives a certain privilege to the Christian ethos of love, which is carried out through habitual acts of mercy or charity. In his first magnum opus, *The Essence of Manifestation*, Henry takes issue with Kant's critique of "'love' ethics" and with his "substitution of respect in place of love as the principle of all morality" (Henry 1973, p. 531). It is no accident that Henry's ire is directed toward Kant, for, as Agamben himself well knew, "the sanctification of the law" concludes "in the modern age when Kant" makes "the legal imperative the summit of human spiritual life" (Agamben 2018, p. 19). As Henry explains,

> upon closer examination, it is apparent that the discussion led by Kant is not truly between respect and love. In place of love, even though he claims to include it in the pure system of morality, is henceforth substituted something else, namely, respect. It is as respect for a law which requires love that love, granted that it is no longer pathological, is interpreted by Kant. Doubtless, such an interpretation is explained by his desire for passing over in silence what is peculiarly affective in love so as to retain only its relation to a command of reason. A like desire, as the problematic has shown, dominates the analysis of respect itself and of morality in general. The substitution of respect for love actually follows, even

> though in a way unperceived by Kant himself and his commentators, certain ultimate presuppositions. Respect means a determination of action starting with representation, its condition is the ontological structure of pure affection, in such a way that what constitutes the ultimate possibility of this structure is here not taken into consideration; the affectivity of respect is left out and only the relation to the law in it, viz. transcendence, is retained. With love, on the other hand, the principle of action is no longer found in the representation of a law or in anything in any way similar; nothing transcendent contains this principle, foreign to all affection and when the ontological horizon of monism thinks about affection it allows this principle to escape. Love means a determination of action starting with the internal structure of the essence understood in its radical immanence and in what it is originally for itself, as auto-affection, as affectivity. (Henry 1973, p. 532)

In the eyes of Henry, Kant's morality, which substitutes respect for the law for love, is an offspring of ontological monism and its mistaken assumption that transcendence determines all appearing and action. Within the ethical and political spheres, Kant's views are the culmination of the "devaluation of life" and its spontaneous and affective intelligence (ibid., p. 531).

What stands in line with life as Henry understands it, and what is integral to its sovereignty over the law, is the spiritual love espoused in the Christian ethics of charity. As he writes,

> Christianity rests precisely on the inverse substitution, on that of love in place of the law, and this because its highest type of thought is non-thought, i.e., unity with absolute life or rather unity of absolute life which Christ called God and which is actually God himself. Further, this is why Christianity is not a morality which always rests on a consciousness, or at least on a thought, of the law, but it is a new determination of affective existence and consequently of action itself as a modality of this existence. (ibid., p. 532)

As seen here, Henry reads Christianity as an ethos that speaks to the truth of life; it is a morality which teaches that life is not determined by an outside law, concept, or form, but by the immanent and affective movement of life, which, in its self-giving, is nothing other than love itself (Henry 2003, p. 223). Thus, while Jesus does issue commandments, Henry, strangely enough, given his opposition to Hegel's work, would nevertheless be inclined to agree with the young Hegel when he points out that "[t]he commandments of Jesus are commandments only as to their outer form, not as to their inner essential meaning. The form of an imperative is inadequate to the innermost life of the soul, since an imperative is necessarily conceptual, while life is an integral whole" (Hegel 1961, p. 11). The commandments of Jesus are simply a secondary, derivative expression of the inner truth of life, which, as living and affective whole, is beyond the law. In this case, what saves a human being from the abstraction of the world and its potentially detrimental force is not reason or theoretical knowledge, but feeling and a particular way of acting; it is a feeling of love, which takes place as the practice of Christian charity.

This spiritual love (i.e., *agape* love) is thus not merely a feeling, but an action and a way of living. By habitually engaging in this loving practice, e.g., by giving food and shelter to the poor, by showing kindness and compassion toward strangers, or forgiving the wrongdoings of others, etc., living subjects can be freed from their mistaken understanding of self and world as independent entities whose meaning depends upon intentional consciousness, and can be reborn to absolute life as the eternal fount of all meaning, value, and action. As Henry proceeds to further explain,

> [o]nly the work of mercy practices the forgetting of self in which, all interest for the Self (right down to the idea of what we call a self or a me) now removed, no obstacle is now posed to the furling of life in this Self extended to its original essence. Forgetful of Itself in merciful actions, in this new action there is only its

> givenness to itself in the Arch-Givenness of absolute Life and in its Arch-Ipseity. (Henry 2003, p. 170)

The habitual practice of mercy and compassion returns living subjects to their basis in life by disabusing them of their phenomenologically unwarranted belief in their own egoity and self-sufficiency; it moves them to understand that their own abilities, even their own life, are relative to and dependent upon the absolute life of God, such that, in the practice of mercy, "it is no longer me who acts, it is the Arch-Son [i.e., Christ] who acts in me" (ibid., p. 169).

In fact, Henry proceeds to contend that in practicing this Christian ethic, one does not practice merely as an individual. To be sure, in carrying out this ethic, one does so as an individual; this much is true, yet, simultaneously, one also does so as a social creature who belongs together with all of life. For, according to Henry, as we know, all subjects draw their life from the same well, from the one and only Christ, the first living, God Himself. As Henry states this, real community consists of "a subterranean affective layer. Each one drinks the same water from this source and this wellspring [i.e., eternal life], which it itself is. But, each one does so without knowledge and without distinguishing between the self, the other, and the basis" (Henry 2008, p. 133). In this case,

> [i]nasmuch as the essence of community is affectivity, the community is not limited to humans alone. It includes everything that is defined in itself by the primal suffering of life and thus by the possibility of suffering. We can suffer with everything that suffers. This pathos-with is the broadest form of every conceivable community. (ibid., pp. 133–34)

By habitually practicing such works of mercy, then, one constructively participates in and helps sustain an inclusive community of life. The practice of mercy is able to accomplish this because, by engaging in such acts, one no longer relates to others as separate entities who merely exist in the world and who possess a different worldly history than oneself. Rather, as per the dictum "love thy neighbor as thyself", one loves others as one loves oneself, as a living creature who issues from the endless self-generation of absolute life (Matthew 22:39).

As for why this habitual practice of mercy is able to so effectively sustain this community, it is important to note that it is able to do so precisely because it carries out life's own immanent self-accomplishment, its own self-giving. For Henry, life (or God), in its immanent and self-generating movement, "is love" (Henry 2003, p. 223). By habitually engaging in the loving practice of charity and compassion, then, the will of God, the energy of life, is done, released, and allowed to grow. As Henry notes in *Incarnation*, "that which was still not completed in Christ is given to this body to accomplish and complete" (Henry 2015, p. 251). The practice of charity helps life grow in that it helps its primal sense move further towards completion.

Particularly in his late work *Words of Christ*, Henry details how the form of life that is carried out through works of mercy subverts the laws of the world. Especially in modern Western civilization, Henry maintains that, with the forgetting of life, human beings subordinate life to the laws of the economy, to exchange-value and reciprocity (Henry 2012b, p. 19). In this case, one's interactions with others are determined by what one can reasonably expect to obtain in return. One returns love for love, indifference for indifference; one supports and defends those who are similar to oneself, be it in terms of nationality, class, race, culture, etc., yet does nothing of the kind for, and perhaps even staunchly fights against, those who are unlike oneself. As this suggests, on the worldly plane, reciprocity is generally a matter of "competition" and an "antagonism of interests" (ibid., p. 37). The habitual practice of the Christian ethos of love and compassion radically upsets this rational law (ibid., p. 23). Since the subject no longer views others in terms of the world, in terms of their ideal objective determinations (e.g., class, nationality, culture, etc.), but instead loves them as oneself, as sons of God, she shows mercy, compassion, and generosity to all, to stranger, friend, and foe alike, without expecting anything in return.

In the eyes of a world ruled by reciprocity, by the logic of tit-for-tat, such actions can surely only appear senseless and mad. Yet, as Henry explains,

> that one should love the other who is your enemy, even if he is depraved, degenerate, hypocritical, or criminal, is in effect only possible if this other person is not what he appears, not even this I Can, the transcendental ego who has committed all these misdeeds. It is only if, as Son, the other carries within him Life and its essential Ipseity that he may, in his depravity, be the object of love, or rather not him—in the sense of a person, the one whom other people call a person—but the power that gave him to himself and constantly gives him to himself even in his depravity. The command is to love the other insofar as he is in Christ and in God, and on this condition alone. (Henry 2003, p. 257)

Henry's account of the generative movement of life thus helps reveal the secret inner sense behind the gratuitous self-giving of such acts of charity. It reveals that, though such acts subvert the world's order of reciprocity, they help cement a new order of reciprocity between absolute life and the living, one that is no longer competitive and exclusionary, but loving and inclusive (Henry 2012b, p. 38).

Here we have a more concrete and substantial account of how living creatures belong together, and of a communal life premised upon particular habits that can lend form to the lives of its participants, and which can go some way toward making life sovereign over the law.[5] At heart, as we have now seen, living creatures belong together by virtue of the affective movement of life. First and foremost, such creatures interact with one another on an affective level. Given his findings concerning life as a process of self-giving (i.e., love), Henry is also able to take a step further and show how the feeling and practice of love and compassion are essential to the establishment of a communal life that might dare to stand outside the reach of the law. For inasmuch as these sentiments are essential to the individual and social lives of living creatures, it follows that the habitual engagement in these practices will be no less essential to such communities. By engaging in the habitual practice of love and compassion, then, one's life not only takes on form and character, but it constructively participates in and helps forge communities that are premised upon habit, and not upon a sovereign power separate from said life. By participating in this communal life of habit, living creatures reveal the superfluity of the law, and life's secret sovereignty over it.

## 7. Toward a Coming Christianity

For all that, Henry's account of this communal life harbors its own serious issues. These issues center around his conception of life's potentiality. As we know, Henry contends that life's potentiality consists of its radically immanent movement and power, which enables each subject to take hold of itself and to move and act in various ways. Owing to this immanence, Henry is obliged to conclude that what is real and essential to our individual and communal lives is nothing other than life's immanent movement, its nonobjectifying drive for its own growth. It follows that what is real and essential to collective action, or to any action for that matter, is life itself and not intentionality, much less the history of the world to which it is said to open us. What is essential to love and compassion is their inner movement and pathos, and not the intentional components involved in the action, or even the sociohistorical context in which the action takes place. Yet, as can hardly be denied, the intentional elements involved in, for example, the act of compassionately giving food to a stranger are necessary to the action itself. Without these intentional elements, it would be necessary to say that there is no real compassionate action, or indeed any action whatsoever.[6] However, if intentional components are essential to action, then, contrary to Henry's conclusion that intentional acts are merely unreal and inessential translations of life, it must be acknowledged that intentionality belongs to life's reality as one of its essential components (Seyler 2012, pp. 105–6). If this is the case, then, contra Henry, life is not independent and self-sufficient; rather, it would be necessary to admit that life does in some ways need intentionality. Indeed, if the world of representation did not exert some

power over life, then how could it have any role in depleting life of its energy? These are all signs of an inadequate account of the relation between life and intentionality.

Furthermore, as a part of his denial of intentionality as a real and essential component of life, Henry similarly denies the sociohistorical features of action and of living subjects themselves. In his view, as we have seen, the living subject is not really French, Israeli, or American, but a son of God. When one practices love and compassion toward another, then, it is not really the particular, historical individual one loves, but God Himself. Yet, even if we grant that there is some trace of the divine in the other that moves me, when I lovingly respond to her, is there not a very real sense in which it is also the other in her finite and historical existence that I love? As Anthony Steinbeck also asks, is not the other who I find here, in her historical specificity, essential to any emotion that is elicited in me and to any action that follows in suit? (Steinbock 1999, p. 297); and when we consider the action itself, is it not the case that the historical sense and significance of the act is essential to it and helps make it what it is? In all of these cases, do the divine and the human, the transcendental and the empirical, need to be radically divorced as they are in Henry?[7]

Though Henry provides a markedly more concrete and substantial account of a communal life of habit than does Agamben, insofar as he denies the intentional and historical elements in action any real or essential role in life, his account is still guilty of an unnecessary and, as we can now see, problematic abstraction. Henry's account of communal life remains unduly abstract because, phenomenologically speaking, it unjustly regards intentionality as an unreal and inessential translation of life, and therefore wrongly reduces all of reality to an acosmic affectivity.

To begin to remedy these issues, we need to acknowledge that, though Henry is not wrong to emphasize as he does the importance of nonobjectifying drives in human experience, the phenomenological life of the human subject is not radically immanent and acosmic, but contains an essential element of transcendence and is thoroughly natural. Consequently, while Henry is not wrong to assert that there are drives and sentiments that may remain forever self-enclosed, it is nevertheless the case that life opens onto the world as well. The question that remains for any coming community that would aspire to help make life sovereign over the law is thus not a question of how an acosmic affectivity might be reborn and reign sovereign over intentional consciousness and the natural world, but, rather, of how the nonobjectifying drives and inclinations of a natural subject might harmonize with consciousness and the world as a whole. It is a question, we might say, of how the drives highlighted in Henry can harmonize with the potentiality unraveled in Agamben.

Once again, the Christian ethos has a productive role to play in this coming community, for the act of love, as a specific mode and habit of life, is integral to the achievement of this harmony between inclination and reason. As the young Hegel writes,

> [a] command can express no more than an ought or a shall, because it is a universal, but it does not express an 'is'; and this at once makes plain its deficiency. Against such commands Jesus set virtue, i.e., a loving disposition, which makes the content of the command superfluous and destroys its form as a command, because that form implies an opposition between a commander and something resisting the command. (Hegel 1961, p. 215, note 40)

A loving habit overturns the need for a sovereign who would apply and bracket a rational law that stands apart from and in opposition to life by establishing a harmony between inclination and reason (which, as in Kant, gives the law to itself). For example, as Hegel states,

> [t]he command "Thou shalt not kill" [Matthew v. 21–22] is a maxim which is recognized as valid for the will of every rational being and which can be valid as a principle of a universal legislation. Against such a command Jesus sets the higher genius of reconcilability (a modification of love) which not only does not act counter to this law but makes it wholly superfluous; it has in itself a so much richer, more living, fulness that so poor a thing as a law is nothing for it at

> all. In reconcilability the law loses its form, the concept is displaced by life; but what reconcilability thereby loses in respect of the universality which grips all particulars together in the concept is only a seeming loss and a genuine infinite gain on account of the wealth of living relations with the individuals (perhaps few) with whom it comes into connection. It excludes not a reality but only thoughts and possibilities, while the form of the command and this wealth of possibility in the universality of the concept is itself a rending of life; and the content of the command is so indigent that it permits any transgression except the one it forbids. For reconcilability, on the other hand, even anger is a crime and amounts to the quick reaction of feeling to an oppression, the uprush of the desire to oppress in turn, which is a kind of blind justice and so presupposes equality, though the equality of enemies [ . . . ] Love, on the other hand [Matthew v. 23–24], comes before the altar conscious of a separation, but it leaves its gift there, is reconciled with its brother, and then only approaches the one God in purity and singleness of heart. It does not leave the judge to apportion its rights; it reconciles itself to its enemy with no regard to right whatever. (Hegel 1961, p. 216)

As seen here, the habit of love, and all of its modes, such as that of reconciliatory attitude, can establish realms of togetherness that adhere to the dictates of reason without requiring its laws.

In this case, our inclinations and reason are at least relatively united and work more or less together to continuously cultivate a loving habit or disposition. Consciousness and the nonobjectifying drives of life stand in a mutually dynamic interrelationship and continuously influence one another over the entire duration of a regular human life. While, as in Henry, the non-objectifying drives of life can thus motivate the subject and serve as its first point of contact with the world with which it is in constant dialogue, as in Agamben, the subject, in its potentiality, retains its ability to carry out, or not carry out, any given action. As John Searle argues,

> [i]n typical cases of deliberating and acting, there is, in short, a gap, or a series of gaps, between the causes of each stage in the processes of deliberating, deciding and acting, and the subsequent stages. If we probe more deeply we can see that the gap can be divided into different sorts of segments. There is a gap between the reasons for the decision and the making of the decision. There is a gap between the decision and the onset of the action, and for any extended action, such as when I am trying to learn German or to swim the English Channel, there is a gap between the onset of the action and its continuation to completion. (Searle 2007, p. 42)

It is owing to these gaps that healthy, adult human beings always retain the ability to engage in a particular action or not.[8]

However, while this allows us to better understand how the inclinations and reason can harmonize, in our view, contrary to what Hegel says on the matter, they can never do so entirely. In the eyes of the young Hegel, love "heals the discord [ . . . ] of will and heart" (Hegel 1961, p. 12). Yet human history reveals a capacity for destruction that rules out such a perfect harmony. In one way or another, as Austrian psychoanalyst Otto Rank observes, "it seems, that life, in order to maintain itself, must revolt every so often against man's ceaseless attempts to master its irrational forces with his mind" (Rank 1958, p. 18). Though the nonobjectifying drives of life can harmonize with reason enough so as to render the law superfluous, this is not to say that it can perfectly harmonize with reason, or even that it should try to do so.

As a result, the history of life is not one of progress towards some ideal harmony. In general, life is not directed toward some ultimate end that stands over and above life itself. Rather than seek to subsume itself under some pre-established template, life can only play itself out in the immanent transcendence by which it opens to the world and the cosmos. However, by engaging in the habitual practice of love and compassion, living creatures can affectively (and, in some cases, intellectually) connect with one another in ways that provide the lives of such creatures with form and character outside the law. In so doing,

life is made sovereign over the law. Here we have a communal life of habit that is more concrete and substantial than those offered by Agamben and Henry, and which also at least begins to address the structural issues that beset the latter.

At the same time, none of this is to say that communities premised upon the habitual practice of love and compassion will, in and of themselves, altogether undermine social orders founded on the law. Other forms of collective action may be required to accomplish this feat. However, such practices can allow human beings to at least acquire and sustain a certain relative distance from the law. The distance offered by these practices can awaken one to life's potentiality, to its possibilities for communal life, to its ability to sustain and enrich itself in communities that are altogether sovereign over the law. If it is the case that our time is one of transition, in which the paradigms of old have begun to tremble and shake, but in which new paradigms have yet to fully emerge, then, assuming we wish to hold open and perhaps even help prepare the way for paradigms and communities that would more effectively subvert the sovereign power of the law, how can we do so? By allowing us to gain some measure of distance from the law and by alerting us to life's possibilities for communal life outside of it, the Christian practice of love and compassion can help ready living creatures for such coming communities. These practices can help ready and prepare the way for a coming Christianity, and for still other coming communities that may yet join it in the ongoing collective human struggle to renew life and its sovereignty over the law.[9]

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## Notes

1 A critical analysis of Agamben's interpretation of Aristotle's philosophy can be found in Finlayson (2010).

2 In short, the Muselmann were those in the camps who had become the living dead, those who, owing to the extremity of their suffering, had shut off from the world and who continued on in a spiritless state. Agamben sees the Muselmann as an indication that the capacity to live and to suffer goes on even after the destruction of one's humanity. See Agamben (1999b), p. 133.

3 The phenomenological projects of Husserl and Henry are transcendental in a roughly Kantian sense. That is to say, they are each concerned with elucidating the universal and necessary conditions that make possible all appearing and knowledge. Throughout this paper, the term "transcendental" is employed in this way. At the same time, we acknowledge that the conceptions of the transcendental in Husserl, Henry, and Kant also differ in various ways. For Kant's account of transcendental philosophy, see Kant (1998), p. 133.

4 Frédéric Seyler himself emphasizes that worldly discourses can potentially help support life in its rebirth. See Seyler (2016), p. 227.

5 This does not mean that Henry's account of how living creatures are interrelated is not without its issues. For a critical analysis of this matter, see Rivera (2019).

6 See Seyler (2012) and Steinbock (1999) for more extensive analysis of Henry's understanding of action.

7 For more on this point, see Bernet (1999).

8 We cannot comment further upon this matter in this paper. For an extensive discussion of the issue of free will, see Searle (2007) and Mele (2006).

9 While this article highlights how Christianity may support an effort to make life sovereign over the law, this is not to say that it is the only religion, philosophy, or worldview that is capable of doing so, or even that it is the best way of undertaking this task.

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