Foucault Studies

ARTICLE

Foucault on Ethics and Subjectivity: 'Care of the Self' and 'Aesthetics of Existence'

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ABSTRACT: This paper considers the structure of the ethical subject found in Foucault's late works on ethics, and gives an account of his two major ethical concepts: "care of the self" and "aesthetics of existence." The "care of the self," it is argued, gives Foucault a way of conceptualising ethics which does not rely on juridical categories, and which does not conceive the ethical subject on the model of substance. The "care of the self" entails an understanding of the ethical subject as a process which is always in a relation, specifically in a relation to itself. Using his essay "What is an Author," it is argued that the subject of the "aesthetics of existence," like the author of a text, is understood to be fully immanent to the "object" which it is usually considered to be opposed to and separated from. Rather than aiming at a true expression of an "authentic" inner substance, Foucault's "aesthetics of existence" leads instead to practices of "creativity," whose form cannot be given in advance.

Keywords: Ethics; subjectivity; Care of the Self; Aesthetics of Existence; form-of-life

The final phase of Foucault's work, his so-called "ethical turn," has proved to be something of an enigma for commentators and critics. Whilst this aspect of his work has been generally well-understood and appreciated inasmuch as it analyses individual ancient texts, there is far less agreement by scholars on broader questions pertaining to the nature of the positive position being defended by Foucault.[1] Given that Foucault is widely considered to have undermined many of the foundations of modern ethical thought, with him frequently being described as a kind of "moral anarchist" or even a "nihilist,"[2]

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[1] To give just a few examples: Levy argues that the position Foucault develops should be understood as a form of virtue ethics (Neil Levy, "Foucault as Virtue Ethicist", *Foucault Studies*, vol. 1 (2004), 20-31); Jay argues that Foucault is advocating a kind of elitist "dandyism" (Martin Jay, "The Morals of Genealogy: or, is there a Poststructuralist Ethics?", *The Cambridge Review* (1989), 73); Gros argues that ideas like "technologies of the self" and "relation to self" are not Foucault's own concepts, but are simply a "grid for reading historical phenomena" (cited in Sebastian Harrer, "The Theme of Subjectivity in the Hermeneutics of the Subject", *Foucault Studies*, vol. 2 (2005), 229); Franěk argues that this "turn to ethics" is Foucault's response to the charge of nihilism, an attempt to vindicate the idea that he had always been a "parrhesiast" (Jakub Franěk, "Philosophical Parrhesia as Aesthetics of Existence", *Continental Philosophy Review*, vol. 39 (2006), 127).

[2] Themes that dominate his early Anglo-American reception, for example, in Charles Taylor, "Foucault on Freedom and Truth", in *Philosophy and the Human Sciences: Philosophical Papers 2* (Cambridge: Cambridge University Press, 1985), 152-184; Alisdair Macintyre, *Three Rival Versions of Moral Enquiry:*

it is not at all obvious how we are supposed to understand the ethical practices Foucault seems to be recommending, or the ethical principles of the "care of the self" and the "aesthetics of existence" that he appears to advocate. Whilst Foucault uses these concepts very often in these texts, he rarely discusses these higher-order questions: for the most part, Foucault avoids foundational or meta-ethical issues, devoting the vast majority of his attention to the details of the actual ethical practices discussed in the texts he is reading. Whilst defenders of Foucault have been very good at showing how many of the standard criticisms of his position fall down because they illegitimately ascribe to him a view that he does not hold (most obviously, those that charge him with "relativism"), they have generally been less successful, in my view, at giving an account of the positive position that he *does* develop. When defences of Foucault are made, they often take the form of an apology for his work which acknowledges that his concepts are underdeveloped,[3] or even argue that, despite all appearances to the contrary, Foucault *is*, in fact, proposing a normative ethical framework, one which needs to be elaborated by the critic.[4] A more effective way to counter the criticisms constantly levelled at Foucault's work, I would argue, is to give a more precise account of the philosophical basis of the claims that he is making. Scholars have made some progress in clarifying these issues,[5] but, in my opinion, there is still much work to be done.

Encyclopaedia, Genealogy, and Tradition (Notre Dame: Notre Dame University Press, 1990); Richard Wolin, "Foucault's Aesthetic Decisionism", *Telos,* vol. 67 (1986), 71-86.

[3] See, for example, Franěk, who argues that his theme of the aesthetics of existence is "not fully develop[ed]", but that "given the overall character of his work, we cannot expect Foucault to provide theoretical foundations for the ethical dimension of his critical work" (Franěk, "Philosophical Parrhesia as Aesthetics of Existence", 130). Or Gutting, who argues that the argument Foucault is making "hardly requires philosophical assumptions about subjectivity", because Foucault's use of terms like "freedom" and "reflection" need not commit him to a "transcendentalist philosophy", but "may be readily understood as referring to everyday features of human life (the metaphysical equivalent of Freud's famous statement that sometimes a cigar is just a cigar)" (Gary Gutting, "Ethics", in Leonard Lawlor and John Nayle (eds.), *The Foucault Lexicon* (Cambridge: Cambridge University Press, 2014), 141). Paul Veyne gives a much more nuanced version of this position, arguing that Foucault's strategy is that of a "warrior"; his suspicion of "truth" made it impossible for Foucault to defend a morality in the traditional, foundational sense, and so his strategy, according to Veyne, was to simply assert his own "preference", and give the reader reasons to be suspicious of the preferences of his opponents: "Foucault did not attack the *choices* of others, but the rationalisations they added to their choices […] Foucault did not worry about justifying his convictions; it was enough for him to hold to them" (Paul Veyne, "The Final Foucault and his Ethics", translated by Catherine Porter and Arnold Davidson, *Critical Inquiry,* vol. 20, no. 1 (1993), 6).

[4] An argument made in e.g. Martha Cooper and Carol Blair, "Foucault's Ethics", *Qualitative Inquiry,* vol. 8 (2002), 511-531. This trend, of imputing to Foucault positions that he never himself endorsed or invoked, can lead critics to very counter-intuitive theses: see, for example, Beaulieu's argument that in this period, Foucault had realised that liberalism "is perhaps not so bad after all", and that this period of his work can be characterised as a search for a "liberal utopia" (Alain Beaulieu, "Towards a Liberal Utopia: The Connection Between Foucault's Reporting on the Iranian Revolution and the Ethical Turn", *Philosophy and Social Criticism,* vol. 36, no. 7 (2010), 807 and 811). Equally counter-intuitive is Fillion's claim that Foucault, in these texts, is proposing an essentially Hegelian project (Réal Fillion, "Freedom, Truth and Possibility in Foucault's Ethics", *Foucault Studies,* vol. 3 (2005), 50-64).

[5] The most useful works on this aspect of Foucault's trajectory, all of which greatly helped me arrive at the position I defend here are: James Bernauer and Michael Mahon, "Michel Foucault's Ethical Im-

This paper aims to contribute to this ongoing work by considering the structure of the "ethical subject" argued for in these late texts. I will argue that the subject, for Foucault, is not understood on the model of substance, but rather as a process, a process whereby the subject reflexively relates to itself. Rather than understanding the subject according to the traditional philosophical dualism which would oppose an abstract transcendental "subject" to its concrete empirical life, in Foucault's conception these two terms are fully immanent to one another. The "care of the self," I will argue, is to be understood in this manner, whereby the two terms, "care" and "self" are not opposed, but must be thought together. As we will also see through an investigation into Foucault's text on the notion of authorship, we see the same model in his concept of an "aesthetics of existence," a model in which the artist and the artwork are not conceived as two separate substances, but are held together on the same plane.

Giorgio Agamben has argued extensively for a reading of Foucault that goes in this direction, and so we will rely extensively on his work in what follows.[6] He has some useful comments which help get a sense of what is at stake in some of Foucault's concepts, and is especially helpful in bringing out the philosophical foundations of these opaque texts. But, perhaps even more importantly, Agamben also has a very good sense of the complexity of some of the philosophical strategies Foucault pursues. As is well-known, Foucault opposes the modern, "juridical" conception of ethics. But what we find in Agamben is a real sense of how difficult it is to think outside of this conception; Foucault's genealogical sensibility gives him a sense of how deeply-rooted this schema is within contemporary thought, and thus of how difficult it is for us to imagine an ethical discourse which would take a different form. But, even more importantly, it allows him to see that it is not enough simply to *criticise* this conception for it to disappear. If, as Foucault suggests, the problem with modern ethics lies with the very concepts that it uses, then these problems will continue to re-emerge for as long as our frameworks still make use of them. It will not help to switch from a "deontological" to a "consequentialist" viewpoint if the problem is with the very concepts presupposed by both frameworks. The task, then, is not to make targeted criticisms of specific forms of modern ethics, but rather to create a *new* set of ethical concepts, ones which do not lead to the "court of insoluble aporias" that Agamben sees as the inevitable result of any modern ethical discourse.[7] Foucault and Agamben's ethical concepts, as we will see in the final section

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agination", in Gary Gutting (ed.), *The Cambridge Companion to Foucault* (Cambridge: Cambridge University Press, 1994), 141-158; Arnold Davidson, "Ethics as Ascetics: Foucault, the History of Ethics, and Ancient Thought", in *The Cambridge Companion to Foucault*, 123-148; Lynne Huffer, "Self" in *The Foucault Lexicon*, 443-448. O'Leary's book-length study was also helpful, even though I would dispute aspects of his reading (Timothy O'Leary, *Foucault and the Art of Ethics* (London: Continuum, 2002)). Also useful was Vintges excellent article, which gives a nuanced account of Foucault's position, and makes a compelling case for its convergence with aspects of Beauvoir's project (Karen Vintges, "Must we Burn Foucault?" Ethics as Art of Living: Simone de Beauvoir and Michel Foucault", *Continental Philosophy Review*, vol. 34 (2001), 165-181).

[6] Snoek gives a good (albeit brief) preliminary account of Agamben's usage and reading of Foucault, including aspects of the intersection we will deal with here (Anke Snoek, "Agamben's Foucault: An Overview", *Foucault Studies,* vol. 10 (2010), 44-67; the relevant section is on 55).

[7] Giorgio Agamben, *The Kingdom and the Glory*, translated by Lorenzo Chiesa (California: Stanford University Press, 2011), 54. In this way, Agamben places Foucault within a philosophical lineage (of

of the essay, are specifically designed to *oppose* and combat the modern, juridical concepts. The aim of such concepts as "aesthetics of existence" (Foucault) or "form-of-life" (Agamben) is not so much to criticise the predominant discourses as to render them "inoperative" (a term Agamben frequently uses). These concepts, as we will see, aim to delimit a certain zone in which the traditional oppositions which govern modern ethical thought can no longer be applied.

The first section of the essay will examine the reflexive, relational structure of the subject presented in these writings. We will do this, following Agamben, by first looking at Pierre Hadot's criticism of Foucault, and then criticising this criticism through a reading of Foucault's essay "What is an Author." In the second section, we will consider Foucault's primary target, the juridical conception of ethics. A consideration of the position Foucault pits himself against will allow us to deepen our understanding of the structure of the subject outlined in the first part, and will help us understand why ethics for Foucault can take the form of an *aesthetics* of existence. In the final section, we will consider Agamben's concept of "form-of-life," which will be understood as an extension and generalisation of the position developed by Foucault. Foucault's reflections, I will suggest, give us a more helpful figure of a form-of-life than those provided by Agamben himself.

The Author and the Work

Pierre Hadot criticises Foucault's late, "ethical" works in the following way:

> in this care of the self, in this working of the self on itself, in these practices of the self, I too recognise an essential aspect of the philosophical way of life. Philosophy is an art of living, a lifestyle which engages the entire existence. But I would not speak, like Foucault, of an 'aesthetics of existence.' According to Michel Foucault, the meaning of this expression is that our whole life is a work of art that we must achieve. But the term 'aesthetics,' for us moderns, has a meaning which is completely different from the sense that the word 'beauty' had for the ancients.[8]

Hadot was very sympathetic to aspects of Foucault's project. Like Foucault, his own reading of the ancients was not conceived just as a contribution to historical scholarship, but was "a tacit attempt to offer contemporary mankind a model of life."[9] He was con-

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which he clearly also considers himself to be a part), passing through Nietzsche and Heidegger, which deeply criticises modern "humanism", but which also recognises just how difficult it is to overcome (as argued, for example, in Heidegger's *Letter on Humanism*). In their more "pessimistic" moments, each of these thinkers will see ethics in the modern, foundational sense (represented, for example, by Kant) as something irredeemable, something to be abandoned, rather than something to be "worked through" or "corrected". It is also surely no coincidence that all of these thinkers turn to the ancient Greeks when it comes to an elucidation of their own positive projects, as different as they are from one another. The point is not to agree with the Greek conception, but rather to see that it is at least *possible* to construct an ethics that is not based on later concepts like "will" or "responsibility" that, according to these authors, are a large part of the problem.

[8] Pierre Hadot, cited in Giorgio Agamben, *The Process of the Subject* and *The Problem of Subjectivity*, seminar on Michel Foucault, delivered in Saas-Fe for the European Graduate School in Summer 2009.

[9] Pierre Hadot, *Philosophy as a Way of Life* translated by Michael Chase (Oxford: Blackwell, 1995), 208.

cerned, however, at what he saw as Foucault's "aestheticisation" of life, which relied on what seemed to be anachronistic readings of certain Greek ideas. Foucault's ethics, he feared, were simply "a new form of dandyism,"[10] based on a notion of life as a work of art, understood in the modern, aesthetic sense of the term.[11]

As he readily admits, Foucault was no classicist,[12] so it is initially tempting to concede the point to Hadot's specialist authority. However, it would be far too simple to say that Foucault simply "confuses" the ancient and modern perspectives, as if he was unaware of the differences. In fact, Foucault is very careful to emphasise how difficult it is for us to remove ourselves from our modern perspective, and to understand the Greek concepts in their own terms. In fact, he even specifically warns us against the reading pursued by Hadot:

> all these injunctions to exalt oneself, to devote oneself to oneself, to turn in on oneself, to offer service to oneself, sound to our ears rather like – what? Like a sort of challenge and defiance, a desire for radical ethical change, a sort of moral dandyism […] The immediate, initial connotations and overtones of all these expressions direct us away from thinking about these precepts in positive terms.[13]

He continues:

> a further paradox is that this injunction to 'take care of oneself' is the basis for the constitution of what have been without doubt the most austere, strict, and restrictive moralities known in the West.[14]

It would be strange indeed to consider the remarkably severe ethical regimes that Foucault studied as analogous to the form of hedonism we find in the modern figures of the "aesthete" or the "dandy." Rather than "confusing" ancient and modern concepts, Foucault is fully aware of how difficult it is for us to understand the Greek idea of the "care of the self" without reducing it to one of these more familiar modern figures. As he suggests, it is those who immediately conflate these ethical concepts with a kind of radical aestheticism who prove themselves unable or unwilling to escape the influence of our modern way of thinking.

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[10] Pierre Hadot, cited in Davidson, "Ethics as Ascetics", 132.

[11] This argument has been repeated by many other critics. See e.g. Andrew Thacker, "Foucault's Aesthetics of Existence", *Radical Philosophy*, vol. 63 (1993), 14, where he bluntly states that Foucault "confuses a Greek and a post-Kantian sense of the term "aesthetic" The wider (and in my view also mistaken) argument that Foucault is ultimately promoting a Baudelairean dandyism can be found in much of the critical literature, including Brendan Boyle, "Foucault Among the Classicists, Again", *Foucault Studies*, vol. 13 (2012), 148; Michael Ure, "Senecan Moods: Foucault and Nietzsche on the Art of the Self", *Foucault Studies*, vol. 4 (2007), 22; O'Leary, *Foucault and the Art of Ethics*, 2. Vintges is one of the few commentators who argues specifically that Foucault *rejects* this Baudelairean dandyism (see "Must We Burn Foucault?", 175; but cf. also Davidson, "Ethics as Ascetics", 134).

[12] In Michel Foucault, *The Use of Pleasure: The History of Sexuality, Volume 2*, translated by Robert Hurley (Michigan: Pantheon Books, 1985), 7n.

[13] Michel Foucault, *The Hermeneutics of the Subject: Lectures at the Collège de France 1981-1982*, edited by Frédéric Gros, translated by Graham Burchell (New York: Picador, 2005), 12-13.

[14] Ibid.

But there is another, perhaps more fundamental way in which Hadot misrepresents Foucault, and this concerns the concept of subjectivity. As Hadot notes, treating our life as a work of art amounts to suggesting that there is an object, our life, and that we should have the same relationship to it that an author or an artist has to their work. But, if this is the case, then a reading of Foucault ought also to take into account the changed status of the relationship between the artist and the work that Foucault proposes in his famous essay "What is an Author."[15] As we will see in a moment, taking into consideration the figure of the author as it is developed in this essay seriously complicates the charge that, in his ethical writings, Foucault is promoting a kind of modernist aestheticism.

Foucault's strategy in this text is complex. Unlike certain others who proclaimed the "death of the author" in the same period, Foucault does not aim to erase the term completely. No longer understanding the author in the traditional sense as something transcendent to the work, in possession of the final, absolute meaning of the text, he will speak instead of an "author-function." Rather than trying to analyse the concept of "author" as if it were a universal, ahistorical category, he studies the practices and discourses in which the term arises, and analyses the way in which the term functions in these discourses. Thus, rather than treating authors as flesh-and-blood individuals who also happen to write texts, and rather than treating the concept of "author" simply as an example of a metaphysical concept to be deconstructed, he analyses the way the term "author" actually functions in different discursive situations. "Author" means something quite different in mathematical, poetic, or religious texts, and this is something we should pay attention to when analysing them.

Where others had tried to provide a set of rigorous, conceptual arguments against the traditional conception of the author, Foucault followed a more empirical strategy. Rather than providing a wholly abstract conceptual critique of the traditional conception, Foucault points out that it simply no longer captures what goes on in some forms of contemporary writing. There is a real sense in which the works of someone like Samuel Beckett, quoted by Foucault in his opening paragraphs, resist these traditional forms of analysis. Consider, for example, the following passage, taken from Beckett's late masterpiece *Worstward Ho!*:

> Worse less. By no stretch more. Worse for want of better less. Less best. No. Naught best. Best worse. No. Not best worse. Naught not best worse. Less best worse. No. Least. Least best worse. Least never to be naught. Never to naught be brought. Never by naught be nulled. Unnullable least. Say that best worse. With leastening words say least best worse. For want of worser worst. Unlessenable least best worse.[16]

How is the critic to respond to this kind of writing? There is no Joycean wealth of literary illusions to be elucidated, no complex formal structure to be brought out, no secret

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[15] The importance of this essay for Foucault's ethics is suggested in Agamben, *The Process of the Subject,* and in Ulrich Raulff, "An Interview with Giorgio Agamben", *German Law Journal*, vol. 5, no. 5 (2004), 613.

[16] Samuel Beckett, "Worstward Ho!", in *The Selected Works of Samuel Beckett, vol. 4* (New York: Grove Press, 2010), 479.

"intention" buried underneath the words. The "meaning" of the passage, its drive to-wards the leastmost, minimal point (the "unnullable least") is, in a sense, right at the surface of the text, and does not need to be explicated by the critic. We are dealing here with what Foucault calls "an interplay of signs arranged less according to its signified content than according to the very nature of the signifier,"[17] where the interest of the text is found more in the means of expression itself (the proliferation of neologisms, para-doxical formulations and so on) than in any conscious "aim" or "intention" guiding its production. Because the text concerns itself more with the signifying process itself than with any determinate signified content, any reference to the "intentions" of a transcend-ent author-subject is not so much "wrong" as irrelevant, of no real value to our under-standing or appreciation of the text.

So, when Foucault says we should treat our life as a work of art, we should not understand him to be saying that "we" are something separate from and transcendent to this object "life" which we ought to use as the material for an aesthetic work of art. This would re-introduce exactly the kind of dualism Foucault tries to get away from in this essay. The distinction is not one of two different levels, a transcendent author-principle opposed to the substantial work of art which it produces, but one whereby the two things, the author and the work, remain strictly immanent to one another. Returning to the concept of "care of the self," this means that we must understand the two principles – "care" and "self" – not as two independent substances interacting with one another, but rather as inherently interrelated concepts, which always operate on the same plane. As Foucault puts it very clearly in the course of one of his discussions of an ancient text: "you have to take care of yourself: it is you who takes care; and then you take care of something which is the same thing as yourself, [the same thing] as the subject who 'takes care.'"[18] "Care of the self" is therefore to be understood in both possible senses, according to both the subjective and the objective genitive – the self is both that which does the caring, and the object of that same care.

Agamben makes a useful analogy between this difficult conception of subjectivi-ty and the linguistic form of the reflexive. Unable to take the position of the subject in a sentence (even though it designates the subject), the reflexive can only exist in the form of a relation. Referring to an archaic form of the reflexive discussed in the *Compendium grammatices linguae hebraei,* Agamben says that Spinoza "explains the meaning of the reflexive active verb as an expression of an immanent cause, that is, of an action in which agent and patient are one and the same person."[19] His example, *"pasearse,"* means literally "to walk-oneself," or "to constitute oneself as walking," a construction which functions without the subject-object relation (as he asks rhetorically: "who walks what?"). This concept of an "immanent cause" gives us another figure to understand

[17] Michel Foucault, "What is an Author", in José Harari (trans.), *The Foucault Reader* (London: Penguin, 1991), 102.

[18] Foucault, *The Hermeneutics of the Subject*, 53.

[19] Giorgio Agamben, *Potentialities: Collected Essays in Philosophy* translated by Daniel Heller-Roazen (New York: Zone Books, 1999), 234.

Foucault's notion of the "care of the self," in which agent and patient, subject and object, coincide absolutely.[20]

A Non-Juridical Ethics

Before elaborating further the form Foucault's ethics will take, we will briefly discuss what it pits itself *against*, so that we are able to fully appreciate how far Foucault takes us from ethics in its canonical forms. Since Nietzsche, many thinkers have tried to re-conceptualise ethics in such a way that it would not have to rely on transcendent, ahistorical categories now deemed suspicious. What marks Foucault's conception out from the rest is the extent to which he thinks modern conceptualisations of ethics are still determined by these categories, first among them the notion of *law*. Criticism of this tendency is also one of the major themes of Agamben's work, and so his position on this point is especially clear:

> one of the most common mistakes […] is the tacit confusion of ethical categories and juridical categories. […] Almost all the categories that we use in moral and religious judgements are in some way contaminated by law: guilt, responsibility, innocence, judgement, pardon.[21]

Foucault is less polemical than Agamben about this point, but he does also make a point of criticising this trend, arguing that the connection between ethics and law is not a necessary eternal truth, but is rather a localisable (and relatively recent) historical formation:

> we should not be led astray by later historical processes of the progressive juridification of Western culture, which […] has led us to take law and the form of law as the general principle of every rule in the realm of human practice.[22]

Foucault explicitly presents his own ethical concepts as a contrast to this juridical model: "can we say that the care of the self is now a sort of universal ethical law? You know me well enough to assume that I will immediately answer: no."[23] Treating Foucault's ethics as if it were saying to us "you must take care of yourself" or "you must make your life into a beautiful work of art" therefore misses this important point, that Foucault is trying to think an ethics which does not take the form of an imperative.

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[20] As O'Leary helpfully points out, the English phrase "care of the self" is actually somewhat misleading, seeming to indicate that there is there is a certain substance, "the self", upon which one performs the operation of "care". By contrast, the French *souci de soi*, as well as the Greek *epimeleia heautou* and the Latin *cura sui* do not have this substantializing implication, since they are precisely reflexive constructions. See O'Leary, *Foucault and the Art of Ethics*, 119-120.

[21] Giorgio Agamben, *Remnants of Auschwitz: The Witness and the Archive,* translated by Daniel Heller-Roazen (New York: Zone Books, 2002), 18. See also: "there is no surer index of the irreparable ruination of any ethical experience than the confusion between ethical […] categories and juridical concepts" (Giorgio Agamben, *Means Without End: Notes on Politics* translated by Vincenzo Binetti (Minnesota: Minnesota University Press, 2000), 130).

[22] Foucault, *The Hermeneutics of the Subject*, 112.

[23] Ibid.

Of course, Kant serves in some sense as the paradigm for the "legal" conception of ethics, and he gives it its fullest and most consistent articulation, but the decisive point here is that juridical concepts permeate almost all modern forms of ethics, even if they do not recognise it as such.[24] We are used to opposing ethics such as Kant's, which are explicitly based on the form of law, with doctrines such as utilitarianism, which conceives of "the good" in a different way. As different as this position is from Kant's, it nonetheless still has its foundation in juridical concepts. In utilitarianism, "the good" itself is not equated with law, as it is in Kant, but *the relationship which the ethical subject has to this good* is nevertheless still essentially one of law. The subject is faced with "the good," which commands or compels it to act a certain way: even if all juridical notions are removed from the conception of the good itself (such as, for example, the utilitarian notion of happiness, which is not a juridical concept), they inevitably reappear when we ask about the mechanism by which this good affects subjects. A utilitarian is just as likely as a Kantian to describe any given action as "permissible" or "impermissible," according to whether it conforms to a certain law (the law of utility), which dictates to us what we ought and ought not do. If we were to ask a utilitarian *why* an individual subject ought to follow the ethics they propose, they would not be able to avoid recourse to the paradigm of law in their response. Thus, even in other forms of modern ethics, the good is still conceived on the model of the law, as an imperative that it is our task or our duty to follow.

We can thus see how misplaced is any criticism which reproaches Foucault for not providing an ethics in the normative, prescriptive sense:[25] it is precisely this sense of ethics that Foucault is trying to overcome. The idea that this leads Foucault to a kind of relativism simply begs the question against him: the very *idea* of relativism still relies on the idea that morality is essentially about law. Supposing relativism to be the position that "there is no Law" still presupposes that ethical notions, if they were to exist, would have to take the *form* of law, subject to categories such as "validity," "permissibility" and so on. Foucault is not saying that morality is "groundless," only that the ground it does have is not absolute; as Paul Veyne puts it, his is a "morality with no claim to universality."[26]

Foucault's notion of life as a work of art was his idea of something which might help us begin to escape this tendency:

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[24] Although I do not agree with his criticism of Foucault, for reasons already discussed, Michael Ure makes a good case that middle Nietzsche is an exception to modern philosophy's general neglect of this way of thinking about ethics (Ure, "Senecan Moods", 24-25). We might also wonder whether virtue ethics also constitutes an exception to this general tendency; in his reading of Foucault as a virtue ethicist, Levy makes the point that Anglo-American virtue ethicists have also specifically criticised the tendency to base ethics on juridical categories (Levy, "Foucault as Virtue Ethicist", 21).

[25] As argued most famously in Jürgen Habermas, "Taking Aim at the Heart of the Present: On Foucault's Lecture on Kant's *What is Enlightenment*" in Shierry Weber Nicholson (trans.), *Critique and Power: Recasting the Foucault/Habermas Debate* (Massachusetts: MIT Press, 1994), 149-154.

[26] Veyne, "The Final Foucault and his Ethics", 2.

> The idea of the *bios* as a material for an aesthetic piece of art is something that fascinates me. The idea also that ethics can be a very strong structure of existence, without any relation with the juridical per se.[27]

Whereas, as we have seen, it is almost impossible to imagine an ethics which completely avoids the concept of law, our conception of aesthetics tends to be much more open. Very few people would subscribe to the idea that there are "absolute" aesthetic criteria independent of social norms, and yet denying this does not typically lead to a total subjectivist relativism about works of art. This, I would suggest, is also due to the continuing importance of Kant's philosophy for modern thought. Whereas for him an ethical judgement deals with a universal law, an aesthetic judgement, whilst still carrying universal necessity (a judgement of taste demands universal assent), takes its universality from *the structure of the aesthetic judgement itself,* rather than from its object. Whilst in ethics, any given object is "in itself" determined as good or bad, according to whether or not it can be willed as a universal law, in aesthetics it is the *judgement*, not the object, which has the "absolute" status. Kant thus allows us to avoid relativism, maintaining the idea that there is some necessity to aesthetic judgements, while still holding that there are no external "absolute" criteria which determine what makes an aesthetic object beautiful.

We have seen, then, what Foucault pits himself against. But what form does his own position take? If he does not conceive it in legalistic terms on the model of the imperative, then what does Foucault actually *mean* when he speaks of "ethics?" His conception, I would suggest, is surprisingly modest, and is nicely summed up by Davidson: ethics is that part of the self "that concerns the self's relationship to itself."[28] Ethics refers simply to *the reflexivity of the self*, that part of the self which "folds" back on itself. Deleuze emphasises this aspect in his reading of Foucault:

> [force] is inseparable in itself from the power to affect other forces (spontaneity) and to be affected by others (receptivity). But what comes about as a result is *a relation which force has with itself, a power to affect itself, an affect of the self on the self.*[29]

There is no fixed "content" or "essence" to the subject: as Deleuze writes, there is no "subject" in Foucault in the sense of a substantial "person or identity," but only "'subjectification' as a process and 'Self' as a relation (a relation to oneself)."[30] The subject *just is* this form of a circular relation to itself, the absolute immanence that we saw in the linguistic structure of the reflexive. Foucault makes this point very clearly in a remark taken from one of his dossiers: "the self with which one has the relationship *is nothing other*

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[27] Michel Foucault, "On the Genealogy of Ethics: an Overview of Work in Progress", in Paul Rabinow (ed.), and Robert Hurley, John Johnston, P. Aranov, D. McGrawth (trans.), *Ethics: Essential Works of Foucault 1954-1984* (London: Penguin, 2000), 260.

[28] Davidson, "Ethics as Ascetics", 126.

[29] Gilles Deleuze, *Foucault,* translated by Séan Hand (Minnesota: University of Minnesota Press, 1988), 101.

[30] Gilles Deleuze, *Negotiations,* translated by Martin Joughin (New York: Columbia University Press, 1995), 92.

than the relationship itself […] it is in short the immanence, or better, the ontological adequacy of the self to the relationship."[31]

This, then, is why there is no contradiction between Foucault's ethics and his work on power. Real ethical practices are of course saturated with power relations; Foucault freely admits that the practices of the self are not "something invented by the individual himself," but are "models that he finds in his culture and are proposed, suggested, imposed upon him by his culture, his society, and his social group."[32] But it is not true, either, that the subject is *totally* determined by external influences; not in the sense that there is always a point of absolute freedom hidden deep within us that cannot be completely subjected to power, but rather that the self, in addition to being influenced by outside forces, also affects itself. The manner in which this auto-affection is carried out might itself be completely determined by external powers, but this is not a problem for Foucault's theory, because his conception of freedom does not make appeal to anything supposed to be "outside" of those power relations. Of those forces which act on the self, some of them come from the self itself, and it is these forces which constitute its freedom. If we were to give a diagrammatic representation of all the forces which act on the self, "freedom" would designate that subset of those forces which emanate from the self itself, "folding" back on itself, constituting and re-forming the very thing which is doing the constituting.[33]

At a crucial moment in *On the Genealogy of Ethics,* just after Foucault has been describing the general form of his ethics, Dreyfus and Rabinow perceptively note that, with all his talk of "freedom," he is starting to sound surprisingly close to Sartre, and ask him how their ideas differ:

> I think that from the theoretical point of view, Sartre avoids the idea of the self as something that is given to us, but through the moral notion of authenticity, he turns back to the idea that we have to be ourselves – to be truly our true self. I think that the only acceptable consequence of what Sartre has said is to link his theoretical insight into the practice of creativity – and not that of authenticity.[34]

As far apart as Foucault and Sartre undoubtedly are in many respects, there are also important similarities. Foucault concedes that, like him, Sartre does indeed think of ethics

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[31] Foucault cited in Frédéric Gros's essay "Course Context" in *The Hermeneutics of the Subject*, 533 (my italics). Taken from Foucault's dossier "Culture of the Self".

[32] See Michel Foucault, "The Ethics of the Concern of the Self as a Practice of Freedom" in *Ethics: Essential Works of Foucault 1954-1984*, 291.

[33] Bernauer and Mahon make a good case that the "passion for freedom" found in this phase of Foucault's work "is not novel", even if it does "speak with a new accent" (Bernauer and Mahon, "Michel Foucault's Ethical Imagination", 151). With the caveat that there are questions of compatibility between his earlier and later works, they argue that "freedom" has been a consistent theme for Foucault, and point to his very early introduction to Biswanger's book, in which Foucault speaks of "radical liberty" as the human essence. We could also mention Foucault's use of the idea of "absolute freedom" in *History of Madness*, a theme dealt with extensively in Leonard Lawlor's essay "Violence and Animality: An Investigation of Absolute Freedom in Foucault's *History of Madness*" (unpublished manuscript).

[34] Foucault, "On the Genealogy of Ethics", 262.

as something emanating from the self itself, as a creation of the self rather than as a substance which is already "given" in advance. As different as their respective conceptions of freedom are, they both conceive it in positive rather than negative terms as a function of the subject rather than as a lack of external impediments. However, from Foucault's perspective, Sartre's notion of authenticity looks like just another fixed category which only *betrays* his radical theory of freedom, re-substantialising his concept of the self.[35]

This critique of the concept of authenticity has important consequences for the way in which Sartre and Foucault see the relationship between the artist and their work:

> in his analyses of Baudelaire, Flaubert, and so on, it is interesting to see that Sartre refers the work of creation to a certain relation to oneself – the author to himself – which has the form of authenticity or inauthenticity. I would like to say exactly the contrary; we should not have to refer the creative activity of somebody to the kind of relation he has to himself, but should relate the kind of relation one has to oneself to a creative activity.[36]

Rather than speaking of authenticity and hence implicitly referring to an alleged "deep" substantial truth of the subject, Foucault will suggest that "the practice of creativity" is the only "acceptable consequence" of Sartre's theses.[37] Importantly, this practice works in both directions. The artist not only creates the work of art: much more important, perhaps, is the way in which also *the work of art creates the artist*.[38] It is not the case, as in the traditional model, that the artist stands in an exterior relationship to the work, acting as the active element giving "form" to an essentially passive "matter" that will eventually become the finished work. If we are to think of the artist and the work as immanent to one another, as we suggested above, then we must also think the way in which the work can reciprocally affect the identity of the artist.[39] Rather than starting with the idea of an "authentic" identity which is then more or less effectively expressed in a work, we should consider the way in which the process of working on the work can, in turn, have a significant effect on the one doing the work.[40]

The important conclusions to draw from this inverted relationship whereby the work works on the artist just as much as the artist works on the work emerge when we

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[35] In "On the Genealogy of Ethics", Foucault mentions what he calls the "Californian cult of the self", and makes it very clear that this is *not* what he is advocating, precisely because it seems to be based on a search for a "true self", which relies on a completely different model from his "care of the self" (Foucault, "On the Genealogy of Ethics", 271).

[36] Ibid., 262.

[37] Ibid.; Bernauer and Mahon also suggest that "in place of Sartre's moral notion of authenticity, Foucault proposes the practice of creativity" ("Michel Foucault's Ethical Imagination", 161).

[38] See Agamben, "Interview with Ulrich Raulff", 615.

[39] Cf. e.g. Foucault's comment that "an author *transforms himself* in the process of writing" cited in Vintges, "Must we Burn Foucault?", 167; also his question of why should a painter paint "if he is not transformed by his painting", cited in O'Leary, *Foucault and the Art of Ethics*, 3.

[40] In a very interesting essay, Vintges argues that a very similar critique of Sartre had in fact already been made by Beauvoir, and makes a convincing case for a convergence between the Foucaultian position we have been examining and the *"art de vivre"* already proposed by Beauvoir. While showing some appreciation for Foucault's position, she also makes a compelling case that it nonetheless remains too centred on the self, and suggests that in fact, Beauvoir has a richer account of the self's relation to others.

formulate this in terms of Foucault's "aesthetics of existence." In aesthetics, as we have seen, treating the self as an activity rather than as a substance allows us to think this relationship in an immanent way. But aesthetics is, after all, only one kind of praxis, one extremely limited field within the whole range of possible human activity. In Foucault's "aesthetics of existence," however, the object on which the artist works is life itself, and so the two concepts, life and artistic activity, *coincide absolutely*. The two things, artist and artwork, cannot be taken apart: if the artist were separated from his work, he would lose his very identity as an artist. If the work were considered apart from its creation by the artist, it would become an inert object, reduced to its bare material existence, losing its status as artwork. If the "work" is nothing other than the artist's "life," then there is nothing excluded from this relationship: the artistic process becomes coextensive with life itself.

Form-of-Life

This is indeed the idea behind one of Agamben's most interesting concepts, "form-of-life," which he defines as "a life which cannot be separated from its form," or as "a life for which what is at stake in its way of living is living itself."[41] A person's social role, for example, whilst a central aspect of their identity, is not a form-of-life: someone might identify themself with their social role, say, as a doctor, but if we considered their life apart from this form, we would still be left with a full, rich individual subjectivity. An aspect of their life may take the form of "doctor," but this form does not at all exhaust the content of what they "are." In a form-of-life, by contrast, the life *cannot be conceived* apart from the form it takes. Agamben's clearest example is of the *Flamen Diale,* a priest in classical Rome:

> his life is remarkable in that it is at every moment indistinguishable from the cultic functions that [he] fulfils […] Accordingly, there is no gesture or detail of his life, the way he dresses or walks, that does not have a precise meaning and is not caught in a series of functions and meticulously studied effects. As proof of this "assiduity," the *Flamen* is not allowed to take his emblems off completely even during sleep; […] in his clothes there can be neither knots nor closed rings, and he cannot swear oaths.[42]

In the case of the *Flamen,* it is impossible to separate the functions he is supposed to fulfil from the real life of the individual: the form *"Flamen"* constitutes the entirety of the life of this individual. Compare this with the case of the doctor: in this case, there can be a well-defined distinction between experiences that belong to the person *qua* doctor, and those that do not, those that belong to their life considered under some other aspect. By contrast, in the case of the *Flamen,* there is no event which could take place in their empirical life that does not directly concern their role as *Flamen,* since there is a total coincidence between the form that this life takes and the concrete life itself. Even minor or ac-

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[41] Agamben, *Means Without End*, 4. See also David Kishik, *The Power of Life: Agamben and the Coming Politics* (Stanford: Stanford University Press, 2012), 4.

[42] Giorgio Agamben, *Homo Sacer: Sovereign Power and Bare Life* translated by Daniel Heller-Roazen (Stanford: Stanford University Press, 1998), 183.

cidental occurrences have significance at the level of form for the *Flamen*, to be subject to close interpretation.

Agamben also gives the example of the Führer in the Third Reich.[43] Unlike the traditional model of the leader, who functions as an individual instantiation of the general form taken by their office, in the case of the Führer, there was no such separation. Whereas Barack Obama is an individual living being who subsumes part of his life under the form "president," in the Third Reich, the two things, the individual "Hitler" and the office "Führer" could not be separated, just as in the case of the *Flamen.* Although Obama, as president, also has the power to change the law, this issues from his office, not from his individual person (which is why he can be criticised for not fulfilling the proper role of "president," which always exceeds whichever individual being occupies it). In the case of Hitler, his word immediately *was* the law, since he was supposed not to "represent" the will of the German people but to directly "embody" it. The form taken by his life – "Führer" – could not be separated from the individual living being who "was" that form – "Hitler." Agamben provides a host of further examples in this chapter, including the *Muselmann*, the *homo sacer*, Wilson (the biochemist who, on discovering he had leukaemia, performed dangerous experiments on his own body), and Karen Quinlan (who was comatose, kept alive only by a life-support machine). What is so puzzling about this remarkable list of lives is that they are all ultra-extreme *negative* examples of what Agamben ultimately intends to be a *positive,* liberating concept. These examples are not helpful exemplars or positive models of ethical life, which make them extremely unhelpful from the point of view of the positive political project Agamben is trying to pursue.[44]

But, we could ask, is someone who practices Foucault's aesthetics of existence not also constructing a form-of-life, but this time in a positive sense? If the artist takes their whole life as their work, as we have seen, the two can no longer be separated. Just as every empirical event in the life of the *Flamen* had significance at the level of its ritual form, so does everything that happens within the life of the artist have an effect on the work of art that it has become inseparable from. The reverse also holds: not only do events which take place within the life constitute the work of art it has become, but the form that the artist gives to this work will in turn affect the way in which the life itself plays out. Just as the ritual and cultic functions that constitute the office of the *Flamen* determine the actual life of the priest, the aesthetic ideas and principles adopted by the artist will themselves "produce" the life that they are. Returning to Agamben's formulation, in this case what is at stake in the way of living (the artistic ideas according to

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[43] Ibid., 184.

[44] Agamben has, indeed, been criticised for this. See e.g. Lorenzo Chiesa, "Giorio Agamben's Franciscan Ontology", *Cosmos and History,* vol. 5, no. 1 (2009), 108-111; and Boštjan Nedoh, "Kafka's Land Surveyor K.: Agamben's anti-Muselmann", *Angelaki,* vol. 16, no. 3 (2011), 149-161. In his more recent work, there is perhaps more of an attempt to provide a positive figure for this concept. See e.g. Giorgio Agamben, *The Highest Poverty: Monastic Rules and Form-of-Life,* translated by Adam Kotsko (Stanford: Stanford University Press, 2013), although even in this work he is ultimately critical of the Franciscan experiment. This will perhaps be remedied in the last volume of *Homo Sacer,* which "will not be dedicated to a historical discussion", but will deal with the concept of form-of-life in the context of the concept of "use" (see "Interview with Giorgio Agamben", 612-613).

which the artist lives their life) is nothing less than *living itself* (that is to say, the artist's concrete existence).[45]

Could we not also say that Hadot's notion of "philosophy as a way of life" aims at something similar? The figure of Socrates, I would suggest, provides one of the most original exemplars of the idea of a form-of-life.[46] The name "Socrates" does not only designate a particular set of philosophical arguments: more than that, it also designates a particular way of living, one which, in his case, totally coincides with this set of philosophical ideas. We cannot separate out what we know of his life into its "philosophical" and its "non-philosophical" components, where "Socrates-the-individual" could be opposed to "Socrates-the-philosopher." Again, like the *Flamen Diale*, his every action has been subject to intense scrutiny and constant interpretation and examination, as centuries of studies demonstrate. But this is not the same kind of scrutiny we find in just any figure whose biography is of interest: what sets Socrates apart in this respect was precisely this relationship he had with his own life. He was not an "archetype," an "example" or a "symbol" of the philosophical form of life, he directly *was* it. We do not compare his life with an ideal form "the philosophical way of life" in order to see if the two match up, rather, the form directly coincides with this particular life, such that study of his life is always *at the same time* a study of the abstract idea.[47]

In contrast to the "bad" examples provided by Agamben, these figures provide us with much more positive models of a form-of-life. The result of this total formal determination of the life of the *Flamen* was, as we have seen, a thoroughly "repressive" set of rules that massively limited what he was able to do, to the point of an almost complete suppression of any "freedom" he might have had. By contrast, an intense scrutiny of the formal details of the life of Socrates does not have a restrictive function, but rather works towards the creation of something new. What results from considering his life in this way is not yet another rule for him to follow, which would have the effect of limiting his capacities, but rather the production of a work, a study which gives us some insight into the philosophical way of life. Similarly in the case of the artist, the result of

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[45] Foucault's best example of this, in my opinion, comes from an interview conducted very near the end of his life, on the occasion of an English translation of his early book on Raymond Roussel. Responding to a question about the relationship between an author's sexual life and their work, he says the following: "someone who is a writer is not simply doing his work in his books, in what he publishes, […] his major work is, in the end, himself in the process of writing his books. The private life of an individual, his sexual preference, and his work are interrelated not because his work translates his sexual life, but because the work includes the whole life as well as the text. The work is more than the work: the subject who is writing is part of the work" (Michel Foucault, "An Interview with Michel Foucault by Charles Ruas" in *Death and the Labyrinth: The World of Raymond Roussel*, (London: Continuum, 2004), 186). In this remarkable passage we can see Foucault bringing these two concepts – the work, and the life of the artist – into such close proximity that they become almost impossible to distinguish ("his major work is, in the end, himself"; "the work includes the whole life").

[46] See in particular Hadot's essay on the figure of Socrates in Hadot, *Philosophy as a Way of Life*, 147-178.

[47] We could say that Socrates is a "paradigm" for the philosophical way of life, in the sense in which Agamben understands the term. See Giorgio Agamben, "What is a Paradigm", in Luca D'Isanto and Kevin Attell (trans.), *The Signature of All Things: On Method* (Stanford: Stanford University Press, 2009), 9-32.

considering their life in this way is not to impose arbitrary rules on their behaviour, but to open up the space for new forms of aesthetic creation.

This figure, the "form-of-life," which I am suggesting also describes the person engaged in an "aesthetics of existence," gives rise to a very specific kind of conceptual configuration. By bringing the two terms of an opposition to a point of their total coincidence, such that one cannot be separated from the other, Foucault and Agamben effectively neutralise the distinction between the two concepts. In the figure of the ethical subject we have been considering, the major oppositions and distinctions which usually govern our thinking about ethics no longer seem to function. One can no longer distinguish between the being of the subject and its activity, since the subject *is* only its activity and its activity, what it actually does, exhausts what it is. One can no longer distinguish between subject and substance, because the subject *is* only the substantial work of art it fashions its life into, and this substance exhausts what it is for this subject to be. One can perhaps no longer even distinguish between "is" and "ought," because the subject *is* only what it makes of the empty "ought" that is its freedom, and this "ought" does not demand anything specific of the subject (recall Foucault's critique of Sartre – freedom is not freedom to realise the "true" authentic substance of your being, but freedom to engage in the completely open concept of "creative activity"). Instead of opposing the two sides of the binary, or even of showing how they are always unstable, constantly contaminating and passing over into each other (the preferred tactic of deconstruction), their strategy is to examine that strange zone within which the two terms *can no longer be separated*.

We have seen, then, how Foucault's ideas of the "care of the self" and "aesthetics of existence" imply a very different conception of subjectivity. These new concepts, as I have argued, involve a much more radical break with our traditional ethical categories than is often supposed. As is indicated by the enigmatic nature of these texts of Foucault's, this is an area which remains largely still to be thought, and I would suggest that Agamben's work on the concept of form-of-life is an attempt to move in this direction. His analysis does go beyond what is explicitly written in Foucault's texts, but can, I think, fruitfully be read as an extension of these themes initially developed by Foucault. These ethical figures open up an uncharted philosophical terrain in which many of our most basic ethical concepts break down. These texts of Foucault and Agamben begin the work of creating a new set of concepts which can function in this new conceptual space.

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