

CHAPTER ONE

1. Cf. Paul Veyne, “Foucault Revolutionizes History,” in *Foucault and His Interlocutors*, A. Davidson, ed. (Chicago: Univ. of Chicago Press, 1997).
2. Michel Foucault, *Sécurité, Territoire, Population: Cour au Collège de France, 1975–1976* (Paris: Gallimard, 2005).
3. *Ibid.*, p. 120.
4. *Ibid.*, p. 121.
5. The emphasis on how governing practices construct the very subject that is supposed to exist prior to being governed is a debt Foucault owes to Nietzsche; on Nietzsche and legal subjectivity, see *Nietzsche and Legal Theory: Half-written Law*, Peter Goodrich & Mariana Valverde, eds. (New York: Routledge, 2005).
6. Veyne, *supra* note 1, p. 181.
7. Foucault, *supra* note 2, p. 124.
8. Colin Gordon, “Governmental Rationality: An Introduction,” in *The Foucault Effect: Essays on Governmentality*, Graham Burchell, Colin Gordon, & Peter Miller, eds. (Chicago: Chicago Univ. Press, 1991), p. 2.
9. Nikolas Rose & Peter Miller, “Political Power Beyond the State: Problematics of Government,” *British Journal of Sociology* 43 (1992): 173–205.
10. Michel Foucault, *Discipline and Punishment: The Birth of the Prison* (New York: Vintage, 1979).
11. Michel Foucault, *The History of Sexuality, vol. 1: An Introduction* (New York: Vintage, 1980).
12. See *The Foucault Effect: Essays on Governmentality*, Graham Burchell, Colin Gordon, & Peter Miller, eds. (Chicago: Chicago Univ. Press, 1991).
13. See, for example, *Foucault and Political Reason*, Andrew Barry, Thomas Osborne, & Nikolas Rose, eds. (London: UCL Press, 1996); Mitchell Dean, *Governmentality* (London: Sage, 1999); Nikolas Rose, *Powers of Freedom: Reframing Political Thought* (Cambridge: Cambridge Univ. Press, 1999).
14. For an extended commentary on this set of lectures, see Mariana Valverde, “Review Essay: Michel Foucault’s Society Must Be Defended,” *Law, Culture and Humanities*, 1 (2005): 113–33.
15. These have been reprinted in a number of volumes; see, for example, *Michel Foucault: Politics, Philosophy, Culture: Interviews and Other Writings, 1977–1984*, Lawrence Kritzmann, ed. (New York: Routledge, 1988).
16. Paolo Napoli, *Naissance de la Police Moderne* (Paris: La Découverte, 2004).
17. Foucault, *supra* note 2, p. 126; Kritzmann, ed., *supra* note 15, p. 61.
18. Kritzmann, ed., *supra* note 15, p. 60.
19. Foucault, *supra* note 2, pp. 157–58, 177.
20. *Ibid.*, p. 187.
21. *Ibid.*
22. Kritzmann, ed., *supra* note 15, p. 71.
23. Foucault, *supra* note 2, pp. 46–47.

24. Ibid., p. 19.
25. Ibid., p. 251.
26. On policy and politics, see *The New Police Science: The Police Power in Domestic and International Perspectives*, Markus D. Dubber & Mariana Valverde, eds. (Stanford, Calif.: Stanford Univ. Press, 2006), especially chapters by Pasquale Pasquino, Markus D. Dubber, & Chris Tomlins. See also Wendy Brown, “Genealogical Politics,” in *The Later Foucault*, Jeremy Moss, ed. (London: Sage, 1998).
27. Isolated comments about Stalinist practices in Foucault’s published work mainly highlight biopolitical campaigns, such as psychiatrizing dissidents in the name of the health of socialism. How communist sovereignty differs from or is similar to liberal sovereignty is not a question addressed by Foucault.
28. See, for example, William Novak, *The People’s Welfare* (Chapel Hill: Univ. of North Carolina Press, 1996).
29. Foucault, supra note 2, p. 344.
30. Mariana Valverde, “Police Science, British Style: Pub Licensing and Urban Disorder,” *Economy and Society* 32, no. 2 (2003): 234–52; Markus D. Dubber, *The Police Power: Patriarchy and the Foundations of American Government* (New York: Columbia Univ. Press, 2005).
31. Cf. *The New Police Science: The Police Powers in Domestic and International Perspective*, Markus D. Dubber & Mariana Valverde, eds. (Stanford, Calif.: Stanford Univ. Press, 2006).
32. Foucault, supra note 2, p. 334.
33. Nevertheless, Foucault read the major works of Patrick Colquhoun and called him “the creator of the police in England.” See Michel Foucault, “Truth and Juridical Forms,” in *The Essential Works of Michel Foucault*, Paul Rabinow & James Faubion, eds. (New York: The New Press, 2000), 3:69.
34. Foucault, supra note 2, p. 347. For Foucault, *coup d’etat* is not the overthrow of government but rather the government’s own suspension of law, what Schmitt and other theorists would call “the state of exception.” See *ibid.*, p. 267.
35. Dubber, supra note 30.
36. Jacques Donzelot’s groundbreaking work *The Policing of Families* (Baltimore, Md.: Johns Hopkins Univ. Press, 1979) mapped this terrain to some extent (and it is worth noting in the present context that its original title was *La Police des Familles*, in a direct reference to the police tradition researched by Foucault when Donzelot was working with him). But this work tends to treat families as conduits for sovereign and police rationalities, without much attention to intrafamily dynamics, either patriarchal or pastoral.
37. Foucault, supra note 2, p. 355.
38. Valverde, supra note 30.
39. Foucault, supra note 2, pp. 294–300.
40. Ibid., p. 322.
41. Ibid.
42. Nikolas Rose, Pat O’Malley, & Mariana Valverde, “Governmentality,” *Annual Review of Law and Social Science*, December 2006, 30:83–104.

43. Foucault, *supra* note 2, p. 67.
44. *Ibid.*, p. 113.
45. *Ibid.*, pp. 7, 9, 21.
46. Graham Burchell, “Peculiar Interests: Civil Society and Governing ‘the System of Natural Liberty,’” in *The Foucault Effect: Essays on Governmentality*, Gordon Burchell, Colon Gordon, & Peter Miller, eds. (Chicago: Univ. of Chicago Press, 1991).
47. Cf. Pat O’Malley, Lorna Weir, & Clifford Shearing, “Governmentality, Criticism, Politics,” *Economy and Society* 26, no. 4 (1997): 501–7.
48. Foucault, *supra* note 2, pp. 8, 31–49.
49. *Ibid.*, p. 19.
50. *Ibid.*, p. 46.

CHAPTER TWO

1. Christopher L. Tomlins, *The State and the Unions: Labor Relations, Law, and the Organized Labor Movement in the United States, 1880–1960* (Cambridge and New York: Cambridge Univ. Press, 1985).
2. Peter B. Evans, Dietrich Rueschemeyer, & Theda Skocpol, eds., *Bringing the State Back In* (Cambridge and New York: Cambridge Univ. Press, 1985).
3. Thomas Bender, “Historians, the Nation and the Plenitude of Narratives,” in *Rethinking American History in a Global Age*, Thomas Bender, ed. (Berkeley: Univ. of California Press, 2002), p. 6.
4. On the origins of the “myth of American statelessness” in U.S. scholarship, see William J. Novak, *The People’s Welfare: Law and Regulation in Nineteenth-Century America* (Chapel Hill: Univ. of North Carolina Press, 1996), p. 3.
5. See, e.g., Stephen Skowronek, *Building a New American State: The Expansion of National Administrative Capacities, 1877–1920* (Cambridge and New York: Cambridge Univ. Press, 1982), pp. 19, 23, criticized in Richard R. John, “Affairs of Office: The Executive Departments, the Election of 1828, and the Making of the Democratic Party,” in *The Democratic Experiment: New Directions in American Political History*, Meg Jacobs, William J. Novak, & Julian E. Zelizer, eds. (Princeton, N.J.: Princeton Univ. Press, 2003), pp. 50–84, at 53–54.
6. See, generally, Meg Jacobs & Julian E. Zelizer, “The Democratic Experiment: New Directions in American Political History,” in *The Democratic Experiment*, *supra* note 5, pp. 1–20.
7. *Ibid.* See also Tomlins, *supra* note 1; Christopher L. Tomlins, “The Heavy Burden of the State: Revisiting the History of Labor Law in the Interwar Period,” *Seattle University Law Review*, 23(3) (Winter, 2000), pp. 605–29.
8. Christopher L. Tomlins, *Law, Labor and Ideology in the Early American Republic* (Cambridge and New York: Cambridge Univ. Press, 1993); Novak, *supra* note 4; Markus D. Dubber, *The Police Power: Patriarchy and the Foundations of American Government* (New York: Columbia Univ. Press, 2005).
9. Tomlins, *supra* note 8, pp. 55–59; Dubber, *supra* note 8, p. xi.