

“JE PEINS LE PASSAGE”

Bernard Harcourt makes much of Paul Veyne’s Foucault. I too would like to present my reflections on some of the papers in this volume under the sign of an observation by Paul Veyne when he suggests the similarities between Foucault and Montaigne’s empiricism. This relationship offers a perspective on Foucault’s method, especially on how to study governmentality, and its place in the historical evolution of modernity. Montaigne’s empiricism may best be captured in his famous lines from the *Essais*, “Je ne peins pas l’estre. Je peins le passage”. In the analysis of Antonia Szabari, this passage cuts to the heart of Montaigne’s project showing that he was interested in the strength of experience grasped “in its momentary ‘this-ness’”.¹ Montaigne’s distrust of universalism, his focus on the moment and his ultimate embrace of nominalism would seem to have an echo in the work of Foucault and especially in the papers on Foucault discussed here. Each of these papers touches upon the momentary-ness of the experience which is governmentality, and specifically its relation to the *carcéral* and *sécurité*, highlighting the fractured-ness of their institutionalization, or what one might call their *passage*.

I. JE NE PEINS PAS L’ESTRE

Fabienne Brion’s analysis of the *passage* from class to population politics at the beginning of the twentieth century as a means of organizing, managing, and controlling workers obviously owes much to the work of Rusche and Kirchheimer and forces us to confront Foucault’s uneasy relationship to the Frankfurt School.

Foucault’s debt to Kirchheimer and Rusche’s study of “Punishment and Social Structure,” has often been noted. But what is striking in the 78-79 lectures is his attempt to separate himself from much of the evolution of the second left as it had emerged in the late 1970s. Part of Foucault’s dis-

tance from these movements was established through his attempts to historicize the emergence of the Frankfurt school in the post-war era. In particular, he proposed the controversial assertion that the post-1945 Frankfurt School was part of a similar evolution to that of the ordo-liberals of the Fribourg school. In his analysis, they both began their projects from the same basic point of departure that the inherent contradictions of capitalism between work and capital had been resolved in the post-1945 welfare state. Foucault states in the courses, “Ce passage du capital au capitalisme [after 1945], de la logique de la contradiction au partage du rationnel et de l’irrationnel.... Et on peut dire en gros qu’aussi bien l’école de Francfort que l’école de Fribourg, aussi bien Horkheimer que Eucken, ont repris ce problème simplement en deux sens différents, dans deux directions différentes.”² This, he hints, is at the origin of the Frankfurt School’s pessimism perhaps best seen in Pollock’s “State Capitalism: Its Possibilities and Limitations.”

One can read the courses from 1978-79 forward, and I think that this is most striking in the 1982-83 courses on the *Gouvernement de soi et des autres*, as part of his complex relationship to the second left that was gaining steam both in Germany and in France. In particular, his suggestion that civil society was not a universal concept that could be used as a response to a totalitarian state power, but precisely an essential part of the logic which had permitted both the critique and the concretization of a neo-liberalism, was a thinly masked response to the rediscovery of Tocqueville that was taking place in the 1970s among figures of the second left such as Claude Lefort.³

This brings us then back to the “contradiction” that Brion invokes in the final paragraph of her essay—the contradiction between “travail et capital.” “Transformation successives procèdent, en dernière instance, de la contradiction entre travail et capital; une contradiction dont, parce qu’elles sont la condition d’une reformulation des antagonismes sociaux, elles contribuent paradoxalement à contenir les virtualités explosives.” On what level is this contradiction operative and where might we locate its potency? Foucault avoids a discussion of contradictions and proposes rather a discussion of “practices” and a mode of rationality. Brion’s argument for a shift from class to population suggests that what is at the heart of the reduced rates of prisoners in the twentieth century was a shift from socio-political exclusion in the form of limited suffrage combined with a heavy emphasis on the use of prisons to a focus on the foreign. But the question of the contradiction which was driving this shift remains unclear. While Foucault, in effect, suggested that there was a shift, he did not seem to place a contra-

diction at its heart. Rather it was driven by a process, of which Weber was the great witness, from a vision of contradiction to that of irrationality and rationality. Mariana Valverde's observation that Foucault was less interested in epochal shifts within modernity than practices of governance may be telling in such a reading.⁴

In this sense, Foucault's emphasis on the liberal discovery of "too much governance" is striking. The change from being incarcerated in a "*lieu*", such as a prison, to a "*statut*", or the status of being a foreigner, as Brion describes, also corresponds to a process of excluding those whom we do not have to govern and therefore may ultimately be seen as a form of optimization. The shift then is not only from more abrupt and physical forms of physical incarceration to that of maintaining individuals in constrained statutes, it is also a question of removing certain populations from the game of government such that they do not have to be optimized in the same way. Creating a large portion of those who are without rights also means applying the rationality of governance, one of the key techniques of this form of governmentality, to a focus on where and when and upon whom state action should be focused. What we are witnessing is a passage, but it may be motored less by a contradiction than by a new push for optimizing state and police action.

II. JE PEINS LE PASSAGE

The police are indeed an essential part of the *passage* of governmentality. Salvatore Palidda claims that the police must be understood not as a force for establishing order, sent from above but as a « *continuelle redéfinition de l'Etat.* ». He therefore responds to Harcourt's claim that *sécurité* does not exist, by suggesting that it does not exist as a thing in itself, but as a set of practices which are constantly structuring and restructuring the possibilities and modes of state action. In this sense, governmentality operates through structuring vehicles; it is not a question of being governed but revealing "l'intériorisation par les dominés du discours du pouvoir d'aujourd'hui". It must be highlighted then that this invocation of "power" requires care. Pallida is anxious to remind us that there is not a distinction between those who are dominated on the one hand and "power" on the other. Rather, the exercise of power and its targets are reinvented through the police's everyday encounters with the people of their neighborhoods.

Here, we are brought back to the larger question of what the state and state power actually is as well as how to study it. In keeping with Pallida's similarities to Foucault, police power is not a question of fixed forms of

power that confront one another but is rather a process of constant negotiation or of stretching, weaving, and structuring interactions. Such an approach again breaks down the traditional state-civil society oppositions as well as questions of accountability or “good governance” and shifts the perspective into new perhaps more useful areas.⁵ William Novak, for example, has recently shown that emphasis on issues of central state authority and local resistance has generated a consistently misguided notion of the *weak* American, as opposed to the *strong* European, state.⁶ He suggests that by refusing to actually see the tremendous reach of state power and its force in the everyday life of Americans we have missed the 800 pound gorilla in the room—the American leviathan. Here, Palidda’s comments on the police remind us that the strong state is not necessarily the state whose institutions can dominate the local or overcome resistance from the civil society; it is not necessarily, to use the terms of Kelsen that Fabienne Brion uses as well, a complete asymmetry between the *peuple objet* and *peuple sujet*; it is rather a question of understanding the distribution of state power, examining its tentacles and daily negotiations on the ground.

What is striking in Lisa Graham’s study of the police in the eighteenth century is that she reveals precisely the origins of this web of state-police power being spun in the eighteenth century. By digging into the rich archives of the Old Regime’s *lettres de cachet*, she locates the application of a discourse of normativity within a population which was increasingly concerned with the problems of the “*anormaux*.” But what is of particular interest, in light of Palidda’s argument, is that what is happening in the eighteenth century is also a tremendous process of interiorization of the discourse of normativity. As Graham’s paper shows, the discourse of normativity was sometimes solicited by the families themselves and put towards various ends. The police then were working within a discourse that had been internalized by many. Again, the discourse on norms was not necessarily imposed from the top down upon a population with an archaic vision of state power. Rather, this new form of police power was adopted and instrumentalized at the same time that it was being imposed.

Graham brings this process to the fore by studying the now famous *lettres de cachet* which, as she reminds us, have been at the heart of many great historical projects since the 1970s. But her use of these archives includes a meta-discourse on their creation and the role of the archives themselves in helping to solidify the construction of a normative discourse. To do so, Graham cites Paul Ricoeur’s work on archives, when he writes of the archives as the passage from witness to written word. While such a process was no doubt present, it does not necessarily offer an explanation of

the complex relationship that the archives had to a process of interiorizing a normative discourse. Here, it would seem that Derrida's work on archives in *Mal d'archives* may have something to offer.⁷ Derrida reminds us that the word archive, or its origin *Arkhé* refers to both the law that things have a beginning and the place, or origin, from which authority is exercised. It thus, he writes, means both *commencement* / and *commandment* and in this way it is both at the origin of meaning and the declaration which makes this origin possible.

Graham focuses on archives as making this discourse and especially our ability to see this discourse as possible through the construction of an archive. These archives are in one sense, then, the place from which one can speak with authority—isn't the growing red tape of the eighteenth century precisely a part of the growing legitimacy of the police and the state itself as well as the foundation for the historical profession? But it is also, perhaps less explicitly, the fact that these archives suggest that there is an origin and that this origin is located in the population. The nature of the archives as they were constructed both in the eighteenth century and reinvented by historians in the nineteenth and twentieth centuries has been a constant reassertion of their observational and objective quality. They are in this sense the proof that the origin is within the population—or in other words, that this information comes from somewhere. In other words, the archives send us to back to the population for answers through their institutionalization of discourses of normativity. The archives then are not only originary, nor secondary but are something like lines on the highway which both show the way and follow the path which is already interiorized. They are the trace of an increasingly structured landscape that was emerging through a simultaneous process of interiorization and institutionalization.

III. C'EST MOY QUE JE PEINS

At the beginning of his essays, Montaigne announces famously: "C'est moy que je peins." This throws us into the heart of the question Bernard poses on the structural force of the terms *discipline* and *sécurité* when he asks "Why have I made these choices and not others?" Harcourt's suggestion that these terms structure the debate among scholars in such a way as to offer a way out of asking more, ostensibly, naïve questions about personal preference and personal judgment opens up the issue of the kind of radical subjectivity that Veyne imparts upon Foucault, Compagnon on Montaigne or Foucault on those who attempt to use his analytical categories. Harcourt notes that there is no doubt something deeply personal going on here and

he also highlights the extent to which this troubling reality may be structural in our investigations of the *carcéral*.

I would suggest that Harcourt’s questions: how have *discipline* and *sécurité* been deployed, how have they in one sense structured the very kinds of questions we can ask, raises the problem of doing as Foucault does and not as he says. Salvatore Palidda makes reference to the “malheur des grands auteurs” that emerges in the proliferation of their studies. Harcourt raises the particularly difficult question of accepting and applying categories critically and attempting to maintain the delicate balance between applying Foucault’s method on the one hand and his categories on the other—or to use another image that Foucault famously associated with his texts, how do we build on a molotov cocktail. If as he suggests, one of the essential reasons for the success of the terms *discipline* and *sécurité* is that they provide us “with a new way to describe and understand modern penal practices that could maintain our critical discourse” then we are confronted to some extent with the constant need to balance both his method, which consistently undermined dominant discourses both within academia and outside of it, and with the continued application of his penetrating and convincing categories. Like the entirety of these papers, Harcourt’s questions reveal the delicate balance between these two sides of Foucault’s legacy and their *passage* into future studies.

NOTES

- 1 Antonia Szabari, “ parler seulement de moy”: The Disposition of the Subject in Montaigne’s Essay “De l’art de conferer,” *MLN*, Vol. 116, No. 5, Comparative Literature Issue (Dec., 2001), pp. 1001-1024.
- 2 *Naissance de la biopolitique* (Seuil, 2004), p. 109.
- 3 See for example Claude Lefort, *Essais sur le politique, XIXe-XXe siècles* (Seuil, 1986).
- 4 Valverde refers to this as the “epochalist misreading” of Foucault. “Police, Sovereignty and Law,” in *Police and the Liberal State*, Markus Dubber and Mariana Valverde, eds. (Stanford, 2008), p. 16.
- 5 Foucault explicitly suggests in the 1982-83 lectures that these areas are not useful for understanding governmentality when he speaks with suspicion of : “une époque, la notre, où on aime tant poser les problèmes de la démocratie en termes de distribution du pouvoir, d’autonomie de chacun dans l’exercice du pouvoir, en termes de transparence et d’opacité, de rapport entre société civile et État.” *Le gouvernement de soi et des autres* (Seuil, 2008), p. 168.
- 6 William Novak, *The Myth of the Weak American State*, forthcoming *AHR* (2008).
- 7 Jacques Derrida, *Mal d’archive* (Galilée, 1995).