

yves sintomer
power and civil society: foucault
vs. habermas*

It is, I think, a rather sad reflection on the present state of political science that our terminology does not distinguish among such key words as "power," "strength," "force," "authority," and, finally, "violence"—all of which refer to distinct, different phenomena and would hardly exist unless they did.

Hannah Arendt: "On Violence"

A short time before his death, Foucault said in an interview with two US journalists:

Sadomasochism...is a real creation of new possibilities of pleasure that people did not know before. The idea that SM is linked with a latent violence, that SM practice is a way to give a free way to this violence and this aggression is a stupid idea. We do know that these practices are not aggressive. They just help to invent new possibilities of pleasure through erotisation of some strange parts of the body...

One can say that SM is erotisation of power, of strategic relations. But what strikes me in SM is the way in which it differs from social power (which is) a strategic relation which has become stable in the institutions. The mobility of social relations is then limited...

In front of this rigidity, it is interesting to see that SM games are based on strategic relations which remain always open. Sure, they are different roles, but everyone knows that these roles can be reversed. Sometimes the scene begins with the master and the slave and at the end the slave has become the master. And even when these roles are stable, people know quite well that it is always a game...

This strategic game considered as a source of pleasure for the body is very interesting.¹

Are SM practices a paradigm which could help to define democratic civil society—i.e. a framework in which individuals can create freely their relations to the self and to the others, in a fluid and open game, beyond the codes? Perhaps it is not possible to simply answer "yes." But the interest of such a question is that it induces another, more fundamental, question: is power antithetic to democratic civil society? Is democratic civil society to be understood as based on relations which are opposed to power relations? At the opposite, is democratic civil society to be understood as a special way (perhaps the fairest one) for regulation of power relations?

I will try to give some answers to this large question, focusing only on the works of Foucault and Habermas. For questions of space, I will essentially study Foucault's positions and their critique by Habermas. I will not discuss Habermas's position in itself.

At first glance, the perspectives of the two theoreticians seem incompatible. In *Discipline and Punish* (published in France in 1975),² the main characteristics of the so-called modern democratic civil society could be analyzed as those of the disciplinary society. The proliferation of power relations imply the proliferation of subjective resistances which themselves generate new power relations. In contrast, according to Habermas, democracy in modern societies is to be defined as a procedure based upon the pragmatic presuppositions of discourse; it helps communicative action oriented towards rational agreement to control power and money, the media which regulate systemic integration. Power relations in everyday life are the product of colonization by these systemic mechanisms, which come in some way "from outside." According to Foucault, democracy depends on power relations. According to Habermas, democracy is the political procedure through which power is controlled and limited. Similarly, Cohen and Arato define civil society as the institutional dimension of the life world: in civil society, social integration is essentially based on communicative action and there is therefore in principle no problem in reaching complete democratization in this realm.³

In a second part, I will study the modifications of the concept of power used by Foucault when he makes an "ethical turn" in the early 80's. Finally, I will suggest that this ethical turn puts on the agenda a dialogue between Habermas's and Foucault's perspectives. In such a confrontation one could modify the concepts used by the two theoreticians and perhaps make some interesting comments for a theory of democracy.

I. THEORY OF POWER IN DISCIPLINE AND PUNISH

1. I will describe briefly the paradigm of power defined by Foucault in *Discipline and Punish* and in the other works of the same period.

It will be sufficient to remember that according to him the source of power is neither the State nor institutions. Power comes from below; the State is not an autonomous source of power, it is a superstructure. The political technology of the body is a microphysics of power. Power is not a property, it is a strategy. Its model is neither a contract nor a conquest, but a perpetual fight. The power is practiced and not held, it is the sum of strategic positions. It passes through those "who do not have it." Power relations develop themselves deep in society; there is no such thing as the opposition between state and civil society. There is no central conflict but a multiplicity of mobile fights. Every fight is part of, modifies and is modified by the whole network of power relations.⁴

Power relations are not only contingent or empirical: they are a constitutive dimension of human relations, they are in some way their motor. Subjectivity is subjected to these relations. The free speech of the Enlightenment is itself an effect of the complexity of power/knowledge relations. Democracy itself is a specific network of power/knowledge; it is not possible to find some transhistorical criteria with which one could say that this specific network is "better" or "fairer" than others.

2. Habermas's critique of Foucault can be found in chapters nine and ten of *The Philosophical Discourse of Modernity*.⁵

According to Habermas, the nature of the concept of power which is used by Foucault is problematic. *Discipline and Punish* pretends to work in a radical historicist framework. Nevertheless, in order to explain the multiplicity of the historical forms, genealogy uses an "unique hypothesis: that the only thing which holds out is power, which goes on in the changes of mastering processes under new masks." Foucault replaces the old transcendental consciousness by power, which becomes a

transcendental-historical fundamental concept for the critique of reason.⁶ But he does not recognize that the notion of power he uses is linked with a metaphysical context when he speaks about a general notion of power.⁷

Moreover, by renouncing the hermeneutical attempt to comprehend meaning, Foucault lets down the search for criteria for the validity of discourse. His critique is arbitrary and one-sided and is not able to justify its own normative foundations.⁸ He cannot justify why his own genealogy could escape the set of power/knowledge relations; he can neither have the Adornian reference to *mimesis*, to something previous to instrumental rationality, nor the Marxist perspective of some emancipatory order beyond domination. Every fight against power takes place below the horizon of power.⁹ Foucault has to refuse to ask "if some discourse—and power—forms could be more justified than others."¹⁰

Habermas can accept, in some way, the description of the proliferation of power mechanisms, but he understands it as the colonization of the life-world, as something coming from outside linguistic communication. According to Habermas, the network power/knowledge is not the fate of socialization, and subjection is not the fate of individualization.

3. Two political failures of Foucault in the late seventies could show that the dangers seen by Habermas were not simply illusory: the very sympathetic critique Foucault wrote on Glucksmann's *Les maîtres penseurs* (one of the most famous books of the so-called "nouveaux philosophies") on the one side¹¹ and his blindness in front of the growing power of fundamentalism during the Iranian revolution on the other.¹² These two problems are even more important because their political implications are completely opposed: in the Glucksmann case, Foucault commits himself with a very superficial philosophy which becomes more and more explicitly a defense of real existing liberal capitalism. In the Iranian case, Foucault cannot grasp the totalitarian dynamic of religious fundamentalism and the potential of criteria such as modernity and democratic civil society. In both cases, the critique gets lost because of the absence of global criteria which could give some compass to individual revolts. The reduction of social relations to power/knowledge strategies makes it impossible to conceive of a justified alternative to the *status quo*. Rejecting any universalistic criteria in order to analyze the Iranian revolution, Foucault will express some sympathy for an "Islamic spirituality" conceived as some kind of global and absolutely original *épistémé*.

power and
civil society.

II. THE ETHICAL TURN OF MICHEL FOUCAULT.

1. After the publication of the first volume of **The History of Sexuality**, Foucault remained relatively silent for eight years. It seems that this silence shows that Foucault himself was aware of the problematic aspects of his previous theory. A careful analysis of the new topics which emerge in the second and the third books of **The History of Sexuality** is instructive.

Power remains a constitutive dimension of socialization but its role is much weaker than before. Foucault says: "it is not power, but the subject, which is the general theme of my research."¹³ He makes an explicit self-critique¹⁴ and tries to reformulate his own work in a retrospective way. He distinguishes three axes, which explain three different ways for the making of the self¹⁵:

—The analysis of discursive practices and of knowledge formation (**The Order of Things, Madness and Civilization**).

—The analysis of "various relations, open strategies and rational technics which articulate the exercise of power" (**Discipline and Punish**, the first volume of **The History of Sexuality**).

—The analysis of "the modalities of the relation to the self through which the individual constitutes and recognizes itself as a subject" (the second and the third volume of **The History of Sexuality**).

We do not have to accept this retrospective coherence without discussion. If Foucault is right to stress some continuities, he nevertheless underestimates the conceptual moves he made. More precisely, in his later work, the concept of power is much weaker and cannot be considered anymore as "quasi-transcendental." The turn that Foucault makes between the first and the second volume of **The History of Sexuality** is at least as important as the one he previously made at the end of the 60's and at the beginning of the 70's from the archeology of knowledge to the genealogy of power/knowledge.¹⁶

2. What are the dimensions of this turn? We will see that they are not indifferent to our starting question. For our concern, one could distinguish five steps:

—Foucault makes a first crucial distinction. On the one hand, power relations are defined as "strategic games" between individuals; they are relations in which "one tries to lead the behaviour of the other."¹⁷ This implies that the game remains open: "power relations can exist only insofar as subjects are free," free to accept power or to resist it.¹⁸ On the other hand, power relations differ, not only from relations based on

violence,¹⁹ but also from "situations of domination," in which the game is blocked, in which "power relations are fixed in such a way that they always remain non symmetrical and that liberty is very restricted"²⁰ (Foucault gives the example of the traditional family structure). Foucault introduces the notion of domination which he explicitly refused a few years before. He says also that the stabilization of strategical relations in institutions tends to block the game.²¹

—This first distinction makes another one possible: "the subject constitutes itself through practices of subjection [*pratiques d'assujettissement*] or, in a more autonomous way, through practices of liberation, of liberty [*pratiques de libération, de liberté*]." ²² The emergence of the concept of liberty is here again a break with his previous conceptual framework: it goes much beyond the simple resistance to power, it is a positive (at the empirical and at the normative levels) practice of the making of subjectivity. "What I try to analyse is the way in which individuals, freely, in their fights...in their projects, constitute themselves as subjects of their practices or refuse the practices which are proposed to them." He says: "I strongly believe in human liberty."²³ It is only in this new framework that Foucault's traditional politics is really able to make sense: by questioning the jail or the psychiatric institution, it can be shown that these forms are historically constituted and therefore that they can be changed in another historical context. "This kind of analysis shows the precariousness, the non-necessity and the mobility of things."²⁴ The practices of liberty remain nevertheless mainly a work of the self on the self, a "care of the self"; the concept is less intersubjective than the notion of power—even if "rules, styles, conventions," i.e., a "cultural context," constitute a necessary network in which these practices can exist.²⁵

—These practices of individual liberty can find some equivalent on the intersubjective level with the notion of reciprocity. The two notions are not necessarily linked: the best example of this is the way in which ancient Greeks conceive their sexuality. The care of the self of the citizen is linked with the government of others: the "fault" of the Greeks is to refuse "reciprocity" on the level of physical pleasure: "it is a completely dissymmetrical ethics," that "does not take into account the pleasure of the others," and that shortly said "does not take into account the others."²⁶ It is precisely on this point that Foucault tends to appreciate what is brought with the Stoics, who will insist more on the recognition of the other; they will consider "the sexual partner as somebody who is equal, not only as an adult."²⁷ In the same direction, Foucault will find *philia*, friendship, valuable. *Philia* is the product of all the Greek reflection on eroticism in order to promote a more symmetric relation: "For the man, the problem is no more only to become

power and
civil society

master of his pleasure; the problem is how to create a space for the liberty of the other in the mastering that is exercised on the self and in the true love of the other."²⁸ This specific problem of the Greeks shows also our responsibilities: "are we able now to have an ethics of pleasure which could be able to take into account the pleasure of the other?"²⁹

—These three distinctions let Foucault get out of the contradictions of his duo power/resistance of the seventies. To be sure, "power is always present"³⁰; it is at once "a social game which is necessary for a society to exist" and "the most dangerous game of the human species." That makes critical thinking and practices of resistance always necessary. And the formal distinctions quoted above authorize us to say; beyond the specificity of the various historical contexts, "that there are very good reasons, and very reasonable reasons, why you could choose this (practise) or this one—or at least to be less critical of this one than of the other one."³¹ With these value patterns, Foucault appreciates the male Greek morality as "quite disgusting" and criticizes Richard Rorty who would say "everything is equally good"; he opposes to Rorty the following attitude: "take care, everything is dangerous, but not equally and at the same moment."³²

—In this perspective, something remains unclear. From whence could reciprocity come? This concept is not at all "natural" in Foucault's traditional theoretical framework. He sometimes tries to build a formal ontology in which individuals could develop three different kinds of relations: "control over things," "relations of action upon others," "relations with oneself." Three different axes would correspond to these relations: knowledge, power and ethics.³³ In such a perspective, intersubjectivity would be the field of power (in a way symmetrically opposed to the one of Habermas) and liberty would be conceived in a monological way. Nevertheless, the general orientation of Foucault's research was going towards another direction. It is interesting to see that he attempted to put in relation his own typology with the one Habermas made in the sixties:

—*Manipulation of things: production.*

—*Use of signs and symbols: signification/communication.*

—*Determination of the acts of others with a strategic aim: domination.*

Adding a fourth dimension:

—*Work on the self by individuals: technologies of the self.*³⁴

In this framework, intersubjectivity is analyzed on the two levels of power and communication. It is this idea that Foucault will work again in one of his last interviews: he defines "the three fundamental elements of any experience" as "a game of truth, relations of power, and forms of relations to oneself and others"; he refuses in this way any exclusive link between intersubjectivity and power.³⁵

The notion of subject in the late Foucault :

Before going further in the discussion, one has to clarify the way in which the late Foucault conceives subjectivity.

1—Foucault has always been opposed to a Lacanian problematic which would see in morality and in the modes of subjectivation which are linked with it "the timeless function of prohibition or the permanent form of the law." Thus, Foucault does not seek to escape from the philosophy of the subject and of the *cogito* by means of an existential anthropology or a timeless structuralism. Both would be too opposed to his own historicism and nominalism.³⁶

2—Furthermore, the notion of the subject (at least in the late Foucault) is not derived from a strict structuralist causality. One could try to understand Foucault's ethical turn in the 80's with what Pierre Bourdieu says in *Le sens pratique*, published four years before the second and the third books of *The History of Sexuality*.³⁷ Bourdieu distinguishes between "theoretical reason" and "practical reason." He emphasizes the limits of the formal coherence of the "structure" that an observer can build in his theory in order to explain the practices of individuals who are members of a group or a society. The structural scheme is interesting up to a certain point because the practical logic (i.e., the logic of the actors themselves) is coherent up to a certain point.

Could Foucault's ethical turn be described as the move from "theoretical reason" to "practical reason," to speak like Bourdieu? One could argue that the way in which Foucault analyzes Greek knowledge of sexuality is very different from the one in which he has explained, say, the knowledge of madness. He seems to move away from the archaeological explanation of the succession or the coexistence of coherent "positivities."³⁸ The unthinkable of classical reason was "outside" it. In contrast, the second volume of the *History of Sexuality* is focused on the "antinomy of the boy," i.e., on the main contradiction of Greek sexual ethics. This ethics was organized around a dichotomy: to fuck or to be fucked. "There was...a radical division between activity and passivity. Activity alone was valuable; passivity

power and
civil society

(which is natural for women and slaves) can only be a loss of dignity for men.... In this regard, the choice of the partner (boys, women, slaves) was not important in this essentially masculine ethics."³⁹ Ancient times are not the golden age of homosexuality in the modern sense of the word. Sexual relations between two masculine individuals are accepted only insofar as they happen between an active adult and a passive boy. The problem is that this boy is born free and will become a citizen. "It is very difficult for a Greek or a Roman to accept the idea that a boy, who will...have familial and social responsibilities and power over others...has been passive in his relation to a man. It is in some way unthinkable in the game of moral values, but it is not the same thing as a prohibition."⁴⁰ The problem of the boy is that he is at one and the same time subject and object. It is why Plato will pass from a problematic of pleasure to a problematic of truth.⁴¹

Nevertheless, to describe this evolution as fundamental would be off track. This point is not sufficient to explain the ethical turn of the 80's. In fact, Foucault has described his perspective since *The Archeology of Knowledge* in the following way:

*The problem is less the limits which are posed to the initiative of the subject than the ground on which this initiative is articulated (without being the center of it), the rules which it uses (without having invented or formulated it), the relations which constitute its support.... The problem is to explain the discursive practices in their complexity and in their density.*⁴²

Furthermore, the "contradiction" of Greek sexual ethics could eventually be explained with the notion of "intrinsic contradictions," as defined in *The Archeology of Knowledge* as contradictions which develop inside a discursive formation and which, once they have emerged at a point within the system, create new subsystems. These subsystems are secondary in that they derive from one and only one positivity.⁴³ That is why it is not possible to oppose the explanation of the cohesion of the archaeological strata analyzed in the 60's and the analysis of the Greek's "unthinkable" in the 80's.

3—In addition, Foucault remains as opposed as before to the idea of a "sovereign and constitutive subject," of a "universal form of the subject, that could be found everywhere."⁴⁴ At this level, Foucault remains on the terrain of the most interesting philosophical and historical French works of the sixties.⁴⁵ In the same way, various concrete practices are mixed in the work "individualism." Foucault distinguishes three levels:

The individualist attitude, which is characterized by the absolute value of the individual in its singularity, by the degree of

yves
sintomer

*independency that it has in respect to the collectivity in which it takes part or to the institutions on which it is dependent; the value of private life...; lastly, the intensity of the relations to the self, i.e., the forms in which one has to take itself as object of knowledge and field of action.... To be sure, these attitudes can be linked...But the links are neither constant nor necessary.*⁴⁶

4—Foucault thus conceptualizes the individual and the subject in a way which is very different from the classical liberal one:

—There is no *a priori* coincidence between individual and subject.

—The making of the interiority and of the subjectivity of the individual is always a relation to the self and to the others. One essential dimension of this relation is power; but power is not a zero-sum-game: it is a creative game. It would not be possible to describe subjectivity before, beyond or independently from power relations.

—According to the late Foucault, subjectivity is an historical and contingent "fold" [*un pli*] on the surface of the being, and neither an ontological reality nor a natural fact.⁴⁷ Possessive individualism is in this framework at most a particular way for the making of the self. The problem of autonomy and liberty will be situated on another ground.

III. POWER, COMMUNICATION, DEMOCRACY:

1. It is precisely at this point that a convergence—at least partial—can be seen between Foucault and Habermas. Speaking about his own work but also about the situation in the Soviet Union, Foucault lauds the virtues of dialogue:

In a serious play of questions and answers, in the work of reciprocal elucidation, the rights of each person are in some sense immanent in the discussion.... Questions and answers depend on a game—that is at once pleasant and difficult—in which each of the two partners pains to use only the rights given him by the other and by the accepted form of the dialogue.

At the opposite, in polemics, the speaker does not recognize the other "as a subject having the right to speak." Polemics, "a parasitic figure on discussion and...obstacle to the search for the truth," operates as the judiciary practice: it "allows for no possibility of an equal discussion: it examines a case; it isn't dealing with an interlocutor, it is processing a suspect."⁴⁸

Beyond domination, the conflictual coexistence of power games and practices of liberty could define a ground on which not only

power and
civil society

resistances but also reciprocity, or even consensus would be possible: "it can happen that a relation which is a power relation becomes a consensual relation, or, in reverse, that a consensual relation becomes a power relation."⁴⁹ Up to a certain point, Foucault recognizes the necessity of a contra-factual analysis. The pattern of rational consensus can be used as critical criteria, but not as a "regulatory principle": this would go,

...too far, because starting from the point where you say regulatory principle, you grant that it is indeed under its governance that the phenomenon has to be organized, within limits that may be defined by experience or the context. I would say, rather, that it is perhaps a critical idea to maintain at all times: to ask oneself what proportion of nonconsensuality is implied in such a power relation, and whether a degree of nonconsensuality is necessary or not, and then...question every power relation to that extent. The farthest I would go is to say [je dirais à la limite] that perhaps one must not be for consensuality, but one must be against nonconsensuality.⁵⁰

The ideal speech situation can then be understood as one of the formal criteria with which one may evaluate in a normative way social practices. But communication—in Habermas's sense—is not for Foucault the true nature of language or socialization.

2. One has to be careful: Foucault himself always remained interested above all in a very subjective form of politics—and therefore in a relatively subjectivist conception of what a democratic civil society could be.

This can be seen when Foucault defends the rights of gay subcultures against repression or intolerance, but also when one looks at the topic of his last lessons at the "Collège de France": the *parrhesia* [*parler vrai*, telling the truth].⁵¹ The most important example he quotes is the one of Plato: the philosopher says to Dyonisos, the tyrant of Syracuse, that he decided to go to Sicily in order to find the perfect man and the perfect city. Implicitly, it means that the actual situation in Syracuse is not ideal. Plato says what he really thinks and finds important at the risk of his life. The aim of this way of telling the truth is not to prove, to convince, to teach the interlocutor nor to engage in a dialogue with him/her. Nor is it a performative speech act. Nor is the way in which somebody tells the truth in the *parrhesia* some kind of subjection to power/knowledge network: in an open situation, the subject of the speech, sincerely and publicly, tells what he/she thinks the truth is; in such a speech, he/she makes a compact with him/herself. He/she freely binds him/herself with his/her self, he/she institutes him/herself as a partner of his/her self: he/she will be the one who will have said that, with the risks which are implied in this

speech act; he/she freely builds him/herself as a speaking subject. Foucault quotes Polybe, for whom *parrhesia* is one of the three bases of democracy (with democratic participation and *isegoria*, equality in the right of speaking).

The modern political implication of such a type of discourse is the "dissidence" in totalitarian societies, not a global reform of liberal capitalist societies. I think, nevertheless, that this position is not a necessary conclusion of Foucault's new conceptual ground. Foucault himself has sometimes to deal with the problem of institutions and of the reform of these institutions.⁵²

Foucault also had to deal in a "positive" and "universalistic" way with politics, in 1981, for the creation of a committee in favor of the "boat people." Foucault wrote in Geneva a short text: "Facing the Governments, the Human Rights."⁵³ He stressed three principles:

—There is an international citizenship which has its duties and its rights and which urges people to protest against every power abuse.

—This international citizenship has to favor the voice of human misfortune and to oppose it to those who "hold power" [*détiennent le pouvoir*] and who are therefore responsible.

—One has to refuse a division between the citizens who will have opinions and the governments who would act concretely; the citizens have to intervene effectively in politics and break the government monopoly on action.

This text is important in the extent that its perspective goes much beyond **Discipline and Punish** without having found a new theoretical ground.

3. Beyond Foucault's positions, what are then the political lessons that one can learn from his last conceptual analysis? Is a dialogue with Habermas's theory possible on democratic theory? If yes, what could be said about a democratic civil society? What interests me here is not to demonstrate that Foucault would have been more and more conscious of the validity of Habermas's position.⁵⁴ Indeed, Habermas's theory seems to have at least two weak points: its naturalism and its teleologism.

Habermas implicitly develops the idea that there is a true nature of language, which would be as such the medium of communicative rationality. Following Habermas, linguistic communication could be reduced to argumentation; argumentation would itself be fundamentally an "illocutory" dimension (the force of persuasion of the best argument). The

perlocutory dimension (the rhetoric manipulation of the interlocutor) would be derived: In order to manipulate with success somebody by the way of speech, one must first be understood at the first degree. As by Kant, error exists only on the ground of truth.⁵⁵ It is why power, following Habermas, can only be imported from outside. Language in some way becomes univocal. The intercomprehension is inherent to it as its *telos*. In an article sympathetic with Foucault, H.L. Dreyfus and P. Rabinow have argued that, because of such a reduction, the universal, objective norms of communicative action are very modern—because they are not capable of justification.⁵⁶ More generally, as D.M. Rasmussen puts it, "can the philosophy of language be tailored to the project of modernity, without resorting to the old dilemmas of the philosophy of consciousness?"⁵⁷

Habermas makes a step forward when he puts this *telos* in the diachronic dimension. When language (understood in this way) is the medium of socialization, communicative action becomes the logic of history. The formal structures of communicative rationality define the direction of history (it is precisely what is the cultural rationalization process) conceived as a big learning process. The ideal speech situation becomes the *telos* of history—a formal *telos*—which is opposed only to the socialization through the systems of power and money. This dualistic vision can hardly help to make concrete historical analysis—and especially to make sense of intermediate organizations of civil society. It falls in a theoretical trap when it tends to embody communicative rationality in culture and instrumental rationality in economy and (state) politics.⁵⁸ The more realistic concept of power developed by Foucault seems a good antidote against such difficulties.

4. If we come back to our starting question: "Is power antithetic to democratic civil society?" it seems now possible to give some partial answers. One has to distinguish several levels:

The concept of communication is central for a contemporary theory of democracy. But one has to rid it of its naturalism and to combine it with the concept of power.⁵⁹ Communication is one form of our everyday life, not the essence of it. It is the form which is mostly pregnant of "practices of liberty." Reflexively, the discourse ethics helps to build the value criteria and the procedures which are at the heart of a democratic civil society. As such, communication exists—more or less—in any society. It can therefore escape from the risk of relativism or radical historicism without falling in the trap of naturalism.

Power is at the other side of socialization. In order to make sense, this notion has nevertheless to be specified in three different concepts :

yves
sintomer

—Power relations (in the sense of the late Foucault) constitute strategic relations in a politically and socially open game. The criteria of the openness of the game is the degree of (potential) reciprocity (more than equality) which is assumed in the game.

—Domination is something different: it is seen when power games are coagulated (especially when they are embodied in institutions) without the possibility of reversibility, when the unsymmetry seems far away from critique and contest and seems to be a second nature.⁶⁰ Coercive forms of power are generally parts of the arsenal of domination, but domination cannot be reduced to them: it is not only a negative or restrictive relation, but also a creative one.

—One must add a further dimension, which was not analyzed in this paper: the *potentia* (strength; *puissance* in French).⁶¹ This concept expresses the capacity of individuals and groups to act collectively upon their history and upon their environment through communication, to become aware of their limits (and eventually to move them back when it is possible). This concept derives from the Spinozist version of *potentia*. It has also something to do with Hannah Arendt's concept of power, both focus on the locution "power to" instead of "power over."⁶² Nevertheless, in both cases, one has to revise these concepts from the point of view of the constitutive pluralism of modern societies.⁶³

5. After such distinctions have been made, what remains from the analysis of **Discipline and Punish**? At least one point: the massive presence of domination and power games in our modern western societies. If that is true, if our societies are neither "nearly just" nor "nearly democratic," but partly just and democratic, a democratic theory cannot be based only in an immanent critique of these societies. Sociological analyses show especially that it is very difficult to distinguish where domination ends and where "free" power games begin. Therefore, it could be interesting to analyse what "free" power games look like in societies where domination does not exist.

From Montaigne to Levi-Strauss, a large number of observers have been impressed by the "societies without the State." Indian Cheffery is to be analysed as a structure in which the chief influences the behavior of the others only because of his reputation (i.e., his technical competence in language, hunting or war). It is the society which keeps sovereignty: the so-called primitive society will never accept that the chief becomes a despot, that his reputation becomes a domination structure; the "primitive" society is not in the chief's service, it is the chief who is in the society's service.⁶⁴ It is why Cheffery is the opposite of

power and
civil society

the state: of an external authority which creates its own legality.⁶⁵ Clastres calls it "non coercive power."⁶⁶ what could be called "power relations without domination" in Foucault's words.

Power is, for Clastres, always linked with a debt. In "primitive societies," the chief has to pay a lot for his personal status. He has to work again and again to give presents to the community; if he fails, his reputation will be lost, together with his chief status. On the contrary, in societies with a State, the power is in the chief's hands.

My analysis does not pretend here to solve the question of the State in modern, complex and highly differentiated societies, in which the choices have more and more to be made at the world scale. It could, nevertheless, indicate some points of reflection in order to understand what a democratic civil society could be.

6. These perspectives can perhaps justify something one could call "rational decisionism." History is not a big learning process: it is radically contingent, it has no *a priori* direction. There is no such thing as a *telos* which would push us towards the ideal speech situation. As Claude Lefort puts it, democracy is an "adventure," not a fate⁶⁸: there are historical possibilities, contradictory tendencies which are deep-rooted in the present, and we have reasonable arguments to prefer some tendencies to some others (and to support the first). The question is not to try to prove that liberty or justice is (or is not) what constitutes humanity, but to understand why and how concrete individuals, in our modern capitalist countries, can support a credible perspective of a (more) democratic civil society. It could perhaps make sense to say that a democratic society would maximize communication and *potentia*, limit power games and get rid of domination.

Such an idea would not have looked strange for the Foucault who wrote:

The idea that there could exist a state of communication which would be such that truth games could circulate without obstacles, without constraints and coercive effects, seems to me utopian. Precisely the point is to see that power relations are not something bad as such, something that one must get rid of; I think a society cannot exist without power relations, if one understands them as strategies through which individuals try to lead, to influence the behaviour of others. The problem is therefore not to try to dissolve them in the utopia of a completely transparent communication, but to build the legal rules, the technics of management and also the moral, the ethos, the care of the self, which will help, in these power games, to play with the minimum of domination.⁶⁹

Perhaps, then, in such a perspective, a reflection on modern civil society could learn something from the societies without the State. These societies are based on the principle of reciprocity (precisely the one on which culminates Foucault's ethical turn). A desire for power which wants to found the inequality between those who command and those who obey cannot succeed in "primitive" societies, in which prevails the will for equality. The Cheffery is outside power conceived as domination. As Clastres puts it:

In exchange for his generosity, what does the big man get? Not the realization of his desire for power, but the frail satisfaction of his honor, not the capacity to command but the innocent enjoyment of a glory for which he works hard. He works, at the proper meaning, for glory: the society grants it to him with pleasure: it enjoys the fruits of the chief's work.⁷⁰

It is now possible to give a further answer to our initial question: such power games in a framework of reciprocity have to be understood as one key dimension, and not the antithesis, of a democratic civil society.

University of Frankfurt

Endnotes

* This is an expanded revised version of a paper presented to the International Conference "Identity and Civil Society," Istituto Italiano per gli Studi Filosofici (Napoli)/Inter University Center (Dubrovnik)/Dipartimento di Sociologia, Università di Roma, Ischia, 30/03-10/04/1992. I would like to thank Jean Cohen, David M. Rasmussen and, above all, Véronique Giraud, for their comments on previous versions of this text. I am also grateful to Jodi Dean for her help in the correction of the english version of this paper.

1. Michel Foucault, in: **The Advocate**, Los Angeles, 7/8/84. Retranslated in English from the French version: "Que fabriquent donc les hommes ensemble?" interview by B. Gallagher and A. Wilson, in: **Le Nouvel Observateur**, November 1985.

2. Michel Foucault: **Surveiller et punir**, Paris, Gallimard, 1975. Eng. trans.: **Discipline and Punish**, New York, Pantheon Books, 1977.

3. Jean Cohen, Andrew Arato: "Politics and the Reconstruction of the Concept of Civil Society," (in: A. Honneth, T. McCarthy, C. Offe, A. Wellmer (eds): **Zwischenbetrachtungen. Im Prozess der Aufklärung**, Frankfurt/Main, Suhrkamp, 1989) and **Civil Society and Political Theory**, Cambridge, MIT Press, 1992.

4. Surveiller et punir, pp 31ff. See also "La phobie d'Etat," in: *Libération*, 30/06/1984 and 1/7/1984; "Truth and Power," interview by A. Fontana and P. Pasquino, in: *Power/Knowledge*, New York, Pantheon Books, pp. 122-123. Another, more historical, version of Foucault's concept of power can be found in the first volume of *The History of Sexuality*. (New York, Pantheon, 1978 ; French orig.: *La volonté de savoir*, Paris, Gallimard, 1976) part IV, chapter 1, and in the second of the "Two Lectures," in : *Power/Knowledge*, pp. 92-108.
5. Jürgen Habermas: *The Philosophical Discourse of Modernity*, Cambridge, MIT Press, 1987 (*Der philosophische Diskurs der Moderne*, Frankfurt/Main, Suhrkamp, 1985).
6. *Ibid.*, pp. 297-298.
7. *Ibid.*, p. 317.
8. *Ibid.*, pp. 325-326.
9. *Ibid.*, pp. 327 and 330. See also Axel Honneth's beautiful article "Foucault and Adorno. Zwei Formen einer Kritik der Moderne," in: A. Honneth: *Die zerrissene Welt des Sozialen*, Frankfurt/main, Suhrkamp, 1990. and his previous study, *Kritik der Macht*, Frankfurt/main, Suhrkamp, 1986, chapters 4 to 6, especially pp. 180ff (Eng. trans.: *The critique of Power*, Cambridge, MIT Press, 1991).
10. *Der philosophische Diskurs der Moderne*, p. 331.
11. See Michel Foucault: "La grande colère des faits," (critique of Glucksmann's *Les maîtres penseurs*) in: *Le Nouvel Observateur*, 9/5/1977. For a much more serious attempt to grasp the signification of totalitarianism, see, in the same period, Claude Lefort: *Un homme en trop (Réflexions sur "L'archipel du Goulag")* Paris, Seuil, 1976, and *L'invention démocratique (Les limites de la domination totalitaire)*, Paris, Fayard, 1981 (Eng. trans.: *The Political Forms of Modern Society (Bureaucracy, Democracy, Totalitarianism)*, Polity Press, 1986).
12. "A quoi rêvent les Iraniens·?" "Réponse de Michel Foucault à une lectrice iranienne" and "Lettre ouverte à Medhi Bazargan," in: *Le Nouvel Observateur* 16/10/1978, 13/11/1978 and 14/4/1979; "Entretien avec Michel Foucault: L'esprit d'un monde sans esprit," afterword to: Claire Brière, Pierre Blanchet: *Iran, la révolution au nom de Dieu*, ed. du Seuil, Paris 1979 (English trans.: "Iran: The Spirit of a World Without Spirit," in: *Michel Foucault: Politics, Philosophy, Culture*, New York, Routledge, Chapman & Hall, 1988).
13. Michel Foucault: "The Subject and Power," afterword to H.L. Dreyfus, P. Rabinow: *Michel Foucault. Beyond Structuralism and Hermeneutics*, Chicago, The University of Chicago Press, 1982, p. 209 (French trans.: "Pourquoi étudier le pouvoir: la question du sujet," and "Le pouvoir, comment s'exerce-t-il?" in: Hubert Dreyfus, Paul Rabinow: *Michel Foucault. Un parcours philosophique*, Paris, Gallimard, 1984, p. 298).

yves
sintomer

14. He says: "Let me introduce some kind of autocritique," (Michel Foucault, Richard Senett: "Sexuality and Solitude," in: *London review of Books*, 21/5-3/6/1981).

15. See the Introduction to the second volume of *The History of Sexuality* (French orig.: *L'usage des plaisirs*, Paris, Gallimard, 1984, pp. 10-12).

16. The turn becomes qualitative during Foucault's stay in the USA in spring 1983. The new problem will afterwards be relatively consequent. Foucault changes the plan of *The History of Sexuality* and writes the foreword to the second book. One can nearly "see" the turn in the transcription of the discussions Foucault had in Berkeley in April, 1983, from which "On the Genealogy of Ethics: An Overview of Work in Progress" (French trans.: "A propos de la généalogie de l'éthique: un aperçu du travail en cours," in: *Michel Foucault. Un parcours philosophique*) and "Politics and Ethics: An Interview," in: *The Foucault Reader*, edited by Paul Rabinow, New York, Pantheon Books, 1984, are only partial transcriptions. One can consult the complete transcription at the "Fonds Michel Foucault" in Paris, ref. D 250 (2 to 12).

After the turn, the main texts are the following:

a) The second and the third books of *The History of Sexuality* (in French: *L'usage des plaisirs* and *Le souci de soi*, Paris, Gallimard 1984).

b) The first foreword, unpublished, to the second book (Fonds Michel Foucault, D 238).

c) The transcription of one part of the lessons given at the "Collège de France" in: 1983-1984: "Das Wahrsprechen des Anderen," in: *Michel Foucault: Das Wahrsprechen des Anderen*, Frankfurt/Main, Materialis, 1988.

d) The followings interviews: "L'éthique du souci de soi comme pratique de liberté," (interview with R. Fernet-Betancourt, H. Becker and A. Gómez-Muller, in: *Concordia* n° 6, 1984); "An Aesthetics of Existence," (interview with A. Fontana, in: *Politics, Philosophy, Culture*; French orig.: "Une esthétique de l'existence, in: *Le Monde*, 25/04/1984); "Polemics, Politics, and Problemizations" [interview with P. Rabinow, in: *The Foucault Reader*; French manuscript at the Fonds Michel Foucault, D 250 (1)]; "Que fabriquent donc les hommes ensemble?"; "Interview de Michel Foucault," (interview with C. Backer, in: *Actes*, Paris, n° 45-46, June 1984); "Qu'appelle-t-on punir?" (interview with F. Ringelheim, in: *Revue de l'Université de Bruxelles* n° 1/3, 1984: *Punir mon beau souci*); See also two less important interviews: "The concern for Truth" (with F. Ewald, French orig.: "Le souci de la vérité", in: *Le magazine littéraire*, Paris, May 1984) and "The return of Morality" (by G. Barbedette and A. Scalia, French orig.: "Le retour de la morale," in: *Les nouvelles littéraires*, Paris, 28/6-5/7/1984) published in *Politics, Philosophy, Culture*.

power and
civil society

17. Michel Foucault: "L'éthique du souci de soi," pp. 114 and 108. See also D 250 (7), p. 23.
18. "L'éthique du souci de soi," pp. 108-109.
19. This is not a new perspective for Foucault, even if his way of dealing with the problem is now clearer. See D 250 (7), pp. 15 and 23.
20. "L'éthique du souci de soi," p. 108. Foucault says also (pp. 114-115) that between these two poles, one can find the "technologies of government."
21. See "Que fabriquent donc les hommes ensemble?"
22. "An Aesthetics of Existence." See also "L'éthique du souci de soi," p. 99.
23. "Interview de Michel Foucault," p. 5.
24. *Ibid.*
25. "An Aesthetics of Existence." See also "L'éthique du souci de soi" (p. 107), the unpublished foreword to the second volume of *The History of Sexuality*, pp. 45-46, and "Das Wahrsprechen des Anderen."
26. Interviews D 250 (4), p. 34, and D 250 (5)*, p. 26.
27. Interview D 250 (7), p. 20. See also the problematic of the third volume of *The History of Sexuality*.
28. *L'usage des plaisirs*, pp. 247 and 276. Concerning the political decisive influence on *philia* in the city, cf. *Aristotele: Politics*, especially II-4, III-9, IV-11.
29. Interview D 250 (5), pp. 26-27.
30. "L'éthique du souci de soi," p. 108. See also "Interview de Michel Foucault," p. 5.
31. Interview D 250 (7), pp. 25-26 and 22. A nearly identical statement is expressed in: "Interview de Michel Foucault," p. 5.
32. Interview D 250 (5), pp. 28 and 30.
33. "What is Enlightenment?" in: *The Foucault Reader*, pp. 48-49 (French manuscript in the Fonds Michel Foucault, ref. D 250 (13-16), pp. 9-10). This formulation could be found in other texts.
34. Michel Foucault: "Technologies of the Self" (seminar, fall 1982, University of Vermont), in: L.H. Martin, H. Gutman, P.H. Hutton (eds.): *Technologies of the Self. A Seminar with Michel Foucault*, London, The University of Massachusetts Press, Tavistock Publications, 1988, p.

18. See also "Sexuality and Solitude"; "The Subject and Power," pp. 208-209 and 217-219 (in French: "Pourquoi étudier le pouvoir," and: "Le pouvoir, comment s'exerce-t-il?" pp. 298 and 309-311); "On the Genealogy of Ethics," pp. 351-352 (in French: "Entretien avec Hubert L. Dreyfus et Paul Rabinow", p. 332). This trilogy still exists (but with a less important place, as an internal distinction inside knowledge) in the unpublished foreword to the second volume of **The History of Sexuality**, p. 8. The concepts of Habermas can be found in: **Technik und Wissenschaft als "Ideologie,"** Frankfurt/Main, Suhrkamp, 1969, especially pp. 159-164.

35. "Polemics, Politics, and Problemizations," p. 387 (French manuscript: D 250 (1), pp. 11-12). See also "Das Wahrsprechen des Anderen" and "L'éthique du souci de soi."

36. **L'usage des plaisirs**, p. 275. The Lacanian problematic can be found in: **Ecrits** (Paris, Seuil, 1966) or, in a Marxist fashion, in Louis Althusser: "Freud et Lacan" (in: **Positions**, Paris, ES, 1976).

37. Pierre Bourdieu: **Le sens pratique**, Paris, Minuit, 1980, especially p. 23.

38. **L'archéologie du savoir**, p. 234.

39. Michel Foucault: "Des caresses d'hommes considérées comme un art," in: **Libération**, 1/06/1982.

40. "Entretien avec Michel Foucault," in: **Masques** (Paris), n° 13, Spring 1982.

41. See the second volume of **The History of Sexuality**, especially chapters IV and V.

42. **L'Archéologie du savoir**, p. 272.

43. *Ibid.*, p. 201.

44. Michel Foucault: "An Aesthetics of Existence"; see also "L'éthique du souci de soi," pp. 106-107.

45. See, among others, J.P. Vernant, the greatest French historian of ancient Greece, who summarises the historical relativization of the category "subject" in: "Ebauches de la volonté dans la tragédie grecque," in: **Mythe et tragédie en Grèce ancienne**, Paris, Maspéro, 1972, p. 44.

46. **Le souci de soi**, pp. 56-57. Vernant makes a slightly different trilogy in: "L'individu dans la cité," in: **L'individu, la mort, l'amour. Soi-même et l'autre en Grèce ancienne**, Paris, Gallimard, 1989. One could also say that through *eros* appears the incompleteness of the individual. Cf. Jean Pierre Vernant: "Un, deux, trois: Eros," in: *ibid.*, p. 159.

47. This is a beautiful expression of Gilles Deleuze in: "Les plissements, ou le dedans de la pensée," in: **Foucault**, Paris, Minuit, 1986.

power and
civil society

48. "Polemics, Politics, and Problemizations," pp. 381-382 (French manuscript pp. 1-2).
49. Interview D 250 (7), p. 26.
50. "Politics and Ethics: An Interview," pp. 378-379 (French manuscript, D 250 (2), pp. 8-11).
51. Cf. "Das Wahrsprechen des Anderen."
52. See, among others: "Social Security" (in: *Politics, philosophy, Culture*) and the "Interview de Michel Foucault."
53. "Face aux gouvernements, les droits de l'homme," in: *Libération*, 30/6-1/7/1984
54. Such a rhetoric argument is used by Rainer Rochlitz ("Esthétique de l'existence," in: *Michel Foucault philosophe*, ed. du Seuil, Paris 1989) and by Thomas McCarthy ("The Contradiction of Impure Reason. Foucault and the Frankfurt School," in: *Political Theory*, vol. 18, 3, August 1990).
55. This parallel was made by Steven Lukes.
56. Hubert Dreyfus, P. Rabinow: "Habermas et Foucault: qu'est-ce que l'âge d'homme?" (in: *Critique* n° 471-472, pp. 870-871). See also Rüdiger Bubner: "Moralité et Sittlichkeit"—sur l'origine d'une opposition," (in: *Revue internationale de philosophie*, vol. 42, 1988/3, n° 166).
57. David M. Rasmussen: *Reading Habermas*, Cambridge, Mass./Oxford, Basil Blackwell, 1990.
58. On all these points, see, among others, J.M. Vincent: *Critique du travail*, Paris, PUF, 1987.
59. For another attempt to combine communication and power, but in a Gramscian framework, see André Tosel: "L'antinomie de la démocratie," in: *Revue M* (Paris) n° 45, April 1991.
60. On the Marxian concept of "second nature," see recently Jacques Texier: "Le concept de *Naturwüchsigkeit* dans L'idéologie allemande," in: *Actuel Marx* (Paris) n° 9, 1991.
61. This Spinozian concept seems to have no univocal translation in English.
62. I borrow these terms from Steven Lukes but in a different perspective (see Steven Lukes: *Power. A Radical View*, London, Macmillan, 1974, p. 31). On the political dimension of the Spinozian concept, see Etienne Balibar: *Spinoza et la politique*, Paris, PUF, 1985. Arendt develops her notion of Power (derived from the Roman notion of *potestas*) in the essay "On Violence" (in: *Crisis of the Republic*, New York, Harcourt Brace Jovanovich, 1972). She uses the notion

yves
sintomer

of "strength" (translated in French as "*puissance*") in a completely different perspective: namely, as a "property inherent in an object or a person," and independent of the other things and persons. The characteristic of her notion of "authority" persons, the characteristic of her notion of "authority" (derived from the classical *auctoritas*) is its "unquestioning recognition by those who are asked to obey." Interestingly enough, Arendt does not analyze the concept of sovereignty, which has historically subsumed both *potestas* and *auctoritas*.

63. A critique of Arendt's concept of power can be found in Jürgen Habermas: "Hannah Arendt's Communications Concept of Power," *Social Research*, Spring 1977.

64. Pierre Clastres: *La société contre l'Etat*, Paris, Minuit, 1974 (Eng. translation: *Society Without the State*, New York, Sone Books, 1989), p. 176.

65. *Ibid.*, p. 40.

66. *Ibid.*, p. 20.

67. Pierre Clastres: "L'économie primitive," in: *Recherches d'anthropologie politique*, Paris, Seuil, 1980, p. 142.

68. *L'Invention démocratique*. See also Cornelius Castoriadis: *Le monde merceulé. Les carrefours du labyrinthe*, III, Paris, Seuil, pp. 64-65.

69. "L'éthique du souci de soi," pp. 113-114.

70. "L'économie primitive," p. 139.