

# *Birth of Biopolitics*

Complete outline: Chapters 1-12

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Lecture 1: 10 January 1979

- I) Aim of lectures: continue retracing history of art of governmentality
  - A) Object: "government's 'consciousness' of itself"
    - 1) How government practice was conceptualized
    - 2) Object, rules and objectives of "domain of practice of government"
    - 3) "Study of rationalization of government practice in exercise of political sovereignty"
  - B) Method: (nominalist) eschewing of universals; focus on concrete practices
    - 1) Not "historicism," which assumes universals which change in history
    - 2) But assumption that universals do not exist and thus tracing of concrete practices "apparently organized around something that is supposed to be" X (e.g., "madness")
- II) Recap of last year's lectures
  - A) Raison d'Etat defined state as autonomous reality
    - 1) Mundane (i.e., not concerned w/ afterlife salvation)
    - 2) Existing in plurality of other states (no horizon of integration in restored Empire)
  - B) Means of governing (all aiming at European equilibrium)
    - 1) Mercantilism
    - 2) Police
    - 3) Permanent army and diplomacy
  - C) Against reified "state phobia": it's not a "cold monster," but a "correlate of a way of governing"
  - D) Important factors in raison d'Etat for what comes after (= "liberalism")
    - 1) Limitations:
      - a) Foreign policy aiming at equilibrium means states must limit their external objectives
      - b) Internal policy on the other hand is "unlimited" (all the better to compete w/ other states)
    - 2) Internal self-limitation or at least opposition now comes in form of law
      - a) Medieval royal power grows not just by military, but also by judicial institutions
      - b) In era of raison d'Etat
        - i) Law is now "extrinsic" to raison d'Etat
        - ii) Jurists argue that sovereign may not contravene
          - (a) Basic laws of the realm
          - (b) Natural law
          - (c) Social contract
- III) Forecast of this year's lectures: liberalism as "internal regulation of governmental rationality"
  - A) Five internal limitations producing "critical governmental reason" (Kantian echo)
    - 1) De facto limitation: government ignoring its self-limits is not illegitimate, but inadequate
    - 2) General limitation
    - 3) Internal to state, so that this limitation is itself the means to realizing objective of government
    - 4) Non-judicial

- a) Does not create zone of freedom w/in men as subjects (i.e., "rights")
  - b) But limits what government does: what it should and shouldn't do
- 5) Transactional: government is no longer imposed, but "transacted"
- B) Political economy is "intellectual instrument" that permits liberalism as government self-limiting
  - 1) Ambiguity of term
    - a) Analysis of production and circulation of wealth (i.e., the "politics" of economy)
    - b) Reflection on powers in a society (i.e., the "economy" of politics)
  - 2) Key points in considering political economy
    - a) Formed from within *raison d'Etat* (as opposed to "extrinsic" judicial thought)
    - b) Physiocrats (first form of political economy) concluded a despotic state was needed
    - c) Reflects on governmental practice in terms of effects, not origins (question of legitimacy)
    - d) Discovers "natural" / intelligible mechanisms, not natural rights
    - e) Utility (success or failure) is now only criterion of governmental action
      - i) This means governments can be mistaken / ignorant (rather than wicked)
      - ii) Thus the questions of limitation and of truth are introduced
        - (a) This is not Prince's wisdom (based on "equitable equilibrium")
        - (b) But maximum / minimum: govt never knows too well how to govern just enough
- C) A new regime of truth is established
  - 1) No longer a question of exercise of sovereign rights
  - 2) But political economy enables a judgment of government action in terms of truth (did this action act on a false understanding of intelligible economic mechanisms?)
  - 3) Thus reconfiguring of self-questioning of government
    - a) Medieval: conformity to moral / natural / divine law?
    - b) Absolutism: conformity to *raison d'Etat* so that state is strongest?
    - c) Liberalism: conformity to *maxi min* posed by nature of economic reality?
  - 4) Analyzing relation of practices and regime of truth is same as for F's previous work
    - a) How does a "conjunction" of practices and regime of truth make what "does not exist" (madness, etc.) "become something" even as that "something" "continues not to exist"?
    - b) Thus he's not after exposing past "errors" or "illusions"
    - c) But he's after a *dispositif* of knowledge-power which
      - i) Effectively marks out in reality that which does not exist
      - ii) And legitimately submits it to division between true and false
  - 5) So here he is after the "birth of dissymmetrical polarity of politics and the economy"
    - a) This happens between Walpole's prudent wisdom of prince ("let sleeping dogs lie")
    - b) And the "*laissez-nous faire*" that is the principle of liberalism
- IV) Conclusion: relation of biopower / population / liberalism
  - A) Can only understand biopower in terms of liberalism's treatment of the population
  - B) But in treating liberalism we treat our "immediate and concrete reality"

Lecture 2: 17 January 1979

- I) Liberalism as regime of truth / market as site of veridiction
  - A) Liberalism and *raison d'Etat*
    - 1) Liberalism does not overcome *raison d'Etat*, but is "intensification / internal refinement" of it
    - 2) "Frugal" government is the question of liberalism
  - B) Liberalism as regime of truth: connecting *raison d'Etat* w/ political economy
    - 1) Market as site of justice for Middle Ages
      - a) Regulated
      - b) Sale price seen as a just price
      - c) Site of distributive justice
      - d) Ensuring absence of fraud / protection of buyer

- 2) The liberal market is now a site of truth, of "veridiction"
    - a) Natural / spontaneous mechanisms
    - b) Prices are now "natural" / good / normal / "true" (fluctuates around value of product)
    - c) The natural price is now a criterion for judging correctness of government action
  - C) Methodological remark: Foucault's complex historiography
    - 1) F is non-idealist (market doesn't become site of veridiction bcs of theoretical impact of economic science)
    - 2) But he also eschews search for single cause; there is instead a complex relation among
      - a) Monetary situation
      - b) Economic and demographic growth
      - c) Intensification of agricultural production
      - d) New methods of reflection on economic practice
      - e) Theorization of economic problems
    - 3) IOW, establishing intelligibility of historical change = "simply showing it was possible"
      - a) Not that it was "necessary"
      - b) Nor that it was "one possibility in a determinate field of possibilities"
        - i) [JP: I don't know what to make of this given the Deleuze / Bergson critique]
  - D) Examples of other investigations into intersection of jurisdiction and veridiction
    - 1) Psychiatry as truth regime connected to juridical institutions of confinement
    - 2) Human sciences as truth regime connected to juridical institutions of penal practice
    - 3) Sexuality at intersection of "jurisdiction of sexual relations" and "veridiction of desire"
  - E) So what F is after is "history of truth" as a "genealogy of regimes of veridiction"
    - 1) Object = history of "set of rules enabling one to establish which statements in a given discourse can be described as true or false" [cf. OT and AK]
    - 2) Not to be confused with critique of excesses of European rationality
      - a) From Romanticism to Frankfurt School it's been the same
      - b) F is not after denunciation
        - i) Of the oppression of reason (bcs. madness is also oppressive)
        - ii) Of the presumption of power in affirmation of truth (lies and error abuse power too)
      - c) But after "conditions" and "effects" of veridiction: what are conditions of "discourse"
    - 3) The "political significance" of this genealogy is not
      - a) Denunciation of errors of the past
      - b) But establishing how what we now know to be error was considered to be true
- II) Liberalism and law as limiting power of public authorities
- A) Police state
    - 1) Unlimited government: police state = government merged with administration
    - 2) Extrinsic legal limits focused on sovereign rights
  - B) Liberal / "frugal" government
    - 1) Internal / self-limitation
    - 2) Political economy and public law as limiting government in name of truth of market
      - a) Two means of approaching this question
        - i) Axiomatic / juridico-deductive / revolutionary approach: Rousseau
          - (a) Natural rights
          - (b) Those rights one agrees to cede
          - (c) Deduction of bounds of government competence w/in framework of sovereignty
        - ii) Radical / utilitarian approach
          - (a) Starting not from question of legitimacy, but from governmental practice itself
          - (b) Find the limits of acceptable government action in terms of utility
      - b) Two conceptions of the law
        - i) Revolutionary / axiomatic approach: law as expression of a will
        - ii) Radical / utilitarian approach: law as effect of a transaction

- c) Two conceptions of freedom
  - i) Juridical: freedom as possession to be divided into ceded and kept portions
  - ii) Independence: freedom not as exercise of a basic right, but independence from govt.
- C) Methodological remark: need for "strategic" / "non-dialectical" logic to connect two approaches
  - 1) Dialectical logic "puts to work contradictory terms w/in the homogeneous"
  - 2) Strategic logic "establish possible connections btw disparate terms" "remain heterogeneous"
- D) We see heterogeneous connections, but dominance of utility as principle of govt self-limitation
  - 1) With the market we see exchange and value
  - 2) And we have utility as criterion for judging govt action
- E) Interest is now the general term linking these two
  - 1) Not interest of the state as in *raison d'Etat* (sovereign hold on land / things)
  - 2) But plural interests: "complex interplay btw individual and collective interests"
    - a) Example in penal system shift
      - i) From sovereign punishment as physical torture
      - ii) To "thin phenomenal theme of interests" as only thing govt has a hold on
        - (a) Here the questions are ones of utility / interest
        - (b) So govt no longer exercised on subjects, but on interests
  - 3) "What is utility value of govt ... where exchange determines true value of things?"

### Lecture 3: 24 January 2009

- I) Europe and the international space in liberalism
  - A) *Raison d'Etat* aimed to maintain European equilibrium
    - 1) Internally, no limits to police state, but externally there had to be limits to maintain balance
    - 2) Zero sum game implied with mercantilism (monetarism / finite gold supply)
  - B) Liberalism shows dual profit and mutual enrichment, hence no zero-sum game
    - 1) Hence we have a "Europe of collective enrichment" / unlimited economic progress
    - 2) But this requires "permanent and continuous inputs" from "extended market"
      - a) Translated term "globalization" = French *mondialisation*
      - b) Avoiding intra-European conflict by expanding outward
      - c) F distinguishes this from both colonization and 19<sup>th</sup> C imperialism
    - 3) Rather we have "a new type of global calculation in European governmental practice"
    - 4) Examples of this new calculation of a globally active Europe of commerce
      - a) Maritime law
      - b) Projects for international peace (e.g., Kant and "Perpetual Peace")
  - C) Now the appearance of this new calculation does not mean other rationalities disappear
    - 1) There's always going to be overlap of forms of rationality
    - 2) For example, let's analyze the Congress of Vienna
      - a) Napoleon's imperial idea had three objectives
        - i) Empire will internally guarantee freedom (is less interventionist than absolutism)
        - ii) Empire will give a "European form" to "unlimited revolutionary project"
        - iii) Empire will reconstitute the Carolingian / Holy Roman Empire
      - b) Austrians want to reconstitute old-fashioned European equilibrium of police states
      - c) English want equilibrium on basis of being economic mediator btw Europe / rest of world
- II) Fundamental features of liberalism:
  - A) Recap of the three features:
    - 1) Market veridiction
    - 2) Limitation by calculating government utility
    - 3) Europe as unlimited economic development in a world market
  - B) Why call this "liberalism"? Isn't that too restrictive term?

- 1) There is a governmental naturalism in physiocratic doctrine, but this entailed despotism, even if that despotism was limited by the clear "evidence" based knowledge of economic practice
  - 2) There is a concern with freedom at heart of new govt reason, but this is not quantitative
    - a) Factually: how can you compare the quantity of freedom?
      - i) Absolutist administration / police state
      - ii) Liberal conducting of conduct in every detail of daily life
    - b) Methodologically: (F's nominalism here once again)
      - i) Freedom is not a universal that is particularized in space and time (and can vary)
      - ii) Freedom is the "actual relation btw governors and governed"
        - (a) Measure of "too little" existing freedom
        - (b) Comes from the demand for "even more" freedom
- III) What does F mean by "freedom" in liberal government?
- A) General relation of freedom and liberal government: "productive / destructive"
    - 1) It is a "consumer" / "producer" / "manager" of freedom (of market, property rights, etc.)
    - 2) "Manager of the conditions in which one can be free"
    - 3) Liberalism = a "productive / destructive relation" with freedom
      - a) Free trade / protectionism
      - b) Create buyers for internal market to work (resist impoverishment of workers)
      - c) Anti-monopoly interventions
      - d) Free labor market / reserve army of unemployed
  - B) Principle of calculation for cost of manufacturing freedom = "security"
    - 1) Weighing relation of individual and collective interests
    - 2) Security / freedom as ensuring the "least exposure to danger"
      - a) Motto of liberalism = "live dangerously" ("political culture of danger")
        - i) Savings banks (elicit fear of danger of old-age impoverishment)
        - ii) Detective fiction / *faits divers* (elicit fear of danger of crime)
        - iii) Campaigns against disease
        - iv) Attention to sexuality and "degenerescence"
      - b) Extension of disciplines as counterweights to freedom
        - i) Panopticon starts as regional mechanism
        - ii) But ends as "very formula of liberal government"
      - c) Mechanisms that introduce additional freedom through additional control / intervention
        - i) Control is no longer just counterweight to freedom but its mainspring
        - ii) E.g., Roosevelt's welfare policy
          - (a) Produces freedom to work / consume
          - (b) At cost of economic interventions (seen as "road to serfdom")
    - 3) Liberal "crises of governmentality" = concern w/ economic cost of exercise of freedom
      - a) "Liberogenic" compensatory mechanisms = producing / threatening freedom
      - b) Present (1979) crisis of liberalism traces itself to
        - i) Keynesian interventions / New Deal social programs deployed to prevent loss of freedom through fascism / communism
        - ii) But such "big government" also destroys freedom, say the liberals!
      - c) These crises of liberalism are related to but not identical to crises of capitalism

Lecture 4: 31 January 1979

- I) Introduction
  - A) Contemporary state phobia
    - 1) Many sources: Soviet Union / Nazi Germany / even Beveridge Plan
    - 2) Sign of contemporary crisis of governmentality
  - B) Doing w/o a theory of the state

- 1) F does not ignore the "stratification" of governmental practices
  - 2) But he does refrain from starting with analyzing nature / function / essence of state and then trying to deduce current practices of state governmentality from that essence
    - a) History is not a deductive science
    - b) State does not have an essence
      - i) It is not a universal, nor is it an autonomous source of power
      - ii) It is only the "effect" of a "perpetual stratification" of multiple practices
        - (a) Finance
        - (b) Investment
        - (c) Decision-making
        - (d) Control
        - (e) Relations of local / central authorities
      - iii) It is the "mobile effect of a regime of multiple governmentalities"
      - iv) IOW, "moving outside" to see state via analysis of practices of governmentality
- C) Forecast of lectures:
- 1) Three topics: law and order / civil society / biopolitics as current liberal governmentality
  - 2) Two forms of neoliberalism:
    - a) German Ordoliberalism (contra Nazism and post-war planning)
    - b) American anarcho-capitalism (Chicago School, contra New Deal)
  - 3) Connections:
    - a) Common enemy = Keynes
    - b) Common objects of repulsion = state control / planning / intervention in economy
    - c) Common theories / figures: Mises, Hayek
- II) German neo-liberalism
- A) Requirements for European economic policies in 1948 (= Keynesianism)
    - 1) Reconstruction
    - 2) Planning as instrument of reconstruction
    - 3) Social objectives of avoiding relapse into fascism
  - B) German Scientific Council in 1948 proposes use of "price mechanism" as much as possible
    - 1) No price controls and immediate deregulation of market
    - 2) Raised question of legitimacy of the state
      - a) Trivial sense: state abuse of power in economic realm
        - i) Violates basic rights of citizens
        - ii) And thus loses its own right to be considered representative
          - (a) Thus the Nazis did not lose legitimate sovereignty and individual Germans as citizens are not responsible for Nazi crimes
          - (b) But they did lose right to be considered as representatives of German people, so Nazis did not act in the name of the German people
      - b) Profound sense:
        - i) There is now no claim to juridical legitimacy for a new German state
        - ii) But economic freedom can create "point of attraction" for new political sovereignty
  - C) So Germans want to found state on economic freedom
    - 1) Immediate tactical move
      - a) Attracts support from American business / industry
      - b) Assuages fears of a German strong state
    - 2) Fundamental feature of contemporary German governmentality
      - a) Economic success creates legitimacy for the state that creates / protects economy
      - b) This is a "permanent genesis" of state from the economy
        - i) More than a mere legal legitimization
        - ii) "Permanent consensus" of all economic agents (workers / investors / unions)

- (a) Not as Weber analyzed individual enrichment as sign of God's favor
  - (b) But general enrichment as sign of adherence of individuals to state
- 3) How did German liberalism become accepted?
  - a) Supported by Americans, though mistrusted by Germans
  - b) Resistance by German socialists
  - c) Support by German groups
    - i) Christian Democrats
    - ii) Christian theorists of the "social economy"
    - iii) Labor unions
    - iv) Socialist party: as long as an "equitable social order" resulted
- D) Discussion of the socialist adherence to new program
  - 1) Level of doctrine:
    - a) For Marxists, this is betrayal of orthodoxy
    - b) But for others, this is adherence to a new form of governmentality
  - 2) Reasons why
    - a) Political calculation: neoliberalism was only game in town
    - b) Lack of a socialist governmentality
      - i) So what if Marx doesn't have a theory of the state?
        - (a) No one needs a theory of the state to engage with liberalism
        - (b) Locke doesn't have a theory of the state but a theory of government
      - ii) Socialism lacks its own form of governmental rationality
        - (a) Socialism has several rationalities (knows how to operate in these realms)
          - 1. Historical
          - 2. Economic
          - 3. Administrative
        - (b) But it has only operated in connection with other governmentalities
          - 1. As opposition to liberal governmentality
          - 2. Within police state / hyper-administrative states
  - 3) In relation to truth
    - a) Temptation to ask this nonsensical question of socialism (but not of liberalism)
    - b) Bcs it has to supplement its lack of government rationality by fidelity to a text
  - 4) We would have to invent a socialist governmental rationality (Mitterand on horizon)

#### Lecture 5: 7 February 1979

- I) Post-war German neoliberalism: how can economic freedom found & limit the state?
  - A) A different question from liberalism vs the police state of 18<sup>th</sup> C absolutism
  - B) Biographies of leading German figures: Eucken, Böhm, et al.
    - 1) They had been dealing with this issue since the 1930s
    - 2) Closeness of Freiburg School (Ordoliberal) and Frankfurt School (Critical Theory)
      - a) Both start with problematic laid out by Max Weber, displacing Marx
        - i) Marx: contradictory logic of capitalism
        - ii) Weber: irrational rationality of capitalist society
      - b) Two different directions
        - i) Frankfurt School: find new social rationality to nullify economic irrationality
        - ii) Freiburg School: find new economic rationality to nullify social irrationality
  - 3) Nazism as the "field of adversity" for neo-liberals

- a) Define an objective: found legitimacy of state via economic freedom
  - b) Define "field of adversity" = "whole set of obstacles and enemies" to this project
  - c) Redistribution of technical resources available to them
- II) Field of adversity for the neo-liberals
- A) Historical sequence of adversaries (actually forms a network rather than sequence)
    - 1) Theoretical objections in 1840s (List): national econ policy and liberalism are incompatible
      - a) Liberalism is suited to a maritime nation (e.g., England)
      - b) Germany needs protectionism
    - 2) Bismarckian state socialism
    - 3) WWI state planning of wartime economy
    - 4) Keynesian interventionism
    - 5) Nazis then contributed a "strict coalescence of these elements"
  - B) Theoretical *coup de force* of German neo-liberals
    - 1) The truth of Nazism / Nazism as truth, as "economic-political invariant"
      - a) Nazism is not a "monstrosity" putting together incommensurate elements
      - b) Nazism is instead truth of system, revealing necessary connection of elements
        - i) Any way you enter on this path, you end up with Nazism
        - ii) "Economic-political invariant":
          - (a) Not constitution of state
          - (b) But any kind of econ intervention
    - 2) Nazism as result of "unlimited growth of state power"
      - a) This is odd, as Nazism can be seen as "withering away of state"
        - i) State is only instrument of the people, the Volk
        - ii) State is disqualified from w/in
          - (a) No longer principle of administrative hierarchy
          - (b) But loyalty and obedience to the Führer
        - iii) The party dominated the state
      - b) Neo-liberals responded that the state is merely being re-organized
        - i) It's just that the 19<sup>th</sup> C bourgeois state is being destroyed
        - ii) To make way for the Nazi super-state
    - 3) Nazi critique of society produced by bourgeois capitalism (destroys close folk society)
      - a) Nazis seem to critique atomized, mass, consumer, spectacle society
      - b) But all they really do is intensify these trends
        - i) The reason is that these trends are not the fault of capitalism
        - ii) But of interfering with the market, which Nazism does to an extreme
- III) Failure of nerve of liberalism, limiting market instead of setting conditions for its freedom
- A) Economic intervention = application to society of natural science rationality
  - B) State phobia
    - 1) Such a global critique lets you Social Security and Gulag in same critique
    - 2) Key for neoliberals: attribute to state ills supposedly coming from market
      - a) [JP: here we have the key to market theology: it can never fail, it can only be failed]
      - b) We have to demand even more from the market
        - i) In 18<sup>th</sup> C, market was supposed to be external limit of state
        - ii) Now, neoliberals say market should be internal regulating principle of state
        - iii) IOW, a reversal
          - (a) No longer the market under supervision by state
          - (b) But a state under supervision by market
  - C) Neo-liberal transformations: principle of market changes from exchange to competition
    - 1) 18<sup>th</sup> C: market as space for free exchange
      - a) All state should do is to ensure respect for freedom of the exchangers
      - b) Although state could intervene to ensure private property rights in production



- 2) Neoliberals: competition is the key: inequality, not equivalence: price mechanism
  - a) Neo-classical econ
    - i) State should laissez-faire
    - ii) But can intervene to prevent monopoly
  - b) Neo-liberals: laissez-faire is only a "naïve naturalism"
    - i) Bcs competition is not a given of nature, but a "principle of formalization"
    - ii) "Formal game btw inequalities, not a natural game btw individuals and behaviors"
- 3) Competition is a formal structure
  - a) It is never attained, but can only be an objective
  - b) Econ – history relation
    - i) So econ theory is analysis of competition as formal mechanism
    - ii) But we can only analyze real effects of any one economy by studying history
      - (a) Thus by historical study we can see which conditions allow for competition
      - (b) Or in fact render competitive effects impossible
  - c) Free market can only be produced by an active governmentality

Lecture 6: 14 February 1979

- I) Critique of simple repetition as model of historical analysis
  - A) Neoliberalism is not just a renewal of past forms
    - 1) Reactivation of classical liberalism
    - 2) Extension of market society (abstract labor, exchange, etc.)
    - 3) Growth of state
  - B) Rather, we have to see the uniqueness of neoliberalism
    - 1) Not to limit state by econ, but to found state on free market principles
    - 2) Transformations:
      - a) No longer laissez-faire: competition is not given, but a formal structure
        - i) Rigorous in its theoretical essence
        - ii) But fragile in its historical reality
- II) Lippmann Colloquium confirms uniqueness of neoliberalism as concern w/ style of govt action.
  - A) Monopoly
    - 1) Classical: monopoly is semi-natural / semi-necessary consequence of competition
    - 2) Neoliberals: monopoly is not part of economic / historical logic of competition
      - a) Historical: Monopoly is archaic phenomenon due to state intervention
      - b) Juridical:
        - i) Law of joint-stock companies, patent rights, etc
        - ii) Political: link btw national economy / protectionism / monopoly
      - c) Economic: increase in fixed capital does support trend to concentration / monopoly
        - i) Not inevitable: monopoly threshold only passed due to market interference
        - ii) Even if it occurs, monopoly is instable and can be fixed by competition
      - d) Monopoly disturbs prices
        - i) But a company can't really charge monopoly prices w/o attracting competitors
        - ii) So it has to charge something close to the competitive price
    - 3) So conclusion of neo-liberals is to prevent external / non-market causes of monopoly
  - B) Conformable economic action
    - 1) Regulatory actions (Kantian echo: providing a focal point for ongoing process)
      - a) Target of interventions
        - i) You must never act on mechanisms of market
        - ii) But only on three tendencies that are conditions of market competition
          - (a) Reduction of costs
          - (b) Reduction of profit

- (c) Localized tendency to increase profit
          - 1. Price reductions
          - 2. Improvement in production
      - b) Consequences:
        - i) Objectives of regulation = price stability as control of inflation
        - ii) Instruments: control of credit conditions through central bank interest rates
    - 2) Organizing actions: intervention on more fundamental conditions ("framework")
      - a) Population
      - b) Technology
      - c) Legal framework
      - d) Natural environment
  - C) Social policy
    - 1) Contrast with social policy of welfare economy
      - a) Counterweight to unrestrained economic processes producing inequality
      - b) Instruments:
        - i) Socialization of elements of consumption (e.g., health care)
        - ii) Income transfer
        - iii) Stronger growth should be rewarded w/ stronger social policy
    - 2) German ordoliberalism rejects all of these
      - a) We cannot interfere w/ production of inequality (thus no income transfer)
      - b) Cannot allow socialization of consumption: need for privatization
        - i) Society can no longer insure risks
        - ii) Each individual must self-insure against risks
      - c) Economic growth itself must be the only social policy
- III) Society itself (or "social environment") as target of neoliberal governmentality
  - A) What is neoliberal relation of market and society?
    - 1) It is not what Marxists critique
      - a) Normalized mass consumption "market society"
      - b) That is, society of exchange of commodities (incl. labor power)
    - 2) Rather it is society of competition / "enterprise society"
      - a) "social ethic of enterprise" in Weber, Sombart, Schumpeter
        - i) Everyone should have access to private property
        - ii) Reduction of urban sprawl
          - (a) Private homes
          - (b) Small farms
          - (c) Craft industries and small business
        - iii) Decentralization / despecialization = organic reconstruction
          - (a) Natural communities
          - (b) Families
          - (c) Neighborhoods
        - iv) Control of effects of large-scale production
      - b) A "politics of life," a *Vitalpolitik*: social fabric w/ basic unit as enterprise
  - B) Convergence of old critiques of mass society and current neoliberal social policy
    - 1) We no longer aim at society oriented to uniform commodities (Fordist black Model T)
    - 2) But to a society that multiplies and differentiates enterprises (flexible production)
  - C) Multiplication of instances for judicial disputes (litigious society)

Lecture 7: 21 February 1979

- I) Recap of last week: social policy of the German neoliberals
  - A) Active government aiming at conditions of market

- 1) Not intervening in the market or compensating for market effects (inequality)
  - 2) But fighting anti-competitive mechanisms
    - a) Socialized medicine
    - b) Income transfer
  - B) Forming society on model of enterprise
- II) This week: the problem of law
- A) Louis Rougier at the Lippmann Colloquium
    - 1) Liberalism (= market) not *simply* a natural mechanism as 18<sup>th</sup> C believed
    - 2) But *also* result of active government judicial framework
      - a) But we can't suppose the current system is best
      - b) Need to constantly adapt legal framework
        - i) Scientific discovery [= intellectual property]
        - ii) Changes in corporate structure [= outsourcing]
        - iii) Changes in structure of society [= new markets; "real subsumption"]
        - iv) Requirements of contemporary consciousness [= media; advertising, etc]
  - B) Neoliberals would reply that 18<sup>th</sup> C market was just as artificial as contemporary
- III) What is neoliberal about Rougier's text?
- A) Juridical is not part of superstructure; not a mere expression of economic; it forms economic
    - 1) Theoretical meaning: there is an "economic-juridical order"
      - a) Like Weber, at level of "relations of production" rather than "forces of production"
      - b) Economic is regulated from the start; it can't get ahead of or lag behind law
    - 2) Historical meaning:
      - a) Reject Marx's revolution as independent economic changes forcing superstructural changes from below
      - b) History of capitalism is from the start an economic-institutional history
    - 3) Political stake: survival of capitalism
      - a) For Marxists:
        - i) Economic logic of capital accumulation is determinant
        - ii) There is only one Capitalism
        - iii) So that end of Capitalism is foretold in its current crisis
      - b) For neoliberals
        - i) The "capital" process
          - (a) Is only a theoretical entity
          - (b) That exists in a particular historical economic-institutional reality
        - ii) Thus today we have only one form of capitalism ("historical singularity")
          - (a) This singularity can give rise to economic-institutional "transformations"
          - (b) So we have a "field of possibilities"
        - iii) Neoliberals want to show how capitalism can survive w/ different institutions
          - (a) Show how competitive market logic was non-contradictory
          - (b) Show how current ills of capitalism
            1. Were historical-institutional [in fact, due to state intervention]
            2. And could be overcome w/ better institutions
    - 4) Summary: neoliberal intertwining of two problems
      - a) Logic / theory of competition
      - b) Weberian problem of economic-institutional history
  - B) "Legal interventionism"
    - 1) Situation:
      - a) The neoliberals had to invent a new capitalism
      - b) Laws cannot interfere w/ market mechanisms
      - c) Rather, laws have to make sure that market mechanism are the only game in town
        - i) Principle of economic regulation

- ii) And thus principle of social regulation
- 2) Solution: application to the economy of the "rule of law"
  - a) Early 19<sup>th</sup> C German conception of *Rechtsstaat* is opposed to
    - i) Despotism as subordination to will of sovereign
    - ii) "Administrative continuum" of police state (no difference btw law and regulation)
  - b) Rule of law is instead
    - i) Public authority must take the form of law (not will of sovereign)
    - ii) Laws as acts of sovereign must differ from particular decisions of public officers
  - c) So, w/ rule of law any citizen must have real judicial recourse against public authorities
- 3) So the neoliberals want to make sure any economic legislation is formal / universal
  - a) Proximate targets:
    - i) Hitlerian intervention
    - ii) New Deal / English post-war planning
  - b) Hayek's formula: rule of law is opposite of planning
    - i) Plans
      - (a) Aim at a particular goal (e.g., full employment, income transfer)
      - (b) Can be corrected / modified
      - (c) Public authorities make decisions
      - (d) Public authorities can become economic agents (public works spending)
      - (e) Presuppose that public authorities are subjects of economic knowledge
    - ii) Rule of law
      - (a) Completely formal w/o any aims or goals
      - (b) Must be a priori w/o any chance of being changes
      - (c) Must be a framework w/in which private individuals make decisions
      - (d) Must bind the state as much as private individuals
      - (e) Rules out possibility of a subject of economic knowledge
- 4) "Law and order"
  - a) Thus the economy must be a "game" for both state and individuals
  - b) Rule of law is only the framework, the rules of the game
  - c) That allows "economic order" to emerge as both effect and principle of its own regulation
- C) Growth of "judicial demand": "surfaces of friction" increase among multiple economic actors
- IV) Conclusion: comparison of neoliberals with Schumpeter
  - A) Schumpeter agrees w/ neoliberals that there is no internal contradictory logic of capital
  - B) Differences btw Schumpeter and neoliberals
    - 1) Schumpeter's "pessimism"
      - a) Historical / concrete capitalism always has monopoly tendencies
        - i) Not due to economic logic of competition
        - ii) But due to social consequences of competition
          - (a) Tendency to centralization
          - (b) Tendency to become connected to administrative / state decision-making
      - b) These social consequences lead to a transition to socialism brought about by capitalism
        - i) Again, not due to an economic irrationality
        - ii) But due to social consequences of competitive markets
      - c) The political price of this transition to socialism is high, but not impossible to pay; IOW, we can avoid totalitarian socialism
    - 2) Ordoliberal reply
      - a) The political price is unacceptable
        - i) No way to avoid complete loss of freedom once you accept planning
        - ii) Because planning always involves errors which call for more control
      - b) We can avoid this by intervening to prevent the centralizing tendencies Schumpeter notes
        - i) Precisely because we can intervene at the social level

- ii) And not touch the economic level (which Schumpeter agrees is not the problem)
- c) That is, we can avoid Schumpeter's problem by "law and order" (see above)

Lecture 8: 7 March 1979

I) Introduction

- A) Methodological reflection on "micropowers" qua governmentality as conduct of conduct
  - 1) Target:
    - a) F first developed analysis of micropowers in looking at treatment of mad, prisoners, etc.
    - b) Now he uses it to analyze economic policy as management of whole social body
  - 2) Conclusion: analysis of micropowers
    - a) Not a question of scale or of a specific target
    - b) But the adoption of a "point of view"
- B) "Critical morality" and "state phobia"
  - 1) Two common and interlocking themes
    - a) State possesses a power of expansion that always threatens civil society
    - b) Kinship btw different forms of the state
      - i) Administrative state
      - ii) Welfare state
      - iii) Bureaucratic state
      - iv) Fascist state
      - v) Totalitarian state
  - 2) F's criticism of these themes as "inflationary"
    - a) Encourages the acceleration of interchangeability of analyses
      - i) E.g., we can move from analysis of social security to analysis of concentration camps
      - ii) Thus the requirement for a "specificity of analysis" is diluted
    - b) Allows a "general disqualification by the worst" (= slippery slope)
      - i) E.g., denouncing "slide to fascism" in severe punishment of vandals (cf. Guliani's "zero tolerance" campaign)
      - ii) This hides the need to analyze our own practices on their own terms
    - c) "Elision of actuality" in denouncing fantasy of "paranoiac and devouring state"
    - d) Does not carry out self-analysis / self-criticism
      - i) Doesn't look for real source of state phobia
      - ii) I.e., doesn't see historical situation of 1930-45 neo-liberals, who were fighting
        - (a) Keynesian interventionism / critiques of liberalism
        - (b) New Deal (US) / Popular Front (France) state control systems
        - (c) Nazi economics and politics
        - (d) Soviet Union
  - 3) F's demonstration that current (leftist) state phobia has echoes / roots in neo-liberal thought
    - a) Röpke: 1943: Beveridge Plan (Britain) = destruction of middle class by state
    - b) Hayek: 1943: Beveridge Plan puts us on path to Nazism
- C) F's alternate viewpoint
  - 1) Welfare state ≠ / doesn't have same origin as Nazi, fascist, Stalinist state
  - 2) Totalitarian state is in fact a withering away of state in favor of the party
    - a) It is not the police state pushed to its limit
    - b) In fact it is a non-state governmentality, a governmentality of the party
  - 3) Twentieth century state is reduction of state / raison d'Etat
    - a) Growth of party governmentalities
    - b) Liberal governmentality
  - 4) Conclusion: contemporary (1979) analyses based on state phobia
    - a) Are not new but old-fashioned neo-liberal ideas

- b) Are mistaken if they attribute a fascist growth tendency to state
      - i) Fascism (as party governmentality) is exogenous to state
      - ii) Fascism is reduction of state, not its growth
- II) To study diffusion of German neoliberalism in France, we must first distinguish it from US
  - A) France as site of "diffusion" of German model
    - 1) France has a strong state-centered, interventionist, administrative governmentality
    - 2) Occurs in midst of economic crisis
    - 3) Agents of implementing the German model are state administrators in midst of a crisis
  - B) US
    - 1) Has own neoliberal tradition, though w/ complex interrelation w/ Germans (via Hayek)
    - 2) Political aspect of US economic aspect (questioning of New Deal)
    - 3) Agents are not government administrators, but political opposition movement
- III) Focusing on France: Giscard's policies
  - A) Economic Context
    - 1) Shift in policy objectives
      - a) From Keynesian full employment, etc
      - b) To neoliberal price stability (anti-inflationary / monetarism)
    - 2) Diagnosis of the crisis
      - a) Not Keynesian underconsumption
      - b) But as problem w/ investment choices
    - 3) Oil crisis
      - a) Not the formation of OPEC as cartel of sellers / producers
      - b) But decline in market / geopolitical power of cartel of buyers / consumers
    - 4) Liberal solution was integration of French economy in European / world economy
      - a) Just another swing in French history btw *dirigiste* and liberal orientation?
      - b) No, it's really the question of a different regime, neo-liberalism
  - B) Social policy
    - 1) Historical remarks
      - a) Two problems
        - i) Full employment as economic / social priority
        - ii) Avoiding devaluation (inflation) due to economic growth
      - b) Model was "war" as national solidarity leading to "social security coverage of risks"
    - 2) Solution: collective consumption / permanent redistribution of income ("welfare state")

JP: there's a big political affect question here about collective vs individual risk. Ewald has good stuff on 19<sup>th</sup> century insurance. Cf Melinda Cooper discussion in *Life as Surplus* on new catastrophic risk model (Ulrich Beck): calculable vs incalculable damages (e.g. ecological / nuclear catastrophes require pre-emption rather than recompensation.) See also Randy Martin, *Financialization of Daily Life* of the "somaticization of risk" as when personal finance types tell you to take on only the amount of risk that allows you to sleep at night!

- 3) Three answers as to the economic effects of social security / welfare state
  - a) We like the results / we need to counteract the market the liberals have set up
  - b) There have been no effects on the economy
  - c) There are bad effects on the economy
    - i) Raise in cost of labor
    - ii) Net redistribution to the wealthy (due to cap on taxable income)
- 4) Giscard's response (accepting third analysis)
  - a) We should have two separate systems: economic tax and a social tax
  - b) We can do this if we conceive economy as a game and state as setting rules of game
    - i) State can supply a safety net as a sort of "inverted social contract"

- (a) In social contract
    1. You must will participation
    2. And if you will it, you're part of contract until you cut yourself out
  - (b) In economic game
    1. You don't will participation
    2. State ensures that you're never excluded from this non-willed game
- C) The idea of the "negative tax"
  - 1) Basic idea:
    - a) Social benefits should never be collective consumption (health care / income, etc)
    - b) So we will guarantee a minimum income if you fall below a threshold
      - i) Solves problem of wealthy benefitting most from (e.g.) national health care
      - ii) Assistance threshold has to be calculated so as not to remove "incentive" to work
  - 2) Characteristics
    - a) Aims only at effects of poverty (removal from game) not causes of poverty
      - i) This can be phrased in terms of "basic needs"
      - ii) So we can be done with the whole distinction btw "worthy" and "unworthy" poor
    - b) Will not involve a redistribution of income
      - i) Doesn't aim at relative poverty (doesn't seek to close gap btw richest / poorest)
      - ii) But only aims at "absolute" poverty
        - (a) Of course this is relative to each society
        - (b) Accepts the existence of poor people (instead of aiming at their elevation)
    - c) Above absolute poverty threshold requiring assistance
      - i) Everyone is an enterprise
      - ii) "Floating population" around the threshold subject to precarious labor conditions
- D) Summary
  - 1) Renunciation of Keynesian goal of full employment
  - 2) Neoliberal aim is now integration of all of society in a market economy
  - 3) New "reserve army of unemployed" / downward pressure on wages [NB: not F's terms]
    - a) Precarious / "floating" population around threshold
    - b) Not same as 19<sup>th</sup> C production of proletarians via destruction of peasantry
    - c) Now system works via subjectivity, not brute force / coercion by fear of starvation
      - i) You don't have to work in order to survive; you only work if it's in your interest
      - ii) This is a liberal system
        - (a) ≠ Bureaucratic system (social workers establishing causes of poverty)
        - (b) ≠ Disciplinary system (prisons / poor houses / work houses)
  - 4) Radicalization of German ordoliberal thought

## Lecture 9: 14 March 1979

- I) Context for American neo-liberalism
  - A) Shared with German neo-liberalism
    - 1) Opposition to New Deal / Keynesianism
    - 2) Post-war socialization / interventionism
      - a) "Social pacts" w/ working class rather than international pacts with allies
      - b) Fighting in war traded for social security (in broad sense: full employment, etc)
    - 3) Social programs up through Johnson's Great Society
  - B) Unique features of American neoliberalism
    - 1) American liberalism was foundational from beginning of nation, back in 18<sup>th</sup> C

- 2) Liberalism has been heart of political debate in US for 2 centuries
  - 3) Thus Keynesianism can appear as extraneous and threatening
    - a) Appearing as "socialist" to the right
    - b) And appearing as "imperialist and military state" to the left
  - C) Thus American liberalism is not just a new theory, but a whole historical way of life
    - 1) It's a relation btw governors and governed rather than a technique of governors
    - 2) Thus liberalism appears as / exists as working out of problem of freedom
      - a) Ambiguous, global claim for both right and left
      - b) Utopian focus constantly revived (e.g., Hayek [later Nozick])
      - c) Method of thought / grid of economic-sociological analysis
- II) Theory of human capital as extension of economic analysis into previously unexplored [but still economic] domain [labor]
- A) Abstract labor
    - 1) Classical political economy didn't really explore labor [vs land and capital]
      - a) Smith and Ricardo just reduce labor to time (= "neutralization" of nature of labor)
      - b) Thus in Keynes labor is a passive factor awaiting activation via adequate investment
      - c) And although the neoliberals never argue with Marx
        - i) Because of "economic snobbery" ("minor post-Ricardian" etc.)
        - ii) If they did, they'd see the same neutralization of labor
          - (a) Abstract labor = labor power measured in time
          - (b) Logic of capital is what reduces concrete labor to abstract labor to labor power
    - 2) Neo-liberals claim abstraction of labor
      - a) Is not due to "real capitalism"
        - i) But only to economic theory of classical economics
        - ii) In other words, there has never been a truly economic analysis of concrete labor
      - b) Thus a whole [Marxist] "anthropology" and "politics" of labor fills the void of what a truly economic analysis of concrete labor would have been
  - B) So neoliberalism = "essential epistemological transformation" changing domain of economics
    - 1) Classical economics analyzes mechanisms of production / exchange / consumption
    - 2) Neoliberals analyze "substitutable choices" (= scarce means w/ mutually exclusive ends)
      - a) It's thus not analyzing relations btw things or processes
      - b) But analyzing rational structure of a form of individual human behavior
    - 3) So what is neoliberal / "scientific economic" analysis of labor?
      - a) It's not seeing it as a factor of production in relation to capital
      - b) But it's asking how worker uses the means available to him
        - i) What is work as an economic activity, i.e., as a rational choice of means / ends
        - ii) That is, how do we take the perspective of worker as an active economic subject?
  - C) Kernel of theory of human capital
    - 1) If wage = income, and income = return on capital, what then is worker's capital?
    - 2) It's the set of physical and psychological factors of the worker
      - a) Worker now IS a machine for generating income
      - b) Worker's capital is inseparable from his person, so it's not like other machines
        - i) Opposed to labor power as commodity sold on market to enterprise capital
        - ii) Worker is now his own enterprise



- D) A new form of *homo economicus*
  - 1) Difference btw classical and neoliberal conceptions
    - a) Classical liberals: *homo economicus* = man of exchange / needs-based utility
    - b) Neoliberals: *homo economicus* = self-entrepreneur [= self-capitalized machine]
  - 2) Consequences: universal production [no more exchange / commodities] (cf. *Anti-Oedipus*)
    - a) No more labor
      - i) You don't exchange [commodified] labor power for wage
      - ii) You produce a return on your capital
    - b) No more consumption
      - i) You don't consume commodities (gotten via exchange for wage)
      - ii) You produce satisfaction
- III) Theory of human capital as enabling possibility of economic analysis of what was previously thought to be non-economic [family time, genetics, education, etc]: imperialism of Economics
  - A) Innate elements [there are a lot of complex issues here; I'm just going to present what F says]
    - 1) Genetic analysis showing disease risk creates possibility that good genes are scarce resource
    - 2) And once we have scarcity, we can do an economic analysis of rational choices
      - a) Cost / benefit analysis of genetic screening
      - b) Qualifications on reproduction market (advertising your good genetic capital, etc.)
    - 3) So rather than / alongside traditional racism, we have economic / human capital analysis of
      - a) Selective abortion
      - b) Eugenics
  - B) Acquired elements
    - 1) Forms of these acquired elements of human capital
      - a) Educational investments
        - i) Broader than just schooling
        - ii) Thus also parental time investment (building qualitatively on *their* human capital)
      - b) Medical care
      - c) Mobility: cost / benefit analysis: migrants as investors looking to future returns
    - 2) Consequences
      - a) Obvious political consequences F doesn't name, but we can
        - i) Privatization of public institutions in name of free choice
          - (a) School vouchers
          - (b) Health care, etc.
        - ii) Eliminating social analysis of bad outcomes (IOW, "blaming the victim")
          - (a) Poor individual choices regarding specialization
          - (b) Poor impulse control regarding current consumption vs investment for future
          - (c) Generalizable as "culture of poverty"
      - b) But F's real interest lies in analysis of innovation
        - i) Marx and others note the tendency of rate of profit to decline
        - ii) Schumpeter notes how this is continuously corrected
          - (a) Rosa Luxemburg provides imperialism analysis here
          - (b) Schumpeter notes role of innovation
        - iii) Neoliberals respond
          - (a) We can't trust "innovation" as some ethical-econo-psychological characteristic

- (b) We have to see it as return on investments in human capital
  1. Analysis of post-war American / European / Japanese economies
  2. Analysis of Third World economies
  3. Analysis of European economic takeoff of 16<sup>th</sup> / 17<sup>th</sup> centuries

Lecture 10: 21 March 1979

- I) German ordoliberalism and the ambiguous relation of society and economy
  - A) "Social policy": seemingly to protect fragile competitive market from society
    - 1) Objectives
      - a) Avoiding centralization
      - b) Encouraging medium-sized enterprises
      - c) Support for craft enterprises, small business, etc
      - d) Increase access to property ownership
      - e) Individual insurance
      - f) Environmental regulation
    - 2) "Economic-ethical ambiguity" of notion of "enterprise"
      - a) Generalizing enterprise form throughout social fabric
        - i) Thus individuals are not tied to one big firm ("company town" as extreme)
        - ii) But lives in a "framework of a multiplicity of diverse enterprises"
          - (a) Thus individual actions can be felt in those small firms
          - (b) And individual is no longer dependent on any one firm
        - iii) Thus the individual becomes himself a "permanent and multiple enterprise"
      - b) But all this is done in order to compensate for "cold" / mechanical competition
        - i) Extending economic model supports "warm" cultural values
        - ii) = *Vitalpolitik* or "life policy" (vs cold, mechanical competition)
  - B) Conclusion: ordoliberal ambiguity = social policy for *and* against market
    - 1) Protect market from state intervention done to respond to social pressures
    - 2) Protect society from fragmentation via cold mechanism of competition
- II) American neoliberalism is much more radical
  - A) Generalized economic analysis as grid of intelligibility of [traditionally non-economic] social relations / individual behavior
    - 1) Human capital and mother / child relations
    - 2) Birth rate as related to investment in human capital
      - a) Compare neo-Darwinist discussion of different species "reproductive strategies"
      - b) E.g., low investment / high birth rate vs high investment / low birth rate
    - 3) Marriage as savings on transaction costs of individualized actions
  - B) Economic analysis as test of government action
    - 1) American Enterprise Institute and cost-benefit analysis of public action
    - 2) Analogy with positivist critique of ordinary language [bit of a *tour de force* here]
    - 3) Contrast with classical liberal laissez-faire
      - a) Classical liberals: market should be isolated from government interference [via rights]
      - b) Neoliberals: market should constantly judge government
    - 4) IOW, protect market from government AND refuse to protect government from market

- III) Becker et al's analysis of criminality as example of these two analyses
- A) Looks at first like a simple return to 18<sup>th</sup> reformers who also did cost / benefit analyses
- 1) 18<sup>th</sup> century reformers did a utility calculation and offered a legalistic solution
    - a) Law reduced transaction costs and so was cheapest way of punishing people
    - b) So we had overlap of *homo penalis* (exposed to legal punishment) and *homo economicus*
  - 2) 19<sup>th</sup> century notices a paradoxical effect
    - a) Law only sanctions acts or crimes but it's the criminal who must be punished
    - b) Thus human science creation of *homo criminalis* and drift away from *homo penalis*
  - 3) And so we have an "anthropology of crime" replacing mechanics of law
- B) Neoliberal analysis: stick to *homo economicus* as subject of crime
- 1) Hypothetical neoliberal analysis of 18<sup>th</sup> C reformers: don't assume utility calculus can be done w/in a legal framework
  - 2) Neoliberal analysis of crime
    - a) Definition: crime = action that make individual run risk of penalty
      - i) This is close to French penal code (objectively defined in terms of act)
      - ii) But neoliberals adopt subjective perspective: what is rationality structure of choices?
    - b) This subjective perspective
      - i) Not psychology / anthropology
      - ii) Just grid of intelligibility of individual qua *homo economicus*
  - 3) What does this mean about *homo economicus* as subject / object of economic analysis?
    - a) Doesn't mean we consider whole subject as nothing but *homo economicus*
    - b) But it means we can analyze rationality structure of any human action
    - c) And thus individual becomes "governmentalizable" via economic analysis
- C) Consequences of neoliberal analysis
- 1) Regarding crime
    - a) No qualitative difference in crimes (parking infraction vs murder)
    - b) No interrogation of criminal for moral / anthropological traits
    - c) Criminal is just an investor / entrepreneur accepting risk in expectation of profit
    - d) So the system doesn't deal with criminals, but acts on supply of crime
  - 2) Regarding punishment
    - a) = means employed to limit negative externalities of certain acts
    - b) 18<sup>th</sup> C tried to connect
      - i) Civil reparation
      - ii) Individual correction
      - iii) Prevention
    - c) Neoliberals: two-fold aspect of law
      - i) Prohibition with a certain cost of uttering it
      - ii) Enforcement as providing "negative demand" to supply of crime
        - (a) Quantity of punishment
        - (b) Apparatus for detecting crimes
        - (c) Judicial apparatus for convicting criminals
        - (d) Speed and severity of judgment
        - (e) Effectiveness of penalty
        - (f) Modifiability of penalty

- D) Analysis of "law enforcement"
  - 1) Supply of crime is not indefinitely or uniformly elastic
    - a) Shoplifting
      - i) Easy to get some reduction
      - ii) Very hard to get reductions past a certain point
    - b) Crimes of passion
      - i) Some would disappear w/ easier divorce
      - ii) Others wouldn't be affected by divorce
  - 2) Enforcement itself has costs and negative externalities
    - a) Cost: law enforcement investment means less for other options
      - i) 18<sup>th</sup> C aimed at total disappearance of crime
      - ii) Neoliberals just want efficient intervention in crime market
        - (a) Society is "consumer" (= producer) of conforming behavior
        - (b) So we just want to balance supply and negative demand curves of crime
    - b) Negative externalities:
      - i) Neoliberals do not want / need elimination of crime
      - ii) So they do not want / need exhaustive disciplinary / Panoptical society
- E) Concrete example of drug market
  - 1) Previous policy was to reduce drug supply
    - a) Increased price of drug
    - b) Favored monopoly / oligopoly effects of big dealers
    - c) Pushes addicts to crime bcs of inelastic demand for some drugs
  - 2) Neoliberal solution: Free up supply of drugs
    - a) Analysis
      - i) Categories of buyers
        - (a) Beginners with elastic demands
        - (b) Addicts with inelastic demands
      - ii) Attitude of pushers
        - (a) Low prices for beginners
        - (b) High prices for addicts
    - b) Policy
      - i) Price manipulations
        - (a) Make new consumer price as high as possible to discourage consumption
        - (b) Make addict price as low as possible to limit crime to pay for drugs
      - ii) Targets: new customers, small dealers, small trade
- F) Conclusion:
  - 1) Anthropological erasure of criminal
    - a) No analysis of the "born criminal," the "pervert," etc.
    - b) Every criminal is "responsive" to possible gains / losses [cf. "rational psychopath"]
  - 2) Type of society
    - a) Not a disciplinary / normalizing society
    - b) But a differential society
      - i) Fluctuating practices
      - ii) Minority individuals and practices are tolerated

- iii) Action on rules of game rather than on players
- iv) Environmental intervention rather than internal subjugation of individuals

Lecture 11: 28 March 1979

- I) Recap of last week: extension of object of economic analysis
  - A) From neoclassical: any form of allocating scarce resources to alternative ends
  - B) To neoliberal universality:
    - 1) From any employment of limited means to one end among others
    - 2) To any strategic choice / rational conduct whatsoever
    - 3) Or even, with Becker, to any action that "accepts reality"
      - a) That is any system that responds to environment in systematic way
      - b) Thus econ = study of systematic nature of response to environment
        - i) Integration with behaviorism and stimulus-response study
        - ii) F mentions Castel's *Psychiatric Society*
- II) Relation of government and *homo economicus*
  - A) Background suggests *homo economicus* as resistant to 18-19<sup>th</sup> C government
    - 1) For classical liberals, *homo economicus*
      - a) Pursues own interests which converge spontaneously w/ interests of others
      - b) Thus he must be left alone in order for the convergence of interests to work
    - 2) For neoliberals, *homo economicus*
      - a) As responsive to environment
      - b) Is eminently manageable / governable
  - B) But F wants to show that *homo economicus* was correlate of liberal governmentality from start
    - 1) Theory of subject in English empiricism
      - a) Not defined by
        - i) Freedom
        - ii) Opposition of soul and body
        - iii) As source of sinful desire
      - b) But as subject of individual choices which are irreducible and non-transferable
        - i) Irreducible: there is an end point to analysis in preference for non-painful
        - ii) Non-transferable: choice made on basis of MY preference
      - c) That is, as subject of interest: immediate and absolutely subjective will
    - 2) Can this subject of interest be same as subject of juridical will?
      - a) They may not be able to be assimilated, but they can be reconciled
        - i) Social contract does this: interest is the empirical source of the contract
        - ii) So the legal subject is a "purified" (i.e., rational / calculating) subject of interest
      - b) Hume responds that this is confused
        - i) Subject of interest is irreducible to subject of right
          - (a) You enter the contract out of interest and you stay in contract out of interest
          - (b) Subject of interest is "permanent condition" of functioning of subject of right
        - ii) Logic of subject of right and subject of interests is different
          - (a) Subject of right
            - 1. Has natural rights; acquires positive rights on basis of renouncing rights

2. He is thus a "split subject"
    - (b) Subject of interest is never split; never relinquishes his interest
      1. In fact only on this basis is there social benefit
      2. A "multiplying and beneficial value through intensification of interest"
  - 3) Thus the economic subject and subject of right have different relation to political power
    - a) So homo economicus appears in liberal governmentality
      - i) Via economic thought which delimits zone free from political interference
      - ii) That is, homo economicus is constituted by political economy critique of govt reason
    - b) Not in liberal political thought (social contract theory)
- III) Theory of the invisible hand as principle of political economy critique of governmental reason
- A) Background
    - 1) Condorcet: take an individual interest embedded in society
      - a) This interest is dependent on an infinite number of things
      - b) Nevertheless, each individual effort serves good of all
    - 2) Homo economicus is thus embedded in "indefinite field of immanence"
      - a) Doubly involuntary: accidents befalling him and benefits he provides to others
      - b) Doubly indefinite:
        - i) Accidents come from non-totalizable field
        - ii) And benefits are also non-totalizable
    - 3) Thus positive nature of economic calculation depends on what eludes calculation
  - B) This structure of dependent / blind calculation is the meaning of the "invisible hand"
    - 1) Usual reading
      - a) This is just smuggled in providential God
      - b) Who occupies point of economic totalization / transparency / knowledge
    - 2) F's reading of Smith: for invisible hand to bring about social good
      - a) Each actor MUST be blind to totality and so must ONLY pursue individual interest
      - b) And ALL political actors must be blind; sovereign cannot pretend to know
        - i) Government cannot obstruct individual interest
        - ii) Government cannot totalize knowledge of economy
    - 3) Thus economic rationality is founded on unknowability of totality of economy
      - a) There must be a "multiplicity of points of view"
        - i) They are irreducible to each other
        - ii) Which assures their convergence
      - b) The multiplicity cannot be totalized: "economics is an atheistic discipline"
  - C) Thus economic rationality of liberalism "steals" essentials of that which sovereign rules over
    - 1) In other words, liberalism is founded on an "essential incompatibility"
      - a) Non-totalizable multiplicity of economic subjects of interest
      - b) Totalizing unity of juridical sovereign [who rules equally over all subjects of right]
    - 2) And therefore an "economic-juridical science" is impossible
    - 3) So here we have the possibility of political economy as critique of governmental reason
      - a) Critique here in the Kantian sense: "limits and condition of possibility" of X
      - b) Political economics says: no economic sovereign bcs of its ignorance of totality
      - c) We can thus analyze the debates over government planning / socialism in this light
- IV) Conclusion: on a more restricted scale, we see political economy critique of police state

- A) Obviously, contra the mercantilist / administrative state which posits an economic sovereign
- B) But more interestingly contra the physiocrats, who agree that sovereign must not intervene
  - 1) But country is sovereign's property, so he has right to taxation
  - 2) The Economic Table allows sovereign to have exact knowledge of economy
    - a) So the freedom of economic agents is justified
    - b) By the total economic knowledge of the sovereign
  - 3) Sovereign explains to economic agents / shares his knowledge
- C) So it's physiocracy that Adam Smith opposes
  - 1) There can be no total economic knowledge possessed by sovereign
  - 2) Thus [classical liberal] political economy can establish economy as limit of government
  - 3) And so civil society and not economy will be object of liberal governmentality

Lecture 12: 4 April 1979

- I) Intro: discussion of homo economicus (H E)
  - A) Characteristics
    - 1) Non-substitutable and irreducible atom of interest
    - 2) Cannot be equated with or reduced to subject of right
    - 3) Does not have same dialectic as subject of right
      - a) Subject of right enters contract w/ other subjects by renouncing / transferring some rights
      - b) H E is part of economic domain by "dialectic of spontaneous multiplication"
  - B) Results for relation of H E to political (sovereign) power
    - 1) Subject of right limits sovereign power
    - 2) H E strips sovereign of power by revealing inability to master economic field
      - a) In Middle Ages through 17<sup>th</sup> C, God's intentions were inscrutable
      - b) Now it's the economic realm that is "impenetrable" to sovereign knowledge
  - C) Two solutions to this stripping of sovereign power over economy
    - 1) The solutions:
      - a) The "geographic" solution:
        - i) Market is free space where sovereign cannot enter
        - ii) Same raison d'Etat, just with one zone subtracted
      - b) Physiocratic solution: sovereign will exercise a different kind of power over market
        - i) He will recognize its reality, the way a geometer recognizes geometrical reality
        - ii) From political activity to theoretical passivity
    - 2) These two solutions: only a "theoretical and programmatic virtuality" never applied in history
      - a) Art of government must be exercised in space of sovereignty
      - b) But this space is occupied by economic subjects, not juridical subjects
      - c) So how can sovereign avoid being reduced to leaving them alone or being only a geometer?
        - i) Juridical theory cannot help here
        - ii) New object / new plane of reference needed to constitute new correlate of art of gov't
          - (a) New ensemble enveloping both subject of right and economic actor
          - (b) As aspects that can be integrated by virtue of belonging to a complex whole
  - D) Civil society as new object of governing in order to maintain unity / activity of governing
    - 1) Need for new object for government faced with economic reality

- a) To avoid split into juridical action and economic passivity
    - b) Or to avoid being reduced to observing "geometer"
  - 2) The art of government requires a new object: civil society
- II) Civil society as correlate of technology of government:
- A) Preliminary discussion
    - 1) Definition
      - a) It's the juridical structure of government pegged to economic structure
      - b) HE = abstract / ideal / purely economic point inhabiting complex reality of civil society
    - 2) Ontological status
      - a) NOT a historical-natural given that is foundation of and source of opposition to state
      - b) IOW, civil society is a "transactional reality" like madness or sexuality
        - i) Have not always existed
        - ii) Are born from interplay of relations of power and everything which eludes them
  - B) To illustrate this historical genesis, F discusses change in nature of civil society in 18<sup>th</sup> C
    - 1) Preliminary discussion
      - a) In Locke, civil society = society w/ a juridical-political structure
      - b) With entry on scene of political economy, civil society changes
    - 2) Ferguson's text: *Essay on the History of Civil Society*: civil society has 4 aspects
      - a) As an historical-natural constant
        - i) Human nature is historical, because human nature is social
        - ii) Social bonds are spontaneous and inevitable
        - iii) So we can find state of nature in civilization as well as in "primitives"
        - iv) But this also means we never find "pure" / "simple" state of nature
      - b) As assuring spontaneous synthesis of individuals via economic bond that threatens it
        - i) Not a mechanism for exchange of rights
        - ii) But a mechanism of "immediate multiplication"
          - (a) Distinct interplay of non-egoist, disinterested interests wider than egoism
          - (b) Non-local bonds among economic subjects
            - 1. No localization in global market
            - 2. But bonds of sympathy are local
        - iii) So civil society is formed of ensembles / communities (not all of humanity)
        - iv) Ambiguous position of economic bonds
          - (a) Civil society is formal medium of non-local economic bonds
          - (b) But economic bond = "principle of dissociation" vs. local sentimental bonds
      - c) As permanent matrix of political power
        - i) Civil society plays role of a spontaneous social contract
        - ii) Thus no need to surrender rights, since there is a spontaneous formation of power
          - (a) De facto bond linking concrete individuals
          - (b) Whose differences are expressed in division of labor in decision-making process
          - (c) IOW, some spontaneously "assume" power by virtue of their "talents"
          - (d) So power exists before it is legitimated
      - d) As "motor of history"
        - i) Opposing principles
          - (a) Spontaneous synthesis / subordination provides hypothesis of stable equilibrium



- (b) But also dissociation and hence disequilibrium
        - 1. Via egoism of power
        - 2. Via egoism of economic action of H E
    - ii) It's the latter that produces movement of history
      - (a) Example
        - 1. Savagery =
          - a. Society w/o property
          - b. Only beginnings of subordination
        - 2. Barbarism = new economic-political institutions
          - a. Not yet governed by laws
          - b. But by personal relations (patron – client; master – servant; etc.)
      - (b) Discussion
        - 1. Global synchronic [emergent] results from individual blind action
        - 2. Also diachronic emergence as historical progress via blind egoistic interest
  - 3) Conclusion: three elements of civil society as markers of "new system of political thought"
    - a) Domain of non-juridical social relations
    - b) Articulation of history and the social bond
      - i) Non-degenerative history
      - ii) But constantly renewed / innovative history
        - (a) New social fabric / relations
        - (b) New economic structures
        - (c) New types of government
    - c) Internal and complex relation of social bond and government
      - i) Government as organic component of social bond
      - ii) Social bond as organic feature of form of authority
- III) Conclusion as opening a series of problems
  - A) Civil society enables us to avoid theoretical / juridical problem of original constitution of society
    - 1) Posing the problem of relation of society and state
      - a) Old problem:
        - i) How to find juridical form at origin of society
        - ii) In order to delimit power in advance
      - b) New problem:
        - i) We have an existing society w/ subordination
        - ii) How to regulate power in such a society?
    - 2) Possible solutions
      - a) State as a dimension of civil society
      - b) State as a historical stage in development of society
      - c) State as characteristic of a type of society
      - d) State as self-consciousness / ethical realization of civil society (Hegel)
  - B) Problem of civil society in concrete cases
    - 1) Germany: how can civil society support the state?
    - 2) England: the problem is in terms of government rather than state
      - a) Does civil society really need a government?
      - b) Thomas Paine [question of anarchism]

- 3) France: what is status of Third Estate as vector of history?
- C) Does civil society bring about a "redistribution" of governmental reason?
- 1) Middle Ages: limit government power by appeal to
    - a) Wisdom of person who governs
    - b) = knowledge of human / divine order
    - c) A matter of truth
      - i) Religious texts
      - ii) Divine revelation
      - iii) Order of world
  - 2) 16<sup>th</sup> / 17<sup>th</sup> C: raison d'Etat:
    - a) Calculation of power on basis of force / wealth / relations etc.
    - b) No longer indexed to truth, but to rationality
      - i) Raison d'Etat as rationality of the sovereign himself
        - (a) Juridical problem: who is the sovereign?
        - (b) Factual problem: how to exercise this power on economic processes?
          1. Sovereign power is unitary and totalizing ("bird's-eye view")
          2. But economic processes are a non-totalizable multiplicity
      - c) Liberalism: how to model government on rationality of subjects of interest?
        - i) Inversion: no longer government based on rationality of the governor / sovereign
        - ii) But now rationality of governed is regulating principle of rationality of government
- D) F's constant warning: notice the entanglements of history!
- 1) The three forms of government rationality (truth / sovereignty / liberalism) are not successive
  - 2) But entangled / coexisting
    - a) National / statist politics still abides by rationality of governing sovereign
    - b) Marxism still abides by rationality of a truth revealing itself in history
    - c) Liberalism abides by rationality of economic agents / the governed
  - 3) And thus these three forms constitute object of political debate / struggle for last 2 centuries