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Retracing Foucault: Neoliberalism and the Occupy Movement

The Occupy movement presented itself as a reaction to a socio-economic relation; to some it decried the unconstrained expanses and injustices of capitalism, to others it was a resistance to the gross economic disparity perpetuated by a subset of the social strata (be it company, agent, or economic institution) that lacked governmental accountability. Branded by opponents as neo-Marxist, or dismissed others as merely lazy or lacking any concrete objectives – the Occupy movement met with mixed results. The results were not surprising however, in fact they, like the event itself, had a formulaic structure not at all divorced from neoliberal calculus.

The objective here though is not to provide the means for which we can predict and anticipate social movements like this in the future, but rather to assess the confusion that surrounded the event. The first step in the process is to explore the socio-economic relation in terms of a history of neoliberal economic power, the economization of the individual, and a brief treatment on the relation of neoliberalism to modern sovereignty. To do that is no simple task, but I believe Foucault and his commentators provide us with a position we can use; a position that both elucidates the historical underpinning and politico-economic linkages of the movement and also seeks to clarify the sessile nature of the social-civic relation at hand by actors on both sides. Foucault's archaeology of neoliberalism will be central to this project as it not only provides the applicable medium from which we can grasp the root of the social discomfort, angst, and resistance but also the fragmented nature of the institutional reaction to the resistance itself. Only when this is done can we better understand the Occupy movement in terms of its goals, idiosyncrasies, failings, and how to best account for this for the questions to be asked of this sort of voluminous social reactivity in the future.

The method to this task will attempt to retrace the sort of archeology and strategic interplay of Foucault in his approach to neoliberal governmentality. Of course this is not to say

that an exhaustive archeology will be conducted in the Foucauldian historical sense, primarily because this is neither the medium nor is it within this scope of this paper's admittedly shortsighted goal. As such there is a concern to be said about the process of periodizing¹ which will need to be addressed in short order along with some rudimentary elements as to how to conceive of the project by-way of Foucault's method.

In staying as true as possible to the texts, the key emphasis here is that this is not to function as a look into the direct origins of the Occupy movement, or even to draw attention to something that resembles the origins of the Company, "1%", or the supposed opponents to the movement. Foucault is quite clear that the tendency to treat the phenomena as if there is some point of departure places us in a position where we must contend with an archaeology akin to Marxism – an archaeology that fails to account for the multifaceted connection points that link events together in favor of a dialectical struggle would posit competing points as static and inherently separate toward some sort of singular unity goal². Further still, Foucault notes that the objective is to use the veridiction of neoliberalism in terms of itself. The homogenous nature of dialecticism, its tendency to statically implement two apparently opposed positions, has been dismissed by the neoliberal rejection of Marxism³. If we are to account for neoliberalism in terms of itself; that is to say, to do a true archaeology of paradigm and its truth-making factors, then we must do so by accounting for the variations and heterogeneous nature of the paradigm of neoliberalism as deployment of a concept on its own terms rather than by what it has rejected.

In February of 1603 a Dutch captain by the name of Jacob van Heemskerck attacked and captured the *Santa Catarina* (a Portuguese trading ship) while on a routine trading mission near

¹ Foucault himself is sensitive to this issue and the historical periodizing – he explains in *History of Sexuality* Vol. 1 (p. 130-131) that this sort of archaeology is built to show the deployment of power and mechanisms of relation to the deployment itself.

² Michel Foucault, *The Birth of Biopolitics*.(2008) p.42-43

³ Ibid. 91-92

Singapore⁴. The event, while not substantially unique in-and-of-itself, came at a time when the United Amsterdam Company (soon to join a multi-company merger and become the Dutch East India Company) and its fundamental role in the newly formed United Provinces, was looking to maintain legitimacy and solidify allies in both England and France. Van Heemskerck, despite minor hostilities in the past on both sides, did not have explicit authorization by any nation to attack the Portuguese (there is some speculation the two wording of the Amsterdam Admiralty Board intentionally left this a gray area)⁵. The United Provinces, by that same token, could not effectively apologize and give the ship and its spoils back as the contents had effectively doubled their coffers at a time when their war with Spain was reaching new heights. Enter a jurist by the name of Hugo Grotius – who was called in to not only provide domestic legal legitimacy for Van Heemskerck’s actions, but also international justification for this type of war and its spoils.

What this jurist advanced was a thesis of “just private war” – that is to say aggression and taking of spoils in a justified manner as a private citizen. Grotius paints us a picture of the individual who can when “judicial recourse is lacking”⁶, assert his right, according to the laws of nature, so as to make war. In another manuscript Grotius clarifies that the individual and his freewill is always a product of *respublica* (“the commonwealth”), and as such “political power is vested first in the commonwealth before it is vested in the monarch”⁷. The seeds of the individual outside of society as thus sown, he writes in defense of the Dutch and Heemskerck:

⁴ Hugo Grotius (2006) p. xiii

⁵ Ibid. p. xvi

⁶ Ibid. p. 142

⁷ Borschberg, Peter "Grotius, the Social Contract and Political Resistance A Study of the Unpublished Theses LVI." *History and Theory of International Law Series* (2007) p.16

Natural reason persuades us, however, that the faculty now vested in princes in consequence of the fact that civil power must have lapsed in some other possessor, formerly resided in private individuals. Moreover, whatever existed before the establishment of courts, will also exist when the courts have been set aside under any circumstances whatsoever, whether of place or of time. In my opinion, this very argument has served the basis for the belief that it is right for private persons to slay a tyrant, or in other words, a destroyer of law and the courts.⁸

What is the point of all this? The Dutch have no sovereign, there is no recognized monarch – in fact by 1585 both Henry III in France and Elizabeth I in England had rejected the Dutch petition for sovereignty and, while keeping maintaining diplomatic ties, stopped short of recognizing Dutch independence since there was no monarch⁹. The *maiestas* (loosely “majesty”) of the monarch must thus be vested in something else; the state cannot serve this purpose as it lacks the recognition of international legitimacy, thus the private citizen becomes the beacon of power. His interest and free will, grounded in the laws of nature (which cannot be taken even by the sovereign) serve as the basis for legitimacy, the basis for law¹⁰. Grotius proposes the economic medium as something to be seen beyond the margins of the law: “I suggest the following...” he writes, “consider the cause of the East India Company as something apart from the public cause of the Dutch nation; imagine that the Company consists, not of Dutchmen who have long been at war with the Portuguese, but rather of any other people whatsoever...”¹¹ The Company fosters mutual needs and resources, friendship and exchange – it is not only way

⁸ Grotius p. 140

⁹ Geervers, Liesbeth "The King Strikes Back. The Spanish Diplomatic Campaign to Undermine the International Status of the Dutch Republic, 1581-1609." *The International History Review* 35.1 (2011) p. 88-89

¹⁰ “After weighing the private cause involved, examine the public cause” Grotius, p 301

¹¹ Ibid. 301

individuals become and experience sociality, but enhance their nation and others. Grotius notes “consequently, anyone who abolishes this system of exchange, abolishes also the highly prized fellowship in which humanity is united.”¹²

It is worth noting that this is not an “evolution in the economic logic capitalism” or something of Marxist ideological perspective that supposes that this sort of economic outlook had, until Grotius, remained hidden¹³. Politics and the economy are “things that do not exist and yet which are inscribed in reality and fall under a regime of truth...”¹⁴ and Grotius in his juridical stance is a perfect example of that. As it was not under the ubiquitous of his analysis directly we are left with some ambiguity as to whether Grotius speculated that the private citizen or the economic governmentality of exchange and relation (The Company) was to serve as the primary focus of the state. To be sure, in the case of the Dutch United Provinces, it was trade companies that allowed the coffers of the state to flow – what gave the state its functional power its ability to fight a war, trade, and develop infrastructure was the treasury provided by the Company. Foucault notes that this shift was not uncommon in *raison d’État*. In his 1977-78 lectures he explains that there occurred a shift from seeing the power of the Prince in terms of his treasury to that of treasure of the state (which in turn could then serve as the locus of power for the Prince)¹⁵ but just as important was that the shift from dynastic rivalry began to shift to competition of the means of competition (i.e. a state’s accumulation and prospects of “intrinsic wealth”).

In Foucault lectures from 1978-1979, we see not only this steady shift, but a dramatic alternation in the ways in which individuals and state’s begin to see themselves. With the changes during 17th Century and the Treaty of Westphalia in 1648, not only was Dutch

¹² Grotius, p. 303

¹³ Terranova, T. "Another Life: The Nature of Political Economy in Foucault's Genealogy of Biopolitics." *Theory, Culture & Society* 26.6 (2009), p. 239

¹⁴ Foucault (2008) p. 20

¹⁵ Foucault “*Security, Territory, and Population*” (2007) p. 294

independence solidified, but an understanding of the means of competition and its applicability to states had begun to develop. In part a reaction to the expansive power of the Holy Roman Empire and the Huguenot and Protestant resistance to the sphere of influence held by the Catholic Church and Papal States, a site of veridiction began to develop alongside utilitarian explanations regarding juridical basis of states¹⁶. As such economic and political competition, by the late 17th and 18th Centuries, no longer needed to be conceived of as a zero-sum game, or a way in which economic success came at the expense of the other – it was a mutually beneficial process (as we saw in Grotius). What the European states demanded was “perpetual peace” and economic growth; that is what became preferable to another Eighty Years War or large scale intra-European conflict¹⁷.

By the time of Adam Smith and the physiocrats of the 18th Century the market became the central focus for truth vis-à-vis veridiction. Rights, freedoms, etc. need only to be constructed and respected insofar as observable data in the market is in accordance with action which does not seek to undermine the market relation and equilibrium of participants¹⁸. The key facets of liberal governmentality are essentially: “veridiction in the market, limitation by the calculation of governmental utility, and now the position of Europe as a region of unlimited economic development...”¹⁹. Foucault attempts to explain that formation of the democratic makeup of the state which began to centralize (at least externally) around a governmentality of freedom; which can be defined as an “actual relation between the governors and governed”²⁰.

Agamben, in book *Homo Sacer*, jumps in on this notion. His criticism against Foucault is not aimed at the historical account Foucault put forth, but rather he seeks to criticize the basis of

¹⁶ Foucault (2008) p. 52-55

¹⁷ Ibid. p. 58-59

¹⁸ Ibid. p. 62-63

¹⁹ Ibid. p. 61

²⁰ Ibid. p. 63

sovereignty itself within Foucault and it the interplay of biopolitics in totalitarian and democratic governmentality. Perhaps more importantly for our current purposes: Agamben “believes Foucault’s account of power fails to acknowledge the fundamental importance of the traditional juridico-institutional model of sovereignty in the production of natural life itself.”²¹ It was through an understanding of Hobbes in terms of “*contract* instead of *ban* [that] condemned democracy to impotence ever time it had to confront the problem of sovereign power and has also rendered modern democracy constitutionally incapable of truly thinking politics freed from the form of the State”²². Insofar as this should be taken as a criticism against Foucault seems unlikely despite Agamben’s intentions, but that does not mean that is wrong here (though for different reasons in connection to Foucault). The first point is that the State functions as the producer and consumer of rights (and its co-relational property “security”) in Foucault²³. It is the relational quality that we, citizens, serve within the medium of “the state” as both participants and subjects of sovereignty. The second is that it would appear that there is nothing to be freed from – there is no external space to reside in, no alternative citizen to emulate. Agamben notes later that the “contiguity between the mass democracy and totalitarian states” is ever present in the deployment of biopolitical governmentality; the rights and individual liberties which are believed to be “won by individuals in their conflicts with central powers” always serves as a new point of intercession into the lives of the individual by the state²⁴.

I have no disagreement with Agamben’s analysis – in fact this seems spot on in the course of the Occupy movement. One of the concerns of the movement, as mentioned at the beginning of this essay, was that there existed a crossing of boundaries without accountability by

²¹ Erlenbusch, Verena. "The Place of Sovereignty: Mapping Power with Agamben, Butler, and Foucault." *Critical Horizons* 14.1 (2013)p. 48

²² Agamben p. 109

²³ Foucault (2008) p. 63-64

²⁴ Agam. P 121

some economic agency, actor or what have you. Indeed it would seem that the complaint was that whatever freedoms the individual supposed they had intrinsically or won from the powerful, the Company was receiving as well. As we could see in signs and posters reacting to the Corporate Personhoods case of 2010, this postulating of the corporation on the level of the citizen rights bearer was upsetting to say the least. As we saw in Grotius however, the Company is not only the natural extension of the interests of individuals, but is akin to the rights and powers of the individuals as sovereign. Agamben notes the concern here though – he argues that “‘bare life’ in democracies results in the private having priority over the public and that in totalitarian states becomes the decisive political criterion for suspension of individual rights.”²⁵ We will see shortly how this plays out in the Occupy analysis.

From the rhetoric of media outlets, politicians, and even the initial organizer of the Zuccotti Park camp, it would seem people were blindsided by the sheer size and popularity the Occupy movement achieved. Adbuster’s a website and magazine forum called their readers to mobilize outside Wall Street in lower Manhattan for a protest against “Corporatocracy” as compared to Democracy. The anger was centralized at Wall Street “the greatest corruptor of our democracy”²⁶. The demands that soon followed varied from group to group and person to person – signs in the crowd petitioned for student debt relief, financial regulation, food subsidies, pensions, employment concerns, etc. They were endlessly built, sold online, and given away at rallies^{27 28}. The argument remained that capitalism had grown beyond its borders, the accesses of the economy were disproportionately in favor of the “1%”, and that the rights of the political

²⁵ Lemke, Thomas *Bio-Politics* (2011), p. 57

²⁶ "#OCCUPYWALLSTREET." #OCCUPYWALLSTREET. Adbusters, July-Aug. 2011.

²⁷ Dufresne, Todd, and Clara Sacchetti. *The Economy as Cultural System: Theory, Capitalism, Crisis*. New York, NY: Continuum International Pub., 2013 p. 183-184

²⁸ Nugent, David. "Commentary: Democracy, Temporalities of Capitalism, and Dilemmas of Inclusion in Occupy Movements." *American Ethnologist* 39.2 (2012)

individual were being crushed beneath the power of corporate influence; “the marriage between capitalism and democracy is over” said Slavoj Žižek in his speech at Occupy camp in New York²⁹.

They protested, but they were hardly heard by their detractors, and by the focus of their movement: “Look at these kids, sitting here with their Apple computers,” Said Adam Sarzen, a Wall Street trader on the floor of the NYSE, “Apple, one of the biggest monopolies in the world. It trades at \$400 a share. Do they even know that?”³⁰. From the rhetoric of news sources across the United States, the dismissal was essentially the same: “they lack direction”, “what’s their objective”, “they’re not being clear with their goals” etc. To observers like Sarzen they functioned as a contradiction; participants in a market based system, Foucault’s *homo economicus*, but ones who seemed upset with the capitalistic structure. “Liberalism... needs a utopia” Foucault said of the American conception and scholarship regarding the market economy³¹. America would function as utopia where labor power can be devised as “human capital”, and where the socio-economic measure of a ‘being of interest’ can be determined by their capacity for investment into their ability to accumulate capital on their genetic and acquired qualities. From this the citizens becomes an economized individual, an enterprise unto themselves who produces their own capital, and looks to themselves not only as source of labor, but a sort of site of veridiction since they alone produce their own satisfaction.

This entrepreneur is what Foucault’s *homo economicus* is defined as; the neoliberal governmentality proclaims that the subject is a producer and consumer himself – he is understood by the market economy not by his capacity of exchange, but by his co-relational

²⁹ Žižek, Slavoj. "Slavoj Žižek Speaks at Occupy Wall Street: Transcript." *Slavoj Žižek Speaks at Occupy Wall Street: Transcript*. Imposé Magazine, 17 Sept. 2013.

³⁰ Bellafante, Ginia. "Gunning for Wall Street, With Faulty Aim." *The New York Times*. The New York Times, 24 Sept. 2011

³¹ Foucault (2008) p. 219

capacity to invest, provide capital derived from interest in the market, and produce his own satisfaction. The economic structure accounts for the interest, and *homo economicus* consumes the investment criteria and determines the course of action ideal for satisfaction production. The human capital factor or neoliberalism sought to create a machine and every point of intersection that lie outside the bounds of the subject could be brought in, economized, and turned into investment capital. The social, the intimate nature of labor, the family, sexuality, crime, punishment, and the political body - anything that could be literally *accounted* for by-way of rational conduct could be explored via economic analysis³². “Homo economicus is someone who accepts reality.” Said Foucault³³, a being who lives in the economic world where economics can be defined as “the science of systematic nature of responses to environmental stimuli.”³⁴

As they gathered together to bear their interests the Occupiers did not appear to see themselves as being linked the economic man – they saw themselves outside of capitalism, resisting it or at least resisting what had made it so burdensome, so corrupt and dehumanizing. They called for their rights to be recognized, but they were jailed, detained, their camps torn down and fences erected in their place. The Occupier was “*homo economicus* function[ing] as an individual subject of interest within a totality which eludes him and which nevertheless founds the rationality of his choices.”³⁵

As mentioned above the frustration by the movement crystalized the nature of eluded totality when the battle cry of “corporations are people” came about in the US. The complaint was to say that the rights won by individual entrepreneur are now serving the Company, the conglomerated entrepreneur. The congruous nature of the economy and state, which is one of the

³² Foucault (2008) p 246-267

³³ Ibid. p. 269

³⁴ Ibid. p. 269

³⁵ Ibid. p. 278

key sources of opposition by the Movement, must shift – where can the blame be placed? Are we to blame the state, but demand there power over the Company? Blame the Company who supposedly controls the state? Or are we to resist the agent, the entrepreneur – the last isolated sovereign of rights, the last vestige of power where we can find equal footing on a democratic and juridical basis.

Of course in demanding a reaction from the state they demanded the power of the state to intercede; to make the sovereign the bandit and put him on guard as Agamben would have it; to render him an unending potential candidate for the “state of exception” – someone for whom the rights and structure of the socio-political structure had no relevance. By rebelling against the market as a source of power, as source of recognition of agency, they rebelled against the very thing that brought them together. The market of social media, the direct power the capital of technology, and the technology of governance had gone to providing them with the means to connect and the space to protest. They harmonized as atomistic beings of self-interest and their interests are multiplied³⁶, and yet the demand was issued that the intervention is needed against the deployment of neoliberal economics.

When the Occupy movement demanded the end of corporate greed, the curtailing of the judicial system that granted corporate personhood, they assumed that the market economy – the politico-economic system itself - had not already accounted for this. The being of interest, the economic actor sat at the center of the web; its two-fold nature of *economicus* and *juridicus* comprised the being of civil society³⁷. As such the deployment of neoliberal governmentality is not one of rights, is not of sovereign democracy, but one of the market and the economic conditions which determine the competitive criteria for rights based participation. The complaint,

³⁶ Foucault (2008) p. 274-279

³⁷ Ibid p. 298

the protest, falls on deaf-ears. For the very thing which validates the protestor, the thing that he is and does – his body and action both in the civic space and in voicing his interests – this being is exactly what he would then seek to end. The juridical order encapsulated the economic order, it made it civil society, but its core (its heart) remained in the market. To kill the civil order would be to stab the heart of the being which comprises the very capital the very interest that the market requires. Thus in the eyes of the trader, the neoliberal vehicle of capital in the market, the Occupiers are blind to their hypocrisy. Just as much as the stock trader is a blind to his on their account – for he is a mover of nothing just something to be moved; a vehicle of power for the market economy, he is obedient to her whims and rules (her majesty); to the demand of truth to be found in the data which the protestors create, and not his own.

The Occupy movement thus becomes the Occupy company. The disparate and conflicting interests of the group push forth what is perceived as social good, they harmonize as they have been taught to do by the power of the market which they deploy in the action. They deployed the power of the economized individual, *homo economicus*, but looked to deploy *homo juridicus* as only then can a private war be sought against the Company, the “1%”. For the Company violates their rights and is held to no judicial accountability. The war of course cannot be waged because it demands the consent of the body: it demands risk, not investment; spoils but not the equilibrium – which the market has come to demand. It demanded a subject of rights, but it got the economic subject – who as a subject is “irreducible” to rights³⁸. Those who wish to damn the body have only *auctoritas* (“force”) of their own interests and not *maiestas* for there is no sovereign who can ‘see’ the market in its entirety; “In so far as subjects are concerned, a war can be just for both parties always provided, of course, that the war be preceded by a command

³⁸ Foucault (2008) p. 294

against which reason does not rebel after the probabilities have been weighed”³⁹. A calculus is taken, and the result is that of limits and justice of war are determined in terms of the market economy and her participants. The market accounts for her relational beings which codetermine the functional criteria for participation – and power of the State, the enforcer of her competitive means and protector of the agents of interest who make up her life blood, is deployed.

The argument, however prolix it may appear above, it not to disparage one side or the other. It is not a criticism of the Occupiers in favor or the trader, or Wall Street in favor of the rights of democracy. It is not to establish their nature or history and find out how far they can fall or what we can predict of them. What is being proposed here is question of interests, a loss of communication on both sides in which both see the other as on the ‘wrong side’ of the same chess board. Neither side is trying to rid itself of neoliberal governmentality which makes them, like two competitors on a chess board, blind to finite plans and devices of the other.

Ultimately the Occupiers surrendered their power to the state, they demanded to juridical sovereigns over themselves but were reminded of their economic status instead – they were reminded that they were beings of interest who in their market capacity seek to mitigate risk at the expense of increased security. They had demanded security in the first place – demanded it of the State against the Company, the Company against its actors, and the actors against the State. The players who understood the nature of the competition best followed the atomistic nature of *homo economicus* and kept to themselves. The State responded to the market conditions and ensured competitive interests were maintained, and the Company – the configuration of actors in the expansive of neoliberal economics – dissolved as companies do when they fail to supply the investment strategies necessary to produce and meet a demand.

³⁹ Grotius, p. 126

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