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Philosophy of Science? Foucault vs. Habermas

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Prometheus brought to the world knowledge in the form of fire; Lucifer came bearing light in the form of a tempting but lethal apple. The Western world, gleefully ignoring the warnings contained in its cultural tradition, has since developed a massive technical complex that today produces irrevocable innovations at a dizzying rate. Until the twentieth century, the West blithely enjoyed the fruits of its scientific labors... until the problem of evil reappeared in the form of global carnage, facilitated by technological “advancements.” Modern critical discourse has sought to rouse humanity against threats to its safety and health, yet has done more to analyze and debate problems than fashion possible solutions.

The problems are not minor. Certainty is impossible, knowledge unreliable, reality a myth. Ultimately, these issues transcend social context. They touch all human subjects who seek truth, objective or otherwise. The Taoist faith, which began in the fourth century B.C., directly confronted the problems that today are deemed “modern.” The central text of Taoism, the Te-Tao Ching (“The Book of the Way and Its Power”), contains these passages:

The highest virtue is empty like a valley;
The purest white appears to be soiled;
Vast virtue appears to be insufficient;
Firm virtue appears thin and weak;
The simplest reality appears to change. (p. 9)

Disaster is that on which good fortune depends.
Good fortune is that in which disaster’s concealed.
Who knows where it will end?
For there is no fixed “correct.”
The “correct” turns into the “deviant”;
The “good” turns into “evil.”
People’s state of confusion
Has certainly existed for a long time. (p. 27)

If the West cannot learn to grow from within its own cultural tradition, it perhaps can take a lesson or two from the East.

Humanity has little choice but to tend the inextinguishable Promethean fire. Yet the question remains whether or not human subjects can succeed in
teaching themselves reliable procedures by which they may live safe and healthy lives despite the complexity of their historical predicament. The question can be best addressed by examining the critical philosophies of two of the world’s most innovative thinkers — Michel Foucault and Jürgen Habermas.

The Case of the Bludgeoned Buddha

When the arsenals of intellectual discourse targeted the frameworks, and infrastructures of scientific knowledge, humanity was bluntly told to forget the sacred value placed on that knowledge and to focus instead on its underlying structures, so as to discover deeper, previously hidden truth. Eager initiates were puzzled to find they could not simply replace scientific knowledge with structures and patterns of scientific knowledge as their object of worship. The worship of objective reality must itself be renounced; omnipotent beings will not descend from on high to rescue us from a transitory world, a world of chaos. In the words of Richard Rorty, it became necessary to free ourselves from “the notion that outside the haphazard and perilous experiments we perform there lies something (God, Science, Knowledge, Rationality, or Truth) which will, if only we perform the correct rituals, step in to save us” (Consequences of Pragmatism, p. 208). We must do as the iconoclasts of old and remove from our lives all vestiges of philosophical security, all symbols of a reality beyond ourselves. As some Buddhists advised, we must “Kill the Buddha!”

The motivation for such a radical assault on traditional notions laid in the belief that these thoughts did nothing except lead us down a garden path, toward a blissful dogmatic slumber, and not toward genuine understanding or enlightenment. Wisdom, the new priests declare, consists in seeing for ourselves how circumstance conspired to produce the mere appearance of wisdom and truth. The man named Siddhartha Gautama, for example, discovered a way of responding to the world which proved appropriate for him, a way which became widely celebrated and even sanctified due to his unique political and historical position. But regardless of the celebration and near-deification, the way of Siddhartha may not in fact prove useful for anyone outside of the context in which it was formed. Granting the status of universal truth to his path can only prove repressive—by worshiping the Buddha as a figure of absolute truth, the devotee ironically finds only new encumbering ties to external circumstance.

Historicists and constructivists — people such as Thomas Kuhn, Paul Feyerabend, Michel Foucault, and Richard Rorty—hold that political and historical factors determine the structure of societies and their various discourses, that “knowledge” is necessarily defined against this backdrop and can only be viewed within a framework of power relationships, which are in fact reinforced by the types of “knowledge” they produce—an endless cycle devoid of absolute truth. Scientific theories do not win acceptance because they more accurately describe Reality or more greatly contribute to Progress; they win simply by virtue of how power happens to be distributed within a social context. Thus, Siddhartha’s sanctification was a function of his political position as a wealthy and powerful prince; those who may have made similar religious discoveries went unrecognized not because their discoveries held less intrinsic value, but because of surrounding power relations. One can never step outside the network of power relations and make perfectly objective evaluations; one can never adequately justify those ideas or theories held most evident or most sacred. The Buddhist, as well as the modern philosopher, longs for exactly such transcendence.

The concept of objectivity is peculiar to the Western world only inasmuch as it has proven a persistent problem for Western thinkers, burdened with a traditionally sharp dichotomy of subject and object. The East followed a far more successful approach. For millennia the devotees of Eastern religions have conceived of and strove toward a perfect detachment from the world of experience, a transcendence to a higher privileged realm, which could afford an accurate perspective on the everyday world. The West addressed objectivity in terms of secular, material existence, a strategy which ultimately destined practical endeavors like science and medicine to fierce disputation on even the most fundamental epistemic grounds; the East did so in terms of religion, a strategy which rendered the issue from the beginning a matter of faith. The West has finally begun to realize that it fought a losing battle against itself—that the world we inhabit is not founded on solid epistemic ground, that long-cherished assumptions about humanity’s ability to objectify not only phenomena but its own existence were sadly mistaken. Before any period of reconstruction can begin, the extent and cause of the damage must be fully assessed. Though the initial plan of attack proved hopeless, the goal of establishing a secure foundation for knowledge and truth is neither absurd nor impractical if we can first clear away the unwanted debris of the initial plan.

From its glorified beginning the West assumed objects existed, and after considerable tinkering around with these objects, the idea of objectivity arose —the notion of a perfectly accurate perspective upon the arrangement of these objects, the notion of “truth.” The machine-like perfection of the Western concept of objectivity was derived from the perfection perceived and adored in matter. The concept was doomed to failure as it could not be found to meet the rigorous constraints set for it at its birth. But now that this particular path (the path of what I will call, for lack of anything better, “object-rigor”) has been abandoned in the West as misguided, we need not despair of finding, or more appropriately, constructing other epistemic paths.
If anything, hope should be at its highest now, with the freedom to judge the errors of the past.

The primary error was one of putting the cart before the horse; the West proceeded from objects and reality and arrived at objectivity, conceived of as the perfectly realistic view of reality, only to find itself precisely where it began. However, a very different journey can be plotted, one in which humanity, in its current unenlightened state, but satisfies persistent desires for truth, and functional sort of objectivity (a sort which not only performs well in practice but satisfies persistent desires for truth), and then finally can proceed to make claims about reality, about the world of objects and forces we feel exists. This journey can not be made by employing all the mechanical and mathematical rigor of a robotic device. For it is a journey intended for humans, with needs and desires.

**Foucault's Plea**

Reacting against the "the new, disciplinary violence that dominates modernity" (Habermas, *The Philosophical Discourse of Modernity* p. 245), Michel Foucault denounces all forms of normalization; he regards general normative pronouncements as covert violence perpetrated upon human subjects. Arbitrary structures embedded in the fabric of society enforce arbitrary conformity despite pretensions of scientific passivity and detachment. To avoid contributing to the problem, Foucault steadfastly refuses to offer any universal solution. His mode of contemplation resembles that of the followers of Eastern religion—Foucault is extremely reluctant to offer broad direction concerning liberation and enlightenment yet feels that both are imperative and strives to attain them.

Foucault has little difficulty discussing and demonstrating how "regimes of truth" function to keep individuals locked within restrictive ideologies. *Discipline and Punish* makes clear that Foucault finds the prison an appropriate metaphor for man's present and past condition—society is "carceral" and there is no outside" (Hoy, p. 138). Apparently positive social forces are inevitably used as instruments of coercion—a repressive machine merely becomes more efficient when individuals become willing and eager participants in blissful delusion. David Couzens Hoy offers this interpretation of *Discipline and Punish*:

The shift from 'atrocious' torture to humane 'correction' may look like increased humanitarianism and progressive recognition of the autonomy of the individual. However, Foucault argues that what looks like a new respect for humanity is, rather, a more finely tuned mechanism of control of the social body, a more effective spinning of the web of power over everyday life. (p. 136)

Hoy points out Foucault's extreme reluctance to offer or embrace any system that claims to provide positive direction: "Progress is not necessarily for the better, Foucault intends us to realize, and, indeed, no one welcomes news about the progress of a cancer" (p. 141). While Foucault's skepticism has its merits, it falls short of answering the need for a systematic way of identifying cancerous tissue from healthy tissue, malignant tumors from benign, as well as a way of directing bodies toward a lifestyle most likely to yield a cancer-free life. Medical science is capable of offering exactly such direction. Foucault is unable to offer a similar direction.

The strength of Foucault's negative program is such that a positive program can hardly get off the ground. Then, too, Foucault has no interest or desire to assert such a program, except in the limited form a Buddhist would offer: each must find their own path, guided by unique circumstances. When discussing the way to attain social liberation, Foucault can only offer advice at the "micro-level"; Hoy says that "his programme need not abandon the hope for emancipation, if by that one means the resistance at particular points to local exercises of power" (pp. 144-45). Foucault is equally reluctant to offer anything other than micro-level conclusions about what direction the natural and social sciences should take if their practitioners hope to free themselves of the diseases he diagnoses. Foucault demands to examine every patient and dispense special prescriptions for each, refusing to endorse a universal cure, fearing that the disease, or diseases, are so complex that any such cure could prove ineffective or counter-productive. Perhaps such caution is advisable for a Buddhist priest whose followers have not only their entire lives but future lives as well to break out of a worldly cycle of rebirth, but to a medical practitioner faced with a pandemic that every hour causes further suffering and death, such excessive caution borders on the irresponsible. Approximating impartiality, Foucault refrains from offering prescriptions to all classes, elite as well as oppressed, leaving each to find a fitting cure. Though Foucault wishes to alleviate the suffering of oppressed classes, he finds his hands tied by his own anti-political politics. In terms of Buddhism, Foucault's system much more resembles the Hinayana or "small vehicle" form, designed to secure a small number of followers, rather than the Mahayana or "large vehicle" form, aimed at rescuing large groups from worldly preoccupations. Foucault's vehicle is designed for individuals, not groups.

Like practitioners of Eastern religions, Foucault is often charged with advocating a system that refutes its own validity. Because Foucault and Eastern religion both assert the idea that truth cannot be known, both face the same paradox: how can the idea itself be known to be true? Neither Foucault nor Eastern religion claim to voice privileged external Truth—they in fact intend their utterances to be encompassed by their skepticism. For any given
person in any given context, the utterances may or may not prove appropriate. Foucault is willing to admit that ‘power’ does not even exist, and is eager to say that his writings are not offered as absolute truth perceived from some privileged position of enlightenment—he is willing to call them fictions. (‘Interview with Lucette Finas” p. 175) Buddhism and Taoism both stress that the words of its teachers and texts are not to be read as absolute, eternal truth. The —

Foucault is privileged position of enlightenment—he is willing to call that the words of its teachers and texts indirectly describes truth. provide a clear denial: Both Foucault and Lao-Tzu invite the appearance of paradox to readers from their quiet stres.-stressing, account for the fact that unexplained island of stability. Foucault's work or seriousness thus exempting itself from instabilities described evolved historically” (p. 128). To do so with the fewest Foucault is willing to deny the existence of the network or of any map. L. Dreyfus and Paul Rabinow observe, ‘Foucault of Eastern religion, Foucault avoids a paradoxical stressing, that he cannot adequately religion, or cult, of contemporary critical discourse, though Foucault would have strictly avoided any such move.

Lao-Tzu and Foucault reject the pretensions that inevitably surround and permeate knowledge, yet neither want to abandon knowledge—both work with it, polishing a mirror that can never be clean. According to David Hoy, Foucault sees himself as “mapping the network of power relations that have evolved historically” (p. 128). To do so with the fewest encumbrances, Foucault is willing to deny the existence of the network or of any map. Hubert L. Dreyfus and Paul Rabinow observe, “Foucault has been able to diagnose our current situation because he shares it. He offers us, from the inside, pragmatically guided accounts” (Michel Foucault, p. 202). Like the practitioners of Eastern religion, Foucault avoids a paradoxical stance by admitting, even stressing, that his denials of truth and reality encompass his own position.

Foucault differs from Eastern religion in that he cannot adequately account for the fact that his work is so unlike the society that surrounds it. In a world characterized by repression and instability, Foucault is an anomaly, an unexplained island of stability. Foucault’s work “avoids claims to truth or seriousness thus exempting itself from instabilities described by the theory, which in itself makes it unstable” (Dreyfus and Rabinow, MF, p. 98-9). Eastern religion can account for its own position by virtue of being a religion, and partaking of the nature of a different kind of life, detached from transience and chaos. To resolve the issue Foucault faces, one might posit a

As for the Way, the Way that can be spoken of is not the constant Way; As for names, the name that can be named is not the constant name. (p. 53)

In cultivating and cleaning your profound mirror—can you do it so that it has no blemish? In loving the people and giving life to the state—can you do it without using knowledge? (p. 62)

Lao-Tzu and Foucault invite the appearance of paradox to shake readers from their quiet unexamined worlds. Lao-Tzu advises, “Eliminate sageliness, throw away knowledge” (p. 71), yet several chapters earlier he asks his readers:

My aim was to analyze... history, in the discontinuity that no teleology would reduce in advance; to map it in a dispersion that no pre-established horizon would embrace; to allow it to be deployed in an anonymity on which no transcendental constitution would impose the form of the subject; to open it up to a temporality that would not promise the return of any dawn. (p. 203)

Foucault chooses to cultivate an almost obsessive desire to achieve a rigorous objectivity in his work, at the expense of relinquishing a deep desire to direct the oppressed toward liberation. Foucault’s early work becomes the perfect illustration of the success and failure of critical theory;... Sociologist Max Horkheimer, addressing the inexorable enervation of radical, revolutionary movements (Marxism in particular), writes, “Despite all the urgency with which theory attempts to illuminate the movement of the social totality even in its smallest detail, it is unable to prescribe to individuals an effective form of resistance to injustice” (p. 116).
Foucault's early work is characterized by an unexamined preference for objective analysis. Foucault proposes archaeology as an apt metaphor for his study of the human sciences assuming that the process of uncovering the fossilized past, unlike the human sciences, can avoid dubious interpretation. "Archaeology" is derived from the Greek *arche*; the Greeks believed that by uncovering the *arche*, the essential and original substance of the cosmos, they would unlock the secrets of the universe. For both Foucault and the Greeks, objective truth is the only possible goal (*teles*) of philosophical inquiry, yet Foucault carefully restrains his love of wisdom by recognizing that the goal is impossible to achieve. Foucault later replaces his archaeological model with a new model—genealogy—which may be seen as part of an effort to recognize that human subjects necessarily play an essential part in any scientific endeavor. The East quickly grasped the dilemma of those who seek objective truth; Lao-Tzu writes, "the Sage: Puts himself in the background yet finds himself in the foreground;/ Puts self-concern out of his mind, yet finds that his self-concern is preserved" (p. 59).

Eastern religion teaches its followers (through indirection) that their true interests will be realized only when their interests are banished. The best way to banish self-interest is not by brute force but by cunning and stealth, calmly disarming the beast as it sleeps. After completing his *Archaeology*, Foucault composed a lecture entitled "Orders of Discourse" which begins with a frank and disarming admission: "I wish I could have slipped unnoticed into this lecture that I am supposed to be giving today" (p. 7). Foucault intentionally shies away from establishing himself in discourse as a self-contained, self-glorified power whose pronouncements may be taken as authoritative decrees. "I don't want to have to enter this risky world of discourse; I want nothing to do with it insofar as it is decisive and final; I would like to feel it all around me, calm and transparent, profound, infinitely open..." (Smith trans. p. 215). By subjecting himself to analysis, by freely disclosing his desires to slip the bonds of traditional authority, Foucault immobolizes the institutional practices that would violate and objectify his discussion.

In his later work Foucault clearly identifies objectivity as the central issue of his studies, and others agree. Jürgen Habermas observed, following Foucault's death, that in his work "the stoic attitude of the observer who keeps his precise distance, obsessed with objectivity, was combined with the opposite element of passionate self-consuming participation in the reality of the historical moment" ("Taking Aim at the Heart of the Present" p. 103). Having wrestled with the duality of subject and object, and having realized that neither pure objectivity nor pure subjectivity are possible to achieve, Foucault fully accepts "the fact that he himself—like any other investigator—is involved in, and to a large extent produced by, the social practices he is studying" (Dreyfus and Rabinow, pp. 204, 103). He is inextricably linked with what he studies. Yet by grasping this interrelationship, he can work with it and from it, conscious of its dangers to the autonomy of human subjects, and in some sense rise above the familiar traps, creating what would not be possible otherwise. Foucault writes:

I am fully aware that I have never written anything other than fictions. For all that, I would not want to say they are outside the truth. It seems plausible to me to make fictions work within truth, to introduce truth-effects within a fictional discourse, and in some way to make discourse arouse, "fabricate," something which does not yet exist... (ILF, p. 175)

Like a lasting work of literature that cannot escape the social context in which it was created yet stirs readers across cultural and historical barriers, Foucault's system of analysis finally emerges not so much as a science, rigorous and detached, but as an art, disciplined yet passionately involved.

In one of his last writings, Foucault states that his plan was not to study power:

My objective instead, has been to create a history of the different modes by which, in our culture, human beings are made subjects. My work has dealt with... modes of objectification which transform human beings into subjects. ("The Subject and Power", p. 208)

This "objective" is certainly admirable, for it is at the very heart of the crucial problem facing the postmodern philosopher. Rather than simply approximate objectivity and reality, Foucault tries to break through subject/object thought to create something beyond it. Like the Buddhist, Foucault seeks to transcend ordinary restrictive positions, not by taking up arms against a sea of troubles, but by understanding the world as fully as he can. Subduing his desires to struggle against the world, Foucault concentrates instead on understanding the world's present: "We have only the cultural practices which have made us what we are. To know what that is, we have to grapple with the history of the present" (Dreyfus and Rabinow, p. 204). Yet, as Jürgen Habermas points out, Foucault's history of the present is aimed not at justifying the present but rather at shedding "modernity's presentist consciousness of time" (PDM, p. 249). Focusing exclusively on practices, rejecting theory as so much wishful thinking, Foucault hopes to arrive at a new, lucid understanding of the present.

The Case Restated: Representation versus Agreement

Richard Rorty points out the confusion over the word "objective," to "mean both" characterizing the view which would be agreed upon as a result...
of argument undeflected by irrelevant considerations' and 'representing things as they really are' (Philosophy and the Mirror of Nature, pp. 333–4). Foucault rejects the idea of universal agreement as impossible, undesirable, and dangerous. Believing that any sort of general agreement or formation of norms can only produce disastrous subjugation, Foucault accepts only the second definition. Even though, like the Buddhist, he fundamentally opposes describing absolute reality with anything other than negative assertions or micro-level positive assertions, he is after all still describing reality, at least as perceived by humans, or at least one passionately involved human, perhaps somewhat accurately, perhaps not. Foucault takes such a heavily qualified and cautious approach because he accepts the idea that the severe mechanistic rigor associated with static inanimate objects is appropriate for evaluating abstract ideas formed by human minds. Any system of ideas, if forced to bear unreasonable burdens of proof, will collapse. The rules of any game may be set so that no one wins. There is no telling what Foucault might have created and constructed if he could have fully dismantled object-rigor. Certainly he would not have rejected his desire for a positive program, for such programs are not impossible to construct if one ceases to demand absolute rigor. He might have even reconsidered his aversion for rational agreement, for if it is not rigorously interpreted it can function, and if it is not applied with unyielding rigor it can function fairly.

In his examination of the critical theory of Habermas, Raymond Geuss touches on the burden of object-rigor:

The positivists would have said that neither legitimizing world-pictures nor critical theories can be true or false. Perhaps they were wrong only to draw from this the conclusion that world-pictures and critical theories are therefore meaningless and that there is no way to rationally decide between them, that any choice is a mere preference. Why accept the alternative: Science or more, brute preference? (p. 94)

Foucault, however, accepts the alternative. Though he does not deem anything meaningless, Foucault otherwise conceives of the problem in all-or-nothing terms: ideally, researchers would be able to evaluate phenomena with rigorous algorithms, with an infallible truth detector, with a perfectly reliable scientific machine, as conceived by many in the nineteenth century. Drawn to this ideal, yet offended by its absurdity, Foucault doubts whether any genuinely reliable form of science is possible. He goes as far as to question the validity of human desires for truth, infiltrated by the will to power as well as by arbitrary practical contingencies. According to Foucault, 'we are unaware of the prodigious machinery of the will to truth, with its vocation of exclusion' (DL, p. 220). Foucault believes that the

By applying rigorous constraints to truth and the human desire for truth, Foucault causes both to disappear in the final analysis:

Now I believe the problem does not consist in drawing the line between that in a discourse which falls under the category of scientifcity or truth, and that which comes under some other category, but in seeing historically how effects of truth are produced within discourses which are in themselves neither true nor false. ('Truth and Power', p. 118)

Foucault's method nevertheless bears the marks of the forces he tries to shun. Foucault analyzes history and society in close, exacting detail, affarming the reality of the landscape he explores, even as he denies its hold on him, denies its very existence. Unlike the Buddhist, Foucault never directly confronts his desire for truth and reality, never fully estimates its power, and therefore never succeeds in freeing himself from it, despite fancying that he has risen above the entire conflict.

Without the ability to distinguish between science and pseudoscience, studying only the history of particular forms of each, we fall into a dilemma which can only lead to a very bizarre form of science which would encourage practitioners to anticipate future rewritings of history by indiscriminately attacking trusted notions. Scientists would suddenly become like Wilhelm Ostwald who at the turn of the twentieth century tried to deconstruct notions of matter and a physical universe in order to clear the way for something completely different called "energetics." Though Ostwald made a good point about the West's peculiar preoccupation with matter, his plan did nothing to aid the actual performance of science.

Foucault chooses not to address the future positive direction of human existence because it cannot be done with certainty, thus rendering any direction merely arbitrary, chauvinistic, and dangerous. As he vehemently rejects all forms of normalization, any system that will universally prescribe or impose agreed-upon standards or rules upon individuals, Foucault feels a strong aversion for judicial systems. Specifically, Foucault despises the fact that courts pretend to have access to pure subjectivity or universality when in fact serious divisions exist between the judge and the judged (and even among the judged); at the same time, courts claim access to pure objectivity.
or detachment when in fact the judge is always to some extent involved in the proceedings, especially in seeing that the structure of the court is sustained, and the judge’s own position of god-like power unthreatened. Foucault’s stand against both types of pretension is evident in his discussion with Maoists:

The necessity that unity be affirmed does not have to take the form of a court. I would even say—though perhaps the analogy is a bit strained—that the court sets up again a kind of division of labour. There are those who judge—or who pretend to judge—with total tranquility, without being in any way involved. This re-inforges the idea that for judicial proceedings to be just they must be conducted by someone who can remain quite detached, by an intellectual, an expert in the realm of ideas. When, into the bargain, the people’s court is organised or presided over by intellectuals, who come along to hear what on the one hand the workers and what on the other hand the bosses have got to say, and to pronounce: ‘This one is innocent, that one guilty’, then the whole thing is infused with idealism. When it comes to proposing this as a general model of what popular justice should be like, I’m afraid the worst possible model has been chosen. (“On Popular Justice”, p. 30)

Foucault’s fiercest antipathy is for the pretension of pure objectivity by an individual or institution of great power. All individuals must realize that letting anyone assume they can hold an outside stance. In the words of Dreyfus and Rabinow, Foucault advises intellectuals to abandon their universal prophetic voice. He urges them to drop their pretensions about predicting the future and, even more, their self-proclaimed legislative role” (MF, p. 202).

By “vigorously opposing justifications . . . in terms of religion, law, science or philosophical grounding” (Dreyfus and Rabinow, “What is Maturity?”, p. 121), Foucault leaves unresolved and unapproached the question of how to distinguish the most productive areas of the natural and social sciences from the worst horrors of humanity’s history. Even those critics most sympathetic to Foucault articulate this concern. Dreyfus and Rabinow feel that we need “to go beyond Foucault in rhetoric ally strengthening the post-enlightenment practices that are positive, such as many of our technological, legal, and medical advantages” (WIM, p. 121). They also feel that Foucault needs to offer some positive description of his program, even if it is only a broad rough sketch.

Foucault’s ascetic refusal to go beyond his concrete demonstrations, while consistent and even admirable, does not make the questions disappear; nor does it fully satisfy our perhaps traditional desire to have a picture of the course . . . (the one he steers between) a return to the traditional philosophic view that descriptions and interpretation ultimately must correspond to the way things really are, and a nihilist view that physical reality, the body, and history are whatever we take them to be. (MF, p. 205)

It would certainly seem possible to conceive of a court different from the type Foucault imagines and fears, a court free from those faults he decries. A judge who was aware of how she was inextricably perhaps even passionately involved with what she was judging, who did not presume an outside stance to voice judgments with absolute truth, who grasped the network with which she was a part, who offered only pragmatic conclusions, who judged each case on its particular merits, who understood that absolute universality of agreement was not possible to achieve in practice, and certainly not desirable to enforce, and who could only exercise direct power over her own actions, decisions, thoughts, beliefs, etc.—such a judge would be one to whom Foucault could not object. Such a judge would in fact greatly resemble Foucault working as a historian of society, trying to understand as fully as possible the complex entanglement of the world and his place in it, and trying thereby to rise above it, to create something better through his own careful, selective, evaluative judgment. This is all that is necessary to start assembling a picture of the court. Foucault, burdened with the notion of object-rigor, would have resisted any attempt to describe his work as like that of a judge, but if he had abandoned that burden he might have been able to see himself as such, by freely constructing a model that corresponded to his beliefs and desires about how to go about intellectual endeavor.

The Western concept of law, like the concept of objectivity, has suffered a long and tortured history due to the unrealistic demands placed upon it as a fixed absolute. Eastern religion, however, offers a more fluid counterpart in “Dharma,” the Law of Righteousness revered by Mahāyānists. Quoting from Mahāyāna texts, William Theodore de Bary observes “the mystical attitude toward Dharma, which was widespread in later Buddhism. Here Dharma seems to have much in common with the Tao of Lao-Tzu”:

The blessed Buddhas, of virtues endless and limitless, are born of the Law of Righteousness; they dwell in the Law, are fashioned by the Law; they have the Law as their master, the Law as their light, the Law as their field of action, the Law as their refuge. (p. 102)

Unlike law in the West, Dharma is unfixed and inexpressible, much like the Tao. Both Eastern conceptions emphasize the importance of justice within society and within individuals.
Impartiality and timelessness are central to both Dharma and the Tao, which both provide "maps" for humans to follow, though neither map can be said to exist.

**Habermas’s Plea**

Jürgen Habermas offers a positive program that Foucault himself might have endorsed, had he been able to break the shackles of object-rigor. Habermas can be read as trying to end intellectual incarceration; he writes, "As long as Occidental self-understanding views human beings as distinguished in their relationship to the world by their monopoly on encountering entities, knowing and dealing with objects ... reason remains confined ...” (PDM, p. 311). Foucault, along with many others, has objected to Habermas’s program, yet these objections are launched from a perspective of realistic rigor which mistakes the program for an algorithmic mechanical device, though Habermas offers the program only as a picture of the general course individuals and society should take in establishing new ground, as the home for the hard-won fruits of their past productive labor and the site for future useful work.

In order to construct a system capable of evaluative judgments, Habermas addresses objectivity as agreement. Habermas puts forward the notion of the ideal speech situation, in which agents are fully free and autonomous, are not subject to any form of coercion, and are not constrained by external factors, including time. The beliefs and general interests agreed upon in the ideal speech situation will be those vital to the group. From that agreement we can proceed to judge what systems or conditions best fulfill the interests of the group, what the group should strive toward, as well as what is appropriate for it to judge as reality or truth. Dreyfus and Rabinow say Habermas “claims that a pre-critical attempt to offer a metaphysical grounding can be replaced with an analysis of the conditions in which the ideal speech community presupposed in all uses of language can be realized” (WIM, p. 110).

Foucault rejects the ideal speech situation as a pointless and dangerous postulate. As Dreyfus and Rabinow point out, Foucault is offended by the idea of a “universal imperative implicit in all speech acts.” (WIM, p. 119) Foucault writes, “The search for a form of morality acceptable by everyone in the sense that everyone would have to submit to it seems catastrophic to me” (Cited in WIM, p. 119). Yet the findings obtained through the ideal speech situation need not and in fact are not intended to be applied with an iron-fisted rigor, either by individuals or societies.

Habermas’s concern with the ability to differentiate appropriate paths from inappropriate ones is founded on a desire to see greater social liberation, a desire Foucault shares. Habermas offers a more satisfying solution to a need for clear direction, which is an especially desperate need in an incredibly fast-paced world.

The direction of technical progress is still largely determined today by social interests that arise autochthonously out of the compulsion of the reproduction of social life without being reflected upon and confronted with the declared political self-understanding of social groups. In consequence, new technical capacities erupt without preparation into existing forms of life-activity and conduct. New potentials for expanded power of technical control make obvious the disproportion between the result of the most organized rationality and unreflected goals, rigidified value-systems, and obsolete ideologies. (Toward a Rational Society, p. 60)

The chaos Foucault seems to advocate could indeed prove far more dangerous than offering a clear guiding direction, even one which would be at best imperfect and only approximate. A course of free, discursive, rational analysis of the most effective ways to fulfill people’s needs and interests would in many ways be far more preferable to no clear positive course. To his credit, Habermas’s system works fairly well in diagnosing what is appropriate and inappropriate, though perhaps not if viewed from the perspective of critics who have not yet abandoned object-rigor.

Raymond Geuss describes how Habermas’s critical theory works in conceiving the necessity of evaluating positive and productive ideologies:

Participating in a culture is a way of satisfying certain very deep-seated human needs. Humans have a vital need for the kind of “meaningful” life and the kind of identity which is possible only for an agent who stands in relation to a culture. Traditional religious world-views owe their persistence to their ability to meet some of these basic needs. They do this by providing agents with approved models of action, goals, ideals, and values, and by furnishing interpretations of such important existential features of human life as birth and death, suffering, evil, etc. Starting, then, from the wants, needs, interests, and the objective situation of a given human group, we can set ourselves the task of determining what kind of socio-cultural system or what world-view would be most appropriate for that group, i.e. what ‘ideology’... is most likely to enable the members of the group to satisfy their wants and needs and further their interests. (p. 22)
A scientific ideology might be judged useful by contributing to the needs of the various members of a society. The most appropriate scientific ideology would be that which performed the best job practically and epistemically. Specific practical and epistemic virtues would be arrived at through the use of the ideal speech situation. Thomas McCarthy feels that Habermas's program could

... defend the directionality of the history of science against relativistic interpretations... (he could) point for support to the capacity for prediction and technological control, which despite often discontinuous conceptual shifts, has undergone continued expansion. Well-established empirical regularities may be repeatedly refined and reconceptualized, but they are not simply dropped; we do not dismantle bridges or bombs when theories change. (p. 61)

While Foucault offers no systematic account of how technology and science can dependably work to humanity's benefit, Habermas offers a program that can directly acknowledge the necessity of evaluating science against pseudoscience and against the needs of society.

Dreyfus and Rabinow sum up Habermas's position when they observe that for Habermas

the problem of modernity consists in preserving the primacy of reason... while facing up to the loss of metaphysical ground of our substantive beliefs. Maturity is the discovery of the quasi-transcendental basis of community as all we have and all we need, for philosophy, and human dignity... Maturity consists in clarifying the form social organizations take in a given epoch, judging their adequacy for promoting human community, and assuming responsibility both for the way they are and for making them more adequate. (WIM, p. 111)

Though Foucault shared Habermas's impulse toward helping society better itself, he shunned any formulation, refusing to take any responsibility for anyone other than himself, and refusing to confess a desire for transcendence. Dreyfus and Rabinow speculate that while "what makes one interpretive theory better than another [for Foucault]... has yet to be worked out... it has to do with articulating common concerns and finding a language which becomes accepted as a way of talking about social situations" (WIM, p. 115). They emphasize, though, that Foucault would like to leave "open the possibility of 'dialogue,' or better, a conflict of interpretations, with other shared discursive practices used to articulate different concerns" (WIM, p. 115). Certainly Habermas would not object to allowing or encouraging the existence of dissenting viewpoints during or after the process of arriving at agreement regarding common concerns and an appropriate language.

Habermas is intent on promoting the greatest possible freedom, not inhibiting it.

A New Jurisprudence: The Union of Agreement and Representation

For anyone free to choose between the programs Foucault and Habermas offer, the choice should be fairly clear. While Foucault formally precludes satisfaction, Habermas opens new paths capable of leading humanity, for the wide range of its endeavors, in whichever direction it desires. Of course, Foucault is not entirely misguided or off-track, nor is Habermas the most enlightened being capable of existence. Though a choice cannot be algorithmic, it can nonetheless be rationally made. Raymond Geuss says,

Agents can act in ways that are more or less enlightened; the freedom of communication and discussion they enjoy and their freedom to form and acquire beliefs and preferences is a matter of degree; agents can be more or less reflective. To what extent a critical theory is enlightening and emancipatory may then equally be a matter of degree. If rational argumentation can lead to the conclusion that a critical theory represents the most advanced position of consciousness available to us in our given historical situation, why the obsession with whether or not we may call it true? (p. 94)

Habermas recognizes that agents naturally affirm the truth of their beliefs and the reality of the world, and derive satisfaction from doing so. Ideally, agents should be free to admit that they might be mistaken, that even the beliefs founded in the best possible circumstances might yet be wrong, that their affirmations are only approximations that hold for a given group in a given time.

Though the terminology is new, the fundamental problems and solutions are not the unique product of the last few decades. In a 1934 essay entitled "Written History as an Act of Faith," historian Charles A. Beard anticipates the dilemma posed by the constructivists decades later and offers clear advice on how it might be resolved. He puts forward a view of science that both Habermas and Foucault could agree upon:

The inquiring spirit of science... is the chief safeguard against the tyranny of authority, bureaucracy, and brute power. It can reveal by investigation necessities and possibilities in any social scene and also offerings with respect to desirabilities to be achieved within the limits of the possible... (It) is, therefore, a precious and indispensable instrument of the human mind... It is when this... child of the human brain is exalted into a master and a tyrant that historical thought must enter a caveat. So the historian is bound by his craft to recognize the nature and limitations of the scientific method and to dispel the
D. Andrade

illusion that it can produce a science of history embracing the fullness of history, or of any large phase, as past actuality. (p. 149)

Beard would not advocate breaking statues of the Buddha if they were recognized for what they were—helpful tools created by human hands, not in themselves holy or part of some greater reality. Beard identifies the intellectual crisis of the modern age, which he feels contains its own resolution.

To resolve these feelings of guilt, the historian only realize that the job is from the start a matter of faith: consciously or unconsciously performs an act of faith, as to order and knowledge of the actuality with speaks not only of the impossibility observer who reference. Beard says that in the face of this dilemma historians should not endeavors but, in light of this new end, should faithfully only fully revise self-awareness. In 1900, physicist Henri

Habermas and Foucault could both support this drive to greater self-awareness. In 1900, physicist Henri Poincaré advocated such self-examination as the solution for scientists seeking to arrive at genuine freedom and understanding.

It is often said that we must experiment with no preconceived idea. That is not possible ... even if we wanted to do so, it could not be done. Everyone has within [them their] idea of the world, which cannot be so easily put aside. For example, we have to make use of language, which is made up necessarily of preconceived ideas. Such ideas unconsciously held are the most dangerous of all.

Shall we say that if we cause to intervene others of which we have full consciousness, we shall but aggravate the evil? I do not think so; I believe rather that they will act as mutual counterweights, I was going to say antidotes, that in general will accord poorly and even conflict with each other forcing us to look at things from different aspects. This is enough to free us: [anyone] who can choose [their] master is no longer a slave. (p. 403)

Poincaré's scheme of perpetual conflict would win warm support from Foucault, yet Foucault would not have brought himself to nearly so bold a statement. Poincaré was very much in favor of recognizing ideas as ideas and recognizing that they may indeed be "useful to give satisfaction to the mind" (p. 416). If Foucault may be likened to Hinayana Buddhism, both Habermas and Poincaré may be compared with the Mahayana school. To illustrate the idealism of Mahayana thought, William de Bary quotes directly from a Mahāyāna text:

All phenomena originate in the mind, and when the mind is fully known all phenomena are fully known. For by the mind the world is led. . . . The bodhisattva, thoroughly examining the nature of things, dwells in everpresent mindfulness of the activity of the mind, and so he does not fall into the mind's power, but the mind comes under his control. And with the mind under his control, all phenomena are under his control. (p. 100)

To sum up, we should not go about smashing statues of the Buddha. We should simply see them for what they are. In fact, we should build new statues with forms and features different from previous rigid conceptions. We should neither say with Ostwald, "Thou shalt make unto thee no mental image or likeness whatsoever," nor with Ludwig Boltzmann, " Thou shalt give to such images the fewest possible arbitrary features" (pp. 358-9), but instead: Thou shalt give to such images features that best suit human interests in given endeavors, realizing that though these features are indeed arbitrary (in the strict etymological sense) they are not merely arbitrary and certainly not without value and purpose. We should follow a path prescribed by Pierre Duhem, a path favoring the lucidity and vigilance of Foucault and the positive and non-rigorously systematic judgment of Habermas:

Since logic does not determine with strict precision the time when an inadequate hypothesis should give way to a more fruitful assumption, and since recognizing this moment belongs to good sense, physicists may hasten this judgment and increase the rapidity of scientific progress by trying consciously to make good sense within themselves more lucid and more vigilant... We are thus led to the conclusion so clearly expressed by Claude Bernard: The sound experimental criticism of a hypothesis is subordinated to certain moral conditions; in order to estimate correctly the agreement of a physical theory with the facts, it is not enough to be a good mathematician and skillful experimenter; one must also be an impartial and faithful judge. (p. 218)

Rethinking Contemporary Mythologies


