

Foucault on Hume: Some Preliminaries

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Abstract: This paper analyzes two episodes of Foucault's reading(s) of Hume's philosophy. In both cases Hume is important to Foucault's overall argument and aims. In particular, in both Foucault takes a fairly conventional philosophical description of Hume—as a 'skeptic' and 'empiricist'—for granted and shows that these disguise a world-historical significance. In section 1, the paper explores Hume's role in Foucault's (1966) *The Order of Things*. The paper argues Hume stands in for the hidden role of similarity in the human sciences of the so-called 'classical period.' The paper examines Hume's account of relations which do not fully support Foucault's claims about Hume. It is proposed that Foucault's reading is motivated by the role Hume plays in Husserl's philosophy. In section 2, Foucault's treatment of Hume on March 28, 1979, during the eleventh lecture of the series known as *Birth of Biopolitics*, is analyzed. There Foucault ascribes to Hume's account of the subject the key building blocks that allowed for the development of Benthamite radicalism and *homo economicus*. The paper situates Foucault's later analysis of Hume in Foucault's larger account of the development of the so-called radical (Benthamite) strain of liberalism that, on Foucault's telling, runs through Chicago economics. While Foucault's account of Hume is anachronistic, this anachronism illuminates the building blocks of modern liberalism.

Keywords: Foucault, David Hume, Husserl, Chicago Economics, Liberalism

INTRODUCTION

In the intellectual character-sketch of Foucault by his close friend, Paul Veyne, Veyne (2010) treats Foucault as a skeptical nominalist in the manner of David Hume (see, especially, pp. 37-53; 66, 113). However, Veyne does not engage with Foucault's writings on Hume. More generally, Foucault's engagement with the Scottish Enlightenment has been relatively sidelined in scholarship on Foucault, who is mostly situated in debates over the French reception and transformation of transcendental philosophy and phenomenology (Han 2002; Hyder 2003). But what scholarship there has been focused on his readings of Ferguson (Ashenden 2015; Heath 2023) and Adam Smith (Williams 2015; Schliesser 2017; Heath 2023).

In this paper I analyze two episodes of Foucault's reading(s) of Hume's philosophy. Relative to his oeuvre, these represent modes engagements by Foucault. However, I show that in both cases Hume is important to Foucault's

overall argument and aims. In addition, because Foucault's readings have had negligible impact on Hume scholarship hitherto, they invite us to take a fresh look at Hume.

In particular, I argue that in both episodes Foucault takes a fairly conventional philosophical description of Hume—as a “skeptic” and “empiricist”—for granted and shows that these disguise a world-historical significance. In section 1, I show that the first episode, in Foucault's (1966) *The Order of Things*, Hume stands in for the hidden role of similarity in the human sciences of the so-called ‘classical period.’ I argue that Hume's account of relations does not fully support Foucault's claims.

The second episode, which I analyze in section 2, occurred on March 28, 1979, during the eleventh lecture of the series that came to be known as *Birth of Biopolitics* (hereafter: BoB). Foucault (2008) ascribes to Hume's account of the subject the key building blocks that allowed for the development of utilitarianism and *homo economicus*. I situate Foucault's later analysis of Hume in Foucault's larger account of the development of the so-called radical (Benthamite) strain of liberalism that runs through Chicago economics.

The title of this paper and the previous paragraphs may be thought excessively modest. But, Foucault has a tendency to read Beccaria as a kind of Humean. Beccaria is an important interlocuter for Foucault. So, the significance of Hume to Foucault's understanding may be much wider than may be inferred from what follows.

1: HUME, HUSSERL, AND *THE ORDER OF THINGS*

In this section I show that Hume plays a triple role in *The Order of Things*. First, alongside a number of other familiar philosophers Hume's works are treated as illustrations for Foucault's claims about the nature of representation and knowledge in the *episteme* of the so-called Classical period. In such cases Foucault assumes considerable knowledge about Hume among his implied audience. That Foucault can do so is explained by the second role Hume has, that is, of being a familiar steppingstone in a narrative that undergirds the self-understanding of phenomenology (which is treated as the ruling philosophical status quo by Foucault). This narrative is one of Foucault's main targets in the book. However, and this is the third role, in characterizing the distinctive nature of the classical age, Foucault singles out Hume individually. And this is so because he can both assume familiarity with Hume (given the familiarity of Foucault's audience with Hume as a steppingstone in their standard narrative) *as well as* render Hume unfamiliar in virtue of his retelling of the story of early modern philosophy. In exploring the significance of the third role, I show that Foucault's analysis of Hume's account of resemblance cannot withstand close scrutiny. This problem raises serious concerns about the status of his whole project in *The Order of Things*, although it goes beyond my remit to adjudicate the significance of this to Foucault's debate with phenomenology.

One of the main claims of *The Order of Things* is to provide what Foucault calls an “archaeological analysis of knowledge” (Foucault 1966, p. xxiv) in the human sciences that shows how across disciplines and over periods of time one can identify, to simplify, conceptual and argumentative similarities that obey similar underlying conceptual constraints. These constraints are durable for centuries on end, but can get replaced during what Foucault calls a “general hiatus” (Foucault 1966, p. 325) by new underlying conceptual constraints, which then structure what Foucault calls an ‘*episteme*’ or “single network of [conceptual] necessities” (Foucault 1966, p. 63). The period between ca 1600-1800 is called the “Classical period” (Foucault 1966, p. 43).

The first role Hume plays in Foucault's argument is to illustrate the *effects* of these conceptual necessities among a string of thinkers. When it comes to the Classical period, Hume figures repeatedly in such string of names: for example, “Hobbes, Berkeley, Hume, or Condillac” (Foucault 1966, pp. 63; 117, where this list returns, and 65), where Condillac seems to be key figure in the network, and (p. 70), where Hume has equal billing with Condillac). Again with Hume included, Foucault uses a different list to represent the “Classical age”—“Locke and Linnaeus, Buffon and Hume” (Foucault 1966, p. 162). When Foucault offers such examples, Foucault does not refer to particular passages or texts to provide evidence for his claims.

That is, he presupposes considerable familiarity with the authors repeatedly singled out as illustrative member of the ‘network of necessities’ among his implied audience.¹

Second, that Hume can play this illustrative role in Foucault’s argument is, in turn, the effect of the role Hume plays in the self-understanding of the philosophical status quo, Husserlian phenomenology, that Foucault is explicitly reacting to (p. 248; elsewhere, Foucault registers the significance of Deleuze’s work on Hume, and their joint dissatisfaction with the “phenomenological theory of subject” (Foucault 1988, p. 24; on Deleuze’s Hume, see Bell 2008). In this phenomenological self-understanding, which Foucault reports, [i] “Hume’s critique” is the trigger for the “transcendental motif” of Kant. In this self-understanding this transcendental motif [ii] gets merged with “the Cartesian theme of the cogito,” and so [iii] via Kant’s incomplete Copernican revolution [iv] produces Husserl’s revival of “the deepest vocation of the Western ratio” (Foucault 1988, p. 325; I have added roman numerals to facilitate discussion).² Here Hume is a kind of steppingstone, who generates Kant’s response which becomes co-constitutive for key features of phenomenology.

I have added [iii] because it is contextually implied: “It may seem that phenomenology has effected a union between the Cartesian theme of the cogito and the transcendental motif that Kant had derived from Hume’s critique; according to this view, Husserl has revived the deepest vocation of the Western ratio, bending it back upon itself in a reflection which is a radicalization of pure philosophy and a basis for the possibility of its own history” (Foucault 1988, p. 325; see also 65; Han 2002, p. 36).

A perceptive anonymous referee called my attention to the significance of Husserl’s (1927) *Formal and Transcendental Logic*. In particular, if we go to the “historico-critical digression” (Husserl 1969, p. 266) that closes chapter 6 (it’s paragraph 100 “Historical-critical remarks on the development of the transcendental philosophy and, in particular, on transcendental inquiry concerning formal logic”), we find what Foucault has in mind. I have added the roman numerals:

The way leading to the whole inquiry concerning origins, an inquiry that must be taken collaterally, as belonging to pure psychology and transcendental philosophy, and includes in its essential universality, all possible worlds with all their essential regions of real and ideal objectivities and all their world-strata (therefore, in particular, the world of ideal senses, of truths, theories, sciences, the idealities of every culture of every socio-historical world)—that way remained for centuries untrod. This was entirely understandable consequence of naturalistic and sensualistic aberration on the part of all modern psychology based on internal experience. This aberration only drove the transcendental philosophy of English empiricist into that well known development which it end in countersensical fictionalism; [iii] it also arrested the transcendental philosophy of Kant’s Copernican revolution short of full effectuation, so that the Kantian philosophy could never force its way through the point where the ultimately necessary aims and methods can be adopted. If the *pure* concrete ego, in whom all the objectivities and worlds accepted by him are subjectively constituted, is [as Hume argued] only a senseless bundle or collection of Data—which come and perish, cast together now in this way and now in that, according to senseless accidental regularity analogous to that of mechanics,—the result is that only surreptitious reasons can explain how even as much as the illusion of a real world could arise. Yet Hume professed to make it *understandable* that, by a blind matter-of-fact regularity, purely in the mind, particular types of fictions having the names “objects with continued existence”, “identical persons”, and so forth, arise for us. Now illusions, fictions, are produced sense-formations; the constituting of them takes place as intentionality; they are [ii] *cogitata* of *cogitationes*...

[iv] Hume’s greatness (a greatness still unrecognized in this, its most important aspect) lies in the fact that, despite all that, he was the first to grasp the universal *concrete problem* of transcendental philosophy. In the concreteness of purely egological internality, as he saw, everything Objective becomes intended to (and, in favourable cases, perceived), thanks to a subjective genesis. Hume was

the first to see the necessity of investigating the Objective itself as a product of its genesis from that concreteness, in order to make the legitimate being-sense of everything that exists for us intelligible through its ultimate origins. Stated more precisely: The real world and the categories of reality, which are its fundamental forms, became for him a problem in a new fashion. He was the first to [ii] *treat seriously the Cartesian focusing purely on what lies inside* (Husserl 1969, pp. 255-256, emphases in Husserl).

To be sure, Foucault contests the self-understanding of phenomenology (as he presents it). He reinterprets phenomenology as exhibiting the very “great hiatus” that Foucault diagnoses in the “modern episteme at the turn of the eighteenth and nineteenth centuries” (Foucault 1988, p. 325).

One might claim that [i] is absent in the passage I quoted and that even the cogito is only implied in it. But Husserl goes on to write (after discussing Hume), “as for Kant...with the dependence on Hume implicit in his reaction against that philosopher, Kant took over the constitutional problem, at least so far as it concerns Nature; but without the full sense of even the problem of Nature, as only one component in the universal complex of constitutional problems to which Hume’s re-conception of the Cartesian ego-cogito as concrete mental being, had pointed” (Husserl 1969, p. 257). Familiarity with this Husserlian narrative, which supplies the phenomenological tradition self-understanding, is, thus, often presupposed in *The Order of Things*.

It is beyond the scope of the present argument to show the role of and familiarity with Husserl’s *Formal and Transcendental Logic* in French philosophy of the period. But Suzanne Bachelard had published her *Study* on it in the preceding decade (1957). Scholars of Foucault have noted, of course, *The Order of Things* is, in part, a critique of Husserl (Han 2002; Elden 2023, pp. 76-79).

In this very context in Husserl, Hume is characterized as falling “into the countersense of a “philosophy of as-if,” (Husserl 1969, p. 257). That is, *Husserl* treats Hume as a stalking horse for criticizing Hans Vaihinger’s *Die Philosophie des Als Ob*. I suspect the idea stayed with Foucault. For, as I discuss in the next section, when years later, Foucault returned to Hume in BoB, on 28 March 1979, he treats Hume as the fount of Benthamite radicalism and Chicago economics. It is, in fact, not silly to treat ‘Chicago economics’ post Milton Friedman’s 1953 essay on the methodology of positive economics as a philosophy of as-if (Khan & Schlee 2020, p. 711). As we shall see, there is a sense in which later Foucault accepts this Husserlian characterization of Hume, but treats it as constitutive of the radical tradition within Liberalism (without criticizing it).

Hume is singled out (Foucault 1966, p. 60) at least in part because Hume plays a role as a steppingstone in the phenomenological self-understanding (see also Husserl’s second *Logical Investigation* (Janoušek and Zahavi 2020, p. 623)). This seems to motivate what follows in subsequent pages, where Hume becomes exemplary, for Foucault to show that while similitude/resemblance loses its central significance in its characterization of the nature of a sign, resemblance does not disappear but resides, as Foucault puts it in Humean terms, mutely ‘below knowledge’ acting as a natural relation behind the scenes, as it were, constraining our mind (Foucault 1966, p. 68). So, while *Husserl* treats Hume on similarity as opening the door to an explicit infinite regress (Janoušek & Zahavi 2020, p. 624)), *Foucault* treats Hume as relying on *hidden* foundations. In so far as Husserl is treated as Humean in this respect, Foucault’s criticism of Hume strikes at Husserl’s project.

Before I offer a critical examination of Foucault’s interpretation, I quote the relevant passage from Foucault:

As for similitude, it is now a spent force, outside the realm of knowledge. It is merely empiricism in its most unrefined form; like Hobbes, one can no longer ‘regard it as being a part of philosophy’, unless it has first been erased in its inexact form of resemblance and transformed by knowledge into a relationship of equality or order. And yet similitude is still an indispensable border of knowledge. For [in classical period] no equality or relation of order can be established between two

things unless their resemblance has at least occasioned their comparison. Hume placed the relation of identity among those ‘philosophical’ relations that presuppose reflection; whereas, for him, resemblance belonged to natural relations, to those that constrain our minds by means of an inevitable but ‘calm force’.

Let the philosopher pride himself on his precision as much as he will... I nevertheless dare defy him to make a single step in his progress without the aid of resemblance. Throw but one glance upon the metaphysical aspect of the sciences, even the least abstract of them, and then tell me whether the general inductions that are derived from particular facts, or rather the kinds themselves, the species and all abstract notions, can be formed otherwise than by means of resemblance (p. 20).

At the border of knowledge, similitude is that barely sketched form, that rudimentary relation which knowledge must overlay to its full extent, but which continues, indefinitely, to reside below knowledge in the manner of a mute and ineffaceable necessity (Foucault 1966, pp. 67-68).

The position attributed to Hume by Foucault in the first quoted paragraph recalls Hume’s claim (in the first *Enquiry*) that “it seems evident, that, if all the scenes of nature were continually shifted in such a manner, that no two events bore any resemblance to each other, but every object was entirely new, without any similitude to whatever had been seen before, we should never, in that case, have attained the least idea of necessity, or of a connexion among these objects” (EHU 5.8).³

Even so, the view attributed to Hume is awkward as an interpretation of Hume’s accounts of natural and philosophical relations (a distinction articulated in the *Treatise*), and the role of resemblance and identity among them. (I am drawing on Schliesser 2007, 2009 and Rocknak 2012; cf. Millican 2017). I highlight three problems.

First, in his own voice, Foucault distinguishes natural and philosophical relations as follows: philosophical relations presuppose reflection. In Hume, reflection is a mechanism of the mind that turns ideas into new impressions. That is, “impressions of reflexion are only antecedent to their correspondent ideas; but posterior to those of sensation, and deriv’d from them” (Treatise 1.1.2.1.). The paradigmatic examples of impressions of reflection are “desire and aversion, hope and fear,” (Treatise 1.1.2.1), that is, the passions and emotions. I mention this explicitly because on Foucault’s interpretation, the elements or relational building blocks of philosophical relations are impressions of reflection *or* the ideas derived from them.

For, *Hume* does not explicitly claim that reflection is presupposed in *any* philosophical relation including identity (the one singled out by Foucault). After all Hume claims about philosophical relation, “we extend it to mean *any* particular subject of comparison, *without* a connecting principle” (Treatise 1.1.5.1). So, it is strictly speaking false to suggest, as Foucault claims, that according to Hume philosophical relations *require* the operation of reflection. Perhaps Foucault tacitly attributes to Hume something like the Kantian account of reflection, and then Foucault’s mistake may be a natural one.

One may well think this is not the end of the matter. After all, Hume lists seven sources of comparison that can be “considered the sources *of all* philosophical relations. (Treatise 1.1.5.1, emphasis added). These turn out to be *viz.* “resemblance, identity, relations of time and place, proportion in quantity or number, degrees in any quality, contrariety, and causation” (Treatise 1.3.1.1). If reflection is crucial to these (especially identity) then the spirit of Foucault’s account can be saved. But, alas, none of them presuppose reflection. In addition, Hume divides this list “into two classes; [first] into such as depend entirely on the ideas, which we compare together, and [second] such as may be chang’d without any change in the ideas.” Crucially, again, reflection is irrelevant to this. So, Foucault misrepresents Hume here on philosophical relations.

I do not mean to deny Foucault’s claim that “no equality or relation of order can be established between two things unless their resemblance has at least occasioned their comparison.” This is indeed Hume’s position, too:

The first [philosophical relation] is *resemblance*: And this is a relation, without which no philosophical relation can exist; since no objects will admit of comparison, but what have some degree of resemblance (Treatise 1.1.5.3; emphasis in original).

While it is true that for Hume identity is only a philosophical relation, this is not true for resemblance in Hume. For, second, *Hume* recognizes two *kinds* or *sites* of resemblance, one is a philosophical relation; and when it functions in a philosophical relation, although resemblance “be necessary to all philosophical relation, it does not follow, that it always produces a connexion or association of ideas” (Treatise 1.1.5.3). According to Hume *only* natural relations generate an association of ideas. According to Hume there are three such natural relations of which resemblance is one (Treatise 1.1.4.1). This he treats, as Foucault suggests, as a “gentle force” (Treatise 1.1.4.1).

If this indeed exhausted Hume’s position then Foucault could have scored a major rhetorical coup: his analysis of the classical age shows that the philosopher of radical doubt quietly must assume the operation of similarity without making its significance to philosophy fully explicit. However, third in Hume’s Treatise similitude/resemblance does not just reside mutely ‘below knowledge’ acting as a natural relation behind the scenes, as it were, constraining our mind, but it is also the *content* of knowledge (and so made explicit). So, here, too, Foucault is misrepresenting Hume’s position.

So far I have left undiscussed the material *Foucault* quotes and references with endnote “[20]” in the material I have quoted above. At first glance, it’s natural to read Foucault here as quoting Hume as evidence for his position. But Hume scholars may well wonder what the source of the quoted passage is. (It’s not Hume, after all.) In fact, the passage quoted by Foucault that starts with “Let the philosopher pride...” is not, first impressions notwithstanding, by Hume, but rather is as endnote [20] indicates, a quote from Merian’s (1767) *Reflexions philosophiques sur la ressemblance*.

Merian (1723–1807) is a translator of Hume’s first *Enquiry* and an important critic of Hume. While criticizing Hume, Merian coined the term ‘phenomenalism’ in order to describe Hume in 1793 (see Laursen et al. 1997; sadly, Laursen’s paper does not mention the *Reflexions philosophiques*). Merian does not seem to mention Hume or natural & philosophical relations in his *Reflexions*. So, Foucault’s reading of Hume is not indebted to this work. (In fact, at the passage that Foucault quotes, Merian merely seems to be capturing Hume’s insight of EHU 5.8 — a work he had translated just a few years before—that I quoted above).

We can conclude, then, that here on Hume, Merian is not a source for Foucault, but that Merian is used by Foucault to articulate Hume’s position (that Foucault recognizes in Merian’s 1767 text). One may well wonder if Foucault is relying primary on the first *Enquiry*, but that would be curious here because, as noted above, he does directly refer to *Treatise* (1.3.3 and 1.4.4) in an endnote in a later passage.

I do not mean to suggest that the present interpretation of Hume’s account of natural and philosophical relations is settled fact. That’s notoriously contested terrain. But rather that Foucault gets rather basic features of Hume’s position wrong. Given that all the other references to Hume in *The Order of Things* are rather formulaic (and the kind of shorthand one may find in post-Kantian philosophy) one may well wonder how carefully Foucault read Hume. (He never cites Merian again in the book).

This may seem mere scholarly book-keeping. However, the significance of Foucault’s misrepresentation of Hume is that it undercuts Foucault’s larger claim (which concludes the section which I have discussed) that “from the seventeenth century, resemblance was pushed out of the boundaries of knowledge, toward the humblest and basest of its frontiers” (Foucault 1988, p. 71). On the contrary, I have argued that Hume’s account of philosophical relations suggests that there was a felt need to account for resemblance *within* the sciences. (See, for example, the significance to Newton *and* Hume of the same cause/same effect principle). So the failure to attend to details of Hume’s position undermines some of Foucault’s most important arguments in *The Order of Things*, including, perhaps, his criticism of phenomenology.

2. HUME'S EMPIRICISM OF FREEDOM

In this second section I, first, show how in a relatively brief passage of *The Birth of Biopolitics*, Foucault ascribes to Hume a world-historical significance in the development of the utilitarian/radical strand of liberalism. In particular, key features of Hume's moral psychology anticipate core commitments of features of *homo economicus*. While Foucault's account is anachronistic, it is illuminating.

On March 28, 1979, during the eleventh lecture, reprinted as *Birth of Biopolitics*, Foucault ascribes to "English empiricism," a fundamental innovation "in Western philosophy." This innovation is the positing of "a subject who is not so much defined by his freedom... but who appears in the form of a subject of individual choices which are both irreducible and non-transferable" (BoB, pp. 271-272). Foucault treats Locke (in traditional fashion) as the origin of this empiricist tradition. But in order to explain his use of "irreducible," Foucault turns to Hume, who is treated as an intensification of empiricism.

In context, the subject posited by Hume— said to engage in individual choices that are irreducible and non-transferable—is *contrasted* by Foucault to three alternative "definitions" of "the subject:" (i) by the subject's "freedom;" (ii) by the "opposition of soul and body;" (iii) by the "presence of a source or core of concupiscence marked to a greater or lesser degree by the Fall or sin" (BoB, pp. 272-273). I assume Foucault has Descartes in mind under (ii), although certainly the opposition precedes Descartes in Platonism and Christianity. I assume Foucault is thinking of Augustine or Catholic (or, perhaps, also Protestant) social theory with (iii).

But it is worth reflecting on why the position attributed by Foucault to Hume does not fall under (i). For, one may well be inclined—say, if one is in the grip of Hobbes' account of freedom as the absence of external impediments—to treat irreducible, individual choices as an expression, or constitutive, of a subject's freedom. Arguably something close to the Hobbesian view is the intuition that later gets turned into an account of so-called negative freedom or the way that (say) rational choice theorists tend to think of freedom. Since (i) is not supposed to be *that/those*, what is it?

I suspect that with (i) Foucault has in mind the view, associated with philosophical rationalism (Descartes, Spinoza, and Leibniz) and then adopted by Rousseau and Kant in different ways, that holds that the subject's acting on/from reason or for the right reasons (or gives a rational law to herself, etc.) is free. I mention this for two reasons: first, because it is worth being alert to the fact that in *Foucault's* taxonomy the *choices* of the Humean subject are not automatically identified with "freedom." Second, the implied contrast between (i) and Hume's posited subject turns out to anticipate historically a key distinction in Foucault's larger argument about the liberal tradition that he had sketched earlier in BoB.

For, during his second lecture (17 January 1979), Foucault sketches an interpretation of liberalism as the complex working out of two traditions, with each simultaneously enacting particular concepts of freedom and law. This working out takes place within each tradition and their interactions (and distant shadowing).

One tradition he calls "the axiomatic, juridico-deductive approach, which was, up to a point, the path taken by the French Revolution—we could also call it Rousseau's approach" (BoB, p. 41). This tradition is centered on the question(s), "What are my original rights and how can I assert them against any sovereign?" (BoB, p. 40). This approach starts with an attempt to "define the natural or original rights that belong to *every* individual...in *all* circumstances and under *any possible* government or political regime," (BoB, p 39; emphases added). In so far as this is juridical at all, it is at the level of, we might say, constitutional principle not a particular legal practice. In so far as these rights are inalienable, this foreshadows the significance of human rights to more recent liberal thought.

It is 'axiomatic, juridico-deductive' because only after "having...defined the division of rights, the sphere of sovereignty, and the limits of the right of sovereignty, you can then deduce from this only what we can call the bounds of governmental competence...this approach consists in starting from the rights of man in order to arrive at the limitation of governmentality by way of the constitution of the sovereign" (BoB, p. 39). To some cold-war readers of Rousseau it might have seemed incongruous to interpret Rousseau as of-

fering a limitation of governmentality. One may even be tempted to wonder whether Foucault is projecting features of Kant's political philosophy back onto Rousseau here. But Foucault is clearly reading *The Social Contract* in light of the *Third Discourse* (on political economy) (e.g., Foucault 2007, pp. 106-107). The latter contains a very robust defense of property rights.

It is "revolutionary" in virtue of the fact that "this approach consists in starting from the rights of man in order to arrive at the limitation of governmentality by way of the constitution of the sovereign...It is a way of posing right from the start the problem of legitimacy and the inalienability of rights through a sort of ideal or real renewal of society, the state, the sovereign, and government" (BoB, p. 39). That is, the ideal is not a mere ideal, but it demands to be actualized, and so is a revolutionary principle. This revolution is supposed to help constitute a legitimate government that self-limits by respecting individual rights.

Foucault's reading of this tradition is probably prompted by the chapter, "Planning and the Rule of Law" in Hayek's *The Road to Serfdom* (repeatedly quoted in the seventh lecture of BoB). For, while Hayek is no great admirer of Rousseau, in it, Hayek defends, even attempts to revive, the Kantian ideal of the *Rechtstaat*, and he approvingly quotes Kant that "Man is free if he needs to obey no person but solely the laws" (Hayek 2001, p. 85; on this strain in Hayek, see Kukathas 1989). What's crucial to Hayek's account of the *Rechtstaat* is not so much the legality of government action, but to what degree these conform to the principles of the Rule of Law, that is, "limited and determined by pre-established rules" (explored in depth in the seventh lecture of BoB; cf. Hayek 2001, pp. 85-86).

If I am right about the significance of the contrast of four ways of distinguishing the subject in the eleventh lecture then Foucault associates this (first) traditional strain of liberalism with 'freedom' founded on acting from or in accord with reason. Because of the importance of Rousseau in Foucault's narrative and the implied contrast with the Hobbesian approach to freedom (and its affinity to negative freedom), it is tempting, post-Rawls, to see in it the tradition of positive freedom that deploys the social contract.

In Foucault's account in the second lecture of BoB, the other, second traditional strain within liberalism, starts from, or is immanent in, "governmental practice itself...and tries to analyze it in terms of the de facto limits that can be set to this governmentality." It originates in technocratic questions: "is [some policy] useful? For what is it useful? Within what limits is it useful? When does it stop being useful? When does it become harmful?" And while it is contrasted with the revolutionary and general nature of the "axiomatic, juridico-deductive" approach, it is thereby not merely status quo preserving or idiosyncratic. Rather, "it is the radical question, the question of English radicalism; the problem of English radicalism is the problem of utility" (BoB, p. 40).

English radicalism so conceived offers an immanent critique of existing practice. Of course, utilitarianism is not always merely ameliorative; Bentham's 'reforming spirit' is more willing to propose more thoroughgoing institutional changes when the status quo is intolerable (see Halévy 1928, whose influence on BoB deserves more attention as was noted by Gordon 1991, p. 21).⁴

On Foucault's construction of the radical/Benthamite tradition it applies a kind of test of practical rationality or internal coherence toward governmental agency in light of a principle of utility. Foucault puts it like this: "it distinguishes those things it would be either contradictory or absurd for government to tamper with. Better still, and more radically, it distinguishes those things that it would be pointless for government to interfere with. Following this approach means that government's sphere of competence will be defined on the basis of what it would or would not be useful for government to do or not do. Government's limit of competence will be bounded by the utility of governmental intervention" (BoB, p. 40; Halévy 1928, pp. 125, 431).

One might expect, at this point, for Foucault to echo Marx's dismissive criticism of Benthamite utilitarianism (Marx 1958, p. 622, where Marx calls Bentham an "arch-philistine" and the "oracle of the ordinary bourgeois intelligence;" the accompanying footnote continues in the same vein), as Foucault seems to anticipate in his Parisian audience. But in the second lecture, Foucault warns the audience explicitly against this move, "Don't think that English political radicalism is no more than the projection of a utilitarian ideology on the level of politics." He then continues,

It is, rather, an attempt to define the sphere of competence of government in terms of utility on the basis of an internal elaboration of governmental practice which is nevertheless fully thought through and always endowed and permeated with philosophical, theoretical, and juridical elements. In this respect utilitarianism appears as something very different from a philosophy or an ideology. Utilitarianism is a technology of government, just as public law was the form of reflection, or, if you like, the juridical technology with which one tried to limit the unlimited tendency of *raison d'État*....for English radicalism, “radical” designates a position which involves continually questioning government, and governmentality in general, as to its utility or non-utility (BoB, pp. 40-1).

Foucault interprets political utilitarianism as a project of open-ended improvement inaugurated by Bentham that aims to delimit and constrain state capacity and orient it toward its proper ends. So, both liberal traditions Foucault identifies have a normative conception of the art of government in common, and for both it is a project of delimitation of the tendencies in the police state (which according to Foucault *and* liberalism is the natural tendency of *raison d'État*).

It would be tempting to treat Foucault's contrast as geographically distinct (French vs English liberalism); or as, hinted above, capturing the now familiar Rawlsian contrast between social contract and utilitarianism. Both versions of this temptation are not Foucault's position. On the former, in lecture 1, Foucault tends to treat the social contract as a medieval theory that in “England, more than in France,” (BoB, p. 8) gets reappropriated (alongside other medieval innovations) in the seventeenth century as a reaction to *raison d'État* (BoB, p. 9). There is a curiosity here in that Foucault treats the contract as one “between sovereign and subjects” (BoB, p. 8), which indeed echoes the mediaeval approach we can find in, say, Manegold, and not as a compact among equals as Hobbes and Locke suggest. This reappropriation is not treated as distinctly liberal. Here Foucault echoes in uncanny ways the nineteenth century (utilitarian) judgment that Lockean social contract theory was *not* liberal at all and that the social contract is something intellectually primitive (Bell 2014, pp. 695-696). In addition, Foucault's focus on the ‘radical’ tradition as distinct from ‘utilitarian’ points to his insight that the latter has an illiberal tendency (something also emphasized in Halévy 1928), while the former does not. However, Foucault draws the contrast of the two traditions in terms of their conceptions of law, and their implied conceptions of freedom:

So, there are two approaches: the revolutionary approach, basically structured around traditional positions of public law, and the radical approach, basically structured around the new economy of government reason. These two approaches imply two conceptions of the law. In the revolutionary, axiomatic approach, the law will be seen as the expression of a will. So there will be a system of will-law.... In the other problematic, the radical utilitarian approach, the law is conceived as the effect of a transaction that separates the sphere of intervention of public authorities from that of the individual's independence. This leads us to another distinction which is also very important. On one side you have a juridical conception of freedom: every individual originally has in his possession a certain freedom, a part of which he will or will not cede. On the other side, freedom is not conceived as the exercise of some basic rights, but simply as the independence of the governed with regard to government. We have therefore two absolutely heterogeneous conceptions of freedom, one based on the rights of man, and the other starting from the independence of the governed (BoB, p. 42).

So, crucially, the two traditions of liberalisms have different conceptions of freedom that originate in two distinct understandings of public law. This is, thus, *not* the familiar contrast between positive and negative freedom. On the axiomatic-juridical side is a rights based account of freedom understood in terms of what we might call ‘inalienable’ rights that no power may remove and which is enshrined in the founding documents of the American and French revolutions, foreshadowing human rights doctrines. On the other, radi-

cal side is an account of freedom in terms of a kind of sphere of non-interference or protection from state *and* society where we might say with Mill (who understood this as a disagreement with Bentham), ‘experiments in living’ are possible (Anderson 1991).

We are now in a position to understand the significance of Foucault’s analysis of Hume in the eleventh lecture as a source of the radical (Benthamite) strain of liberalism and as a contrast to the axiomatic-juridical rights based account. That a subject’s choices are treated as irreducible and non-transferable in Foucault’s treatment of Hume is the case because these choices express or ultimately refer back to the subject’s pleasure and pain. Pleasure and pain cannot be analyzed or decomposed in terms of more fundamental impressions (or ideas) nor shared with others. Crucially, Foucault adds: “This principle of an irreducible, non-transferable, atomistic individual choice which is unconditionally referred to the subject himself is what is called interest” (BoB, p. 272). That Foucault calls it an ‘atomistic individual’ evokes the criticism of liberalism by communitarian-socialist critics like Karl Polanyi. But Foucault clearly means it in a descriptive not critical sense.

The point of Foucault’s analysis is that this subjective feature of interest is treated as distinctively original in Empiricism:

What...is fundamental in English empiricist philosophy—which I am treating completely superficially—is that it reveals something which absolutely did not exist before. This is the idea of a subject of interest, by which I mean a subject as the source of interest, the starting point of an interest, or the site of a mechanism of interests. For sure, there is a series of discussions on the mechanism of interest itself and what may activate it: is it self-preservation, is it the body or the soul, or is it sympathy? But this is not what is important. What is important is the appearance of interest for the first time as a form of both immediately and absolutely subjective will (BoB, p. 273).

What this makes clear is that what original is not the discovery of the significance of interest as such. Foucault had devoted considerable attention to *raison d’État* the so-called interest of state doctrines in his 1978 and 1979 lectures (see also Hirschman (1977)). But rather, what’s found original in Hume’s intensification of empiricism is, that *interest* refers back to something subjective, even private and isolatable bedrock(s) within the individual, which in Hume is notoriously *constitutive* of the self. One’s interest becomes something another cannot take away from the agent, and it becomes, as the tradition unfolds, a source for the development of doctrines of privacy, consent theories, and certain kind of accounts of individual self-ownership. But as Foucault discerns, presumably influenced by Halévy (1928), Locke inaugurates a development toward utilitarianism via Hume (Brogan 1959). I put it like this because while it is certainly not impossible to read Hume Whiggish-ly (recall “atomistic individual”) as a significant path toward Benthamite utilitarianism—Bentham and Sidgwick said as much—it’s not necessary to read Hume that way (Rosen 2007).

That Hume is a subjective atomist in the way claimed by Foucault is by no means obvious (a lot hinges on how one understands Hume’s account of sympathy), but Foucault buttresses his interpretation with an appeal to “Hume’s famous aphorism which says: If I am given the choice between cutting my little finger and the death of someone else, even if I am forced to cut my little finger, nothing can force me to think that cutting my little finger is preferable to the death of someone else” (BoB, p. 272). The editors of Foucault helpfully note that this is a reference to Treatise 2.3.3.6. (Foucault’s editors get the page number right, but mistakenly suggest it is in Book III, Part III, section III). It is worth adding—since one may well be tempted to ascribe to Hume’s doctrine a kind of base selfishness—that the next example Hume offers of the very same phenomena/doctrine is “‘Tis not contrary to reason for me to chuse my total ruin, to prevent the least uneasiness of an Indian or person wholly unknown to me.” That is, on Hume’s explicit account, one’s interest need not—and this is one way he distinguishes it from Mandeville’s position—be selfish.

As the editors of BoB note (see footnote 14), Foucault goes on to paraphrase Appendix 1, “Concerning Moral Sentiment” to *An Enquiry Concerning the Principles of Morals* (1751), also known as the ‘Second Enquiry’ (or EPM), in order to illustrate his claim about the irreducible nature of the choice: “The painful

or non-painful nature of the thing is in itself a reason for the choice beyond which you cannot go” (BoB, p. 272). Explanation comes at an end when we reach pain and pleasure. In his lecture, Foucault accepts here Hume’s own understanding of the situation. The fact that, as it were behind the scenes, there is whole physiological and neural mechanism that might causally account for how pain and pleasure move us to act in one way or another, or might explain why some experiences are felt as pain or pleasure, is screened off from—to be very anachronistic and Kantian—the *space of reasons* or the ground of our interest. (No Kantian would accept that pain and pleasure could play such a role *in* the space of reasons—so I use their terminology strictly for elucidatory purposes).

The non-transferability principle is cashed out by Foucault in terms of the fact that *preferences* are one’s own and that another has no access to them. Foucault really uses the modern (somewhat technical) language of ‘preference’ (BoB, p. 272; Lemke 2019, p. 149). While Hume certainly has “preference” in his vocabulary, it generally means something like *favoring* a particular outcome or state of affairs. It’s not treated as motivationally foundational. So, as hinted throughout this section, Foucault is offering an anachronistic rational reconstruction of Hume such that we can see in Hume the origin of the radical/Benthamite tradition within liberalism.

At this point, Foucault shows his cards and links his account of Hume to two issues: first, he treats Hume as a starting point for a kind of natural history or genealogy of *homo economicus* that is developed throughout BoB, which turns out to have six stages: (i) during early empiricism (from Locke through Hume), *homo economicus* is a man of irreducible and non-transferable pleasure and pain; (ii) during the Smithian/eighteenth century period he is the man of exchange (BoB, p. 224); during the (iii) period of classical economics starting with Ricardo he is man the consumer in terms of satisfaction/pursuit of needs (BoB, p. 225); (iv) during the neoliberal period, especially in the ordoliberal sense, “he is the man of enterprise and production.” (BoB, p. 147). And (v) at Chicago (also neoliberal) he is also “an entrepreneur,” but now, especially, “an entrepreneur of himself,” who develops and produces/maintains his own human capital as a source of earnings (BoB, p. 226), even a possible earning stream into the future (BoB, p. 230). In fact, just before he gets to Hume, Foucault subtly refines his account of Chicago, especially Becker, who he correctly recognizes (vi) treats *homo economicus* as “any conduct which responds systematically to modifications in the variables of the environment, in other words, any conduct, as Becker says, which “accepts reality, must be susceptible to economic analysis” (BoB, p. 269).

Second, Foucault wishes to deploy Hume’s account in light of his interest to question whether “the subject of interest or form of will called interest can be considered as the same type of will as the juridical will or as capable of being connected to the juridical will” (BoB, p. 273). Foucault associates the mingling of the subject of interest with the juridical will/agent with Blackstone’s philosophy (although it is clear that it is a recurring move throughout the nineteenth and twentieth centuries), and treats Hume’s philosophy as a critique of Blackstone’s legal theory. In particular, Foucault treat Blackstone’s account of tacit contract as a source of obedience as the implied target of Hume’s analysis.

Now, in the larger context of Foucault’s argument throughout the 1970s, it is clear that Foucault admires Beccaria (Foucault 2015; see especially p. 237, where Foucault introduces the idea of ‘Humean criticism’ and clearly has Beccaria in mind.) In addition to Beccaria Foucault appreciates Bentham, and Benthamite radicalism as it flows into, and is revived by, Chicago economics because this tradition has an anthropologically *thin* account of ‘the criminal.’ According to Foucault, in Becker’s and Stigler’s writings, the criminal has perhaps a different risk appetite than other subjects (and, perhaps, bad luck that the government deploys significant resources to catch him), but is not different in *nature* (BoB, p. 248ff).

With that in place, I quote Foucault’s analysis of the nature of Humean interest:

This means that it is not because we have contracted that we respect the contract, but because it is in our interest that there is a contract. That is to say, the appearance and the emergence of the contract have not replaced a subject of interest with a subject of right. In a calculation of interest, the subject of interest has constituted a form, an element in which he will continue to have a certain

interest right to the end. And if, moreover, the contract no longer offers an interest, nothing can oblige me to continue to comply with it. So, juridical will does not take over from interest. The subject of right does not find a place for itself in the subject of interest. The subject of interest remains, subsists, and continues up to the time a juridical structure, a contract exists. For as long as the law exists, the subject of interest also continues to exist. The subject of interest constantly overflows the subject of right. He is therefore irreducible to the subject of right. He is not absorbed by him. He overflows him, surrounds him, and is the permanent condition of him functioning. So, interest constitutes something irreducible in relation to the juridical will (BoB, p. 274; cf. Halévy 1928, p. 120ff.).

Foucault recognizes that in Blackstone the social contract changes something fundamental about the agent: we become a juridical subject or a subject of right, or someone who can be held accountable in virtue of his or her promises (as it is in Hobbes and, say, Rousseau [and Christianity as Nietzsche explores in his *Genealogy*]). But Hume, who in Foucault's telling anticipates Beccaria, Benthamite radicalism, and Becker, rejects this.

As the editors note (BoB, p. 288, n. 18), Foucault is engaging with Hume's "Of The Original Contract" 35-37. There in the context of explicitly criticizing both the tacit and explicit versions of social contract theory, Hume draws upon (and subtly rewrites) his account of the origin of justice from the *Treatise*. In the new version, Hume works with a distinction or contrast between primary or original instincts (which are said to be "strong passions") and "reflection," which is conducive to "interest." In case one is tempted to treat Humean reflection as a rationalist principle, Hume explicitly notes that reflection is shaped or informed by "experience and observation." (Of The Original Contract, 34). Even a small amount of experience is sufficient to become aware of our "general and obvious" interest in obedience to the law not as something abstract, but as instantiated by the authority of magistrates. So one important feature of Hume's account is that on his view it clearly does not require much intelligence to recognize an interest in obedience to authority.

Hume's claim that both our original and continuing adherence to the law are ground in our interests and not in some promise may seem suspect. For, after all, what if it is not in our general interest to obey authority? Here Hume seems to edge rather close to the Spinozistic position that our obligations dissolve once they (structurally) violate our enduring interests. I use "structural" here to echo Hume's use of "general" and to allow for occasions where particular laws violate some of our (short-term or material) interests. Structural interests are akin to basic or fundamental rights. (To reiterate, Spinoza clothes such a doctrine in the language of social contract, and Hume rejects the social contract). This position is a feature and not a bug of Spinoza's account: rulers cannot count on our allegiance and obedience when they violate our most fundamental interests or basic rights, such violation generates indignation "and the [social] contract is inoperative" (*Political Treatise* 5.6, Curley 2016, p. 528; see also 3.14: the contract "remains firmly established so long as the reason for making the alliance—the fear of loss or hope of profit—continues to motivate" (Curley 2016, p. 523; Schliesser 2021).

While Hume is no fan of revolution (the passage "Of the Original Contract" is about obedience to government, after all), Hume bites this Spinozistic bullet (see also *Treatise* 3.2.9.4). For even if a social contract were conceptually possible, as Hume allows for the sake of argument, the *interest* of the contracting agent subsists after the contract and are not trumped by a promise.

Foucault goes on to argue "that in the eighteenth century the figure of *homo oeconomicus* and the figure of what we could call *homo juridicus* or *homo legalis* are absolutely heterogeneous and cannot be superimposed on each other...and have essentially a different relationship to political power" (BoB, p. 276). Foucault develops this idea more fully in light of an account of Mandeville, Condorcet, and Smith later in the lecture (and arguably had done so in his earlier writings on Beccaria elsewhere). But it is Foucault's discerning of Hume's recasting of Spinoza's argument that provides the wedge into it.

CONCLUSION

Foucault did not engage much explicitly with Hume. In addition, the philosophical scene had changed sufficiently between 1966 and 1979 that the status of phenomenology was not a main concern to Foucault anymore. However, perhaps alerted by Halévy or because of Foucault's engagement with Beccaria, who is treated, plausibly, as an unorthodox Humean by Foucault, and juridical philosophy throughout the 1970s, this change of philosophical scenery allowed Foucault to return to Hume with fresh eyes and read him more carefully and more creatively as originating the radical tradition within liberalism. While it is clearly anachronistic to treat Hume this way, it may be a fruitful anachronism through which to revisit the Humeanism in Benthamite radicalism and Chicago economics.⁵

NOTES

- 1 I put it like that because here my point is not to complain about Foucault's citation practices. This is not to deny that the near total absence of citation to (competing) *secondary* literature and possible sources of influence on Foucault is odd. But where needed Foucault does cite *primary* sources in *The Order of Things*.
- 2 Foucault does not problematize the eurocentrism of this narrative. At the start of section 2, I quote another passage in which Foucault essentializes 'western' philosophy.
- 3 All my citations of Hume's texts are by paragraph number as found in *Hume Texts Online*, edited by Amyas Merivale and Peter Millican, Hume Texts Online (davidhume.org).
- 4 There are quite a few annotations extant by Foucault on Halévy's (1901-1904) *La formation du radicalisme philosophique*, especially volume II:
[https://eman-archives.org/Foucault-fiches/items/browse?field=83&val=Hal%C3%A9vy,%20La%20formation%20du%20radicalisme%20philosophique%20\(Tome%20II\)](https://eman-archives.org/Foucault-fiches/items/browse?field=83&val=Hal%C3%A9vy,%20La%20formation%20du%20radicalisme%20philosophique%20(Tome%20II)), accessed 2 November, 2022.
- 5 Some of this material appeared on my blog, <https://digressionsnimpresions.typepad.com/>. I thank Jeff Bell, John Protevi, Elena Yi-Jia Zeng, and two very helpful anonymous referees for suggestions on earlier drafts.

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