

FOUCAULT ON TWO TYPES OF NEOLIBERALISM: ORDOLIBERALISM AND ANARCHOLIBERALISM, ALONG WITH EUROPEAN HISTORICAL ROOTS

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ABSTRACT

Michel Foucault is well known for writing on Neoliberalism, but the richness of his approach should be better understood, along with its place in his work as a whole. Foucault does not refer to Neoliberalism as one thing, but as divided into two types: Ordoliberalism and anarcholiberalism. That is between a more institutional version allowing for some state direction and a more anti-statist version. This overlaps with a distinction between Europe and the United States. It also connects with Foucault's interests in the relation between the roles of Germany and France in European history with regard to state sovereignty and law. The interaction of France and Germany has produced various conflicting and coalescing ideas of liberty and the state up to the way Neoliberal ideas have circulated. In the context of Foucault's own development, his investigations into Neoliberalism build on work on Enlightenment liberalism, bringing in Phenomenological anti-naturalism as a way of understanding the difference. It also builds on work on the development of political economy from its earliest texts to the work of Marx. The discussion of earlier political economy emphasises its place in a philosophy of history and humanism, which is recontextualised in Foucault's work on Neoliberalism. Foucault's work on the inevitability of blindness and subjectivity in epistemology, along with the role of subjectivity in ethics, also develops through the encounter with Neoliberalism.

Keywords: Michel Foucault, Neoliberalism, Ordoliberalism, Anarcholiberalism, Epistemology, Subjectivity, Europe

NEOLİBERALİZMİN İKİ TÜRÜ ÜZERİNE FOUCAULT'NUN DÜŞÜNCELERİ: AVRUPAYA ÖZGÜ TARİHSEL KÖKLERİYLE BİRLİKTE ORDOLİBERALİZM VE ANARKOLİBERALİZM

Michel Foucault neoliberalizm konusunda yazdıkları ile tanınır fakat onun yaklaşımının zenginliği, bir bütün olarak kendi çalışması içerisindeki yeri ile birlikte incelenerek daha iyi anlaşılmalıdır. Foucault, neoliberalizmi tek bir olgu olarak değil, Ordoliberalizm ve Anarkoliberalizm olmak üzere iki ayrı tür olarak ele almaktadır. Foucault'nun yaptığı bu ayırım devlet yönetimine izin veren daha kurumsal bir yapıyla devlet karşıtı bir yapı arasındadır. Bu da Avrupa ve Amerika Birleşik Devletleri arasındaki farkla örtüşmektedir. Ayrıca Foucault'nun bu konudaki incelemesi, onun devlet egemenliğine ve yasaya ilişkin olarak Avrupa tarihi içerisinde Fransa ve Almanya arasında gelişen ilişkinin rolüne yönelik ilgiyle de bağlantılıdır. Fransa ve Almanya arasındaki karşılıklı etkileşim, Neoliberal fikirlerin dolaşıma girdiği bir gidişata kadar özgürlük ve devletle ilgili çelişkili ve bütünüleştirici bazı fikirleri de

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meydana çıkarmıştır. Foucault'nun kendi düşüncesinin gelişimi bağlamında onun Neoliberalizme dair araştırmaları, Aydınlanma liberalizmi üzerine yapılan çalışmalara dayandırılmaktadır ve bu durum, farklılığı anlama açısından fenomenolojik bir anti naturalizme yol açmaktadır. Bu dayanak aynı zamanda eski metinlerden Marx'ın çalışmasına kadar politik ekonominin gelişimine yönelik yapılan çalışmaları da sağlam bir temele oturtmaktadır. Daha önceki dönemlerde politik ekonomi tartışmaları, Foucault'nun Neoliberalizme ilişkin çalışmasında yeni bir bağlama oturttuğu tarih felsefesi ve hümanizm içerisinde yer edinmiştir. Foucault'nun, epistemolojide körlüğün ve öznelğin kaçınılmazlığı ile etikte öznelğin rolü üzerine çalışması, aynı zamanda onun Neoliberalizmle karşılaşmasıyla birlikte gelişmektedir.

Anahtar Kelimeler: Michel Foucault, Neoliberalizm, Ordoliberalizm, Epistemoloji, Öznelik, Avrupa

A full appreciation of Foucault's work on Neoliberalism ('Neoliberalism' always with higher case 'N' to indicate that term is used according to particular definition) in *The Birth of Biopolitics* (2008) requires an understanding of the following: the distinction Foucault makes between two types of Neoliberalism, the relationship between Foucault's epistemological ideas and Neoliberal doubts about centralised political reason, Foucault's view of the interactions between liberty and institutional authority intersecting with interactions between France and Germany in European history. These issues cannot of course be dealt with in detail in one article, but this article will establish an understanding of the articulation of these themes in Foucault, as necessary to the full understanding of Foucault on Neoliberalism, epistemology and the philosophy of Europe, that is as necessary to the understanding of Foucault's detail arguments in these fields. These are interweaving themes requiring an account of the interweaving, before there can be detailed accounts of what is interwoven.

The discussion of Neoliberalism raises issues about liberty, power, and the foundations of political economy, all explored by Foucault within his discussion of Neoliberalism and more generally across his work. As a widely used label, there are inevitable questions about the scope of its reference, This article is guided by Foucault's own usage which is to focus on a two part analysis of Neoliberalism, divided between German Ordoliberalism and American anarcholiberalism (Foucault's neologism). Before a reading of Foucault's writing on Neoliberalism, and his other relevant texts, it is necessary to situate the reading and analysis through consideration of the epistemological issues here with regard to the status of political economy in which affinities can be seen between Foucault's own approach and that of some thought influential within the Neoliberal field.

One important Neoliberal text here is short, but influential, Hayek's 'Use of Knowledge in Society', along with other essays collected in *Individualism and Economic Order* (1948), which displays a form of

epistemic scepticism and subjectivism, though not in the most radical senses of scepticisms and subjectivism, that correlates with Foucault's scepticism regarding the claims of epistemic schemes.

The problem [of rational economic calculation without a price mechanism] is thus in no way solved if we can show that all the facts, if they were known to a single mind (as we hypothetically assume them to be given to the observing economist), would uniquely determine the solution; instead we must show how a solution is produced by the interactions of people each of whom possesses only partial knowledge. To assume all the knowledge to be given to us as the explaining economists is to assume the problem away and to disregard everything that is important and significant in the real world (1948, p. 91).

For Hayek the argument is conducted in terms of economic information and value, while for Foucault the argument is to be found in his discussions of discourse and episteme, particularly in *The Order of Things* (1970 [first published 1966]) and *The Archaeology of Knowledge* (1989 [first published 1969]), to which can be added the scepticism about achieving Enlightenment moral goals through centrally directed institutions in *History of Madness* (2006 [first published 1961]) and *Discipline and Punish* (1977 [first published 1975]).

The accounts of political economy in the earlier books lean first towards labour value in Smith, Ricardo and Marx as displacing ideas of finite wealth, also setting up catastrophist view of production failing to keep up with needs which he takes in both Ricardian and Marxist senses (1970, p. 284). That is the Ricardian decline of wages over time as a social inevitability and the Marxist expectation of revolutionary transformation arising from the decline of wages. Both arise from the assumption of the exhaustion of basic productive resources, though Marx in addition presumes that a socialist regime will be able to increase production through overcoming the apparent tendency of the capitalist economy to squeeze wages in the direction of zero while accumulating capital. Both are seen by Foucault from a Nietzschean perspective of the end of philosophies of humanism and historical progress (1970, pp. 286, 385), in which human finitude is exposed (a Heideggerian reference). Foucault makes occasional gestures towards the newness and optimistic possibilities of Marx's thought, while in general locating him with the limits of nineteenth century thought and as more limited than some.

The marginal revolution in economics, the idea that value comes from the marginal utility of any economic good compared with other economic goods, is mentioned with reference to Stanley Jevons and Carl Menger (1970,

p. 181; 1989, p. 207 on Jevons), as part of the same thinking as in labour value, with the stable measurement of value moving from labour to utility. The *Archaeology of Knowledge* reference to Jevons is accompanied by claims of a new political economy in Marx which Foucault never elaborates on. In *The Order of Things*, Marx was discussed as part of: bourgeois economics (1989, p. 285), philosophy of human truth along with Arthur Schopenhauer, Hegel and Edmund Husserl (1989, p. 356), historical return along with Hegel and Oswald Spengler, opposed by Hölderlin, Nietzsche and Martin Heidegger with regard to the catastrophic nature of the return (1989, p. 364), philosophy of history and alienation along with Friedrich Hölderlin, G.W.F. Hegel and Ludwig Feuerbach (1989, p. 407). Political economy going back to Smith (1970, pp. 240-241, 243, 244, 245) and his predecessors like Richard Cantillon (1970, pp. 181, 183, 202, 203, 210, 213, 241; 1989, pp. 73, 76, 193, 207) is seen as undermining notions of finite wealth. One peculiarity of Foucault's account is that Smith disappears from *Archaeology of Knowledge* after playing a prominent part in *The Order of Things*. It maybe that Foucault simply wished to emphasise that Smith is not the only significant figure in the early history of economic and political economy. For him Smith's political economy is part of the end of ideas of the representation of wealth through the treasure of the king in the origins of political economy corresponds with the libertinage of the Marquis de Sade, for whom all desire must be represented in a naturalistic way through language (1970, pp. 130, 303). Production and desire both go beyond language, because in the naming of everything, what goes below the thresh hold of language is indicated. This fits with the philosophy of history and humanism with which Foucault associates economics up Marx, in that production like desire, cannot be represented so enters into philosophy of humanism and history as a disruption triggering catastrophe at some point.

What Foucault emphasises in economics the earliest work up to Ricardo is that it is unable to carry through any hope of the open ended creation of increasing economic value for everyone. The latter situation becomes clear with the work of Thomas Malthus, with regard to expectations of regular overpopulation, and David Ricardo with regard to declining return to labour. Foucault does not explain the apparent failure of both Ricardian and Marxist theories about the inevitability of economic decline, given the overall tendency to increased production and consumption since their time. As Foucault treats their economics as a part of the philosophy of history and humanity, with regard to the organisation of discourse, he may not regard the empirical value of economic theories as a major issue. In any case, mention of the Marginalists does hint at later developments in economics more oriented to exchange and price formation, rather than exhaustion of factors of production.

It is in *The Birth of Biopolitics* (2008) Foucault effectively picks up on what comes out the marginal revolution of Jevons, Léon Walras, and

Menger. The Freiburg School and Ordoliberalism has roots in the Austrian School which itself goes back to Carl Menger. The Chicago economics also discussed in *The Birth of Biopolitics*, largely with reference to Gary Becker, comes out of the Marginal Revolution as does most economics since the late nineteenth century. At this point Foucault is effectively picking up on economics not driven by expectations of historical catastrophe, as in Ricardo and Marx. Going back to the 1960s, as explained above, Foucault emphasises a view of economics as based on subjectivity in the separation of individual producer from production, the accumulation of capital and the ends of economic history.

Foucault's two main epistemological texts follow on from his work on madness (*History of Madness*), and precede his work on punishment, disciplinarity and surveillance (*Discipline and Punish*). The account of madness is an account of the challenge madness itself poses to conceptualisation and institutional control, given that it is what is at the limits of rationality and control. Then after the two great works on epistemology, the account of disciplinarity in refers to the innate failures of claims to knowledge and the omnipotence of power. Disciplinarity demonstrates an intensification of power based on knowledge, but also its limitations. The panopticon prison can watch prisoners and regulate their day, but can never get success in the reformatory goals behind the idea of a prison. The goal of reform of prisoners in any case conceals the function of prisons and the whole criminal justice apparatus in creating a criminal class. We see here the blindness of power and knowledge, as in all the ways of controlling madness up to the modern asylum. In the cases both of punishment and madness, Enlightenment thought and is more blind to its own blindness on the violence of the rational state and the limits of rationality than earlier thought. There is a phenomenology of power knowledge in which objects become more visible, but this creates another kind of invisibility, the ways in which objects are more than what is expected in combined observation and control. Part of this is subjectivity, as criminals never lose the subjectivity which means they have interests other than what is expected by disciplinarity. There is intersection here with Foucault's more ethical writings (1990, 1992, 2000) which also refer to the Enlightenment though in more positive terms, which suggest that ethics is based on and reflects on the individual capacity to self-direction, sometimes labelled care of the self, or self-stylisation, or self-government. Foucault's investigations of two main types of Neoliberalism has to be understood in the context just outlined of his thoughts on limits of reason and power, along with ethics as self-relational.

Foucault's account of Neoliberalism has two parts, or two themes, the European and the US. The European aspect; focused on the University of Freiburg, is referred to as Ordoliberalism, while the American aspect, focused on the University of Chicago, is referred to as anarcholiberalism. The term Ordoliberalism refers back to a term invented by Hero Moeller in 1950 to refer

to ideas put forward in the journal *ORDO-Jahrbuch for die Ordnung von Wirtschaft und Gesellschaft* (Yearbook of Economic and Business Order), so we could call this Order Liberalism, with reference to ‘Ordnung’, but we will maintain reference to Ordoliberalism as it is quite widespread in English. The term ‘order’ suggests that the question of the ordering of the economy or the order within which the economy operated is central, and Foucault is picking up on this with regard to the elements of the order which owe something to conscious political will expressed through state laws and public policy.

The advantage in mentioning the two types of Neoliberalism that Foucault identifies rather than the word ‘Neoliberalism’ itself, are in conveying more information and avoiding some of the less subtle and more negative associations with Neoliberalism which do not belong to Foucault’s approach. In assessing Foucault’s approach, it should be appreciated that Neoliberalism was first used with a positive connotations by Alexander Rüstow, one of the major Ordoliberal figures—who like another major figure, Wilhelm Röpke, spent a large part of the National Socialist period in Germany at the University of Istanbul—at the 1938 Walter Lippmann colloquium. This was a forerunner of the Hayek inspired Mont Pelerin Society seminars which have been taking place since 1947.

The word Neoliberalism became largely a term of abuse, to indicate capitalism in some way out of control, a state or a culture captured by acquisitive values above anything else, rather later, in reaction to economic policies and assumptions of the 1980s. An Ngram search indicates an accelerating usage from a low base in 1980, as the term was deployed to describe the economic policy changes of the time and increasingly in a critical way by those either highly critical of capitalism as such, or at least highly critical of capitalism without strongly redistributive and regulatory state restraint. By then, the ‘Neoliberals’ of the 1930s, though the word was not widely used then, had established a preference for terms like classical liberal, libertarian, or liberty oriented in some way; or sometimes more recondite terms such as Old Whig favoured by Friedrich Hayek as the appropriate epithet for his own approach, or Objectivist as in the term preferred by Ayn Rand and her followers.

The title *The Birth of Biopolitics* (2008) suggests some association between Neoliberalism and increasing sovereignty over life, though Foucault also refers to other expressions of the intensification of sovereignty over life. There are intersections with various Foucault texts, but particularly with “*Society Must Be Defended*” (2003). The intersections between these two texts arise from the ways in which Foucault looks at the relation of ‘Neoliberalism’ to classical liberalism, or what Foucault describes as Enlightenment, political economy, civil society and the art of government, including, the growth of ideas of contractualism and utilitarianism. The

original liberalism comes from an art of government that tries to minimise the use of resources in government and reduce its negative effects, so that aims at an internally efficient government and an externally minimal impact of government, as discussed in *The Birth of Biopolitics* lecture two, along with *Security, Territory, Population* (2009, lectures twelve and thirteen).

It becomes clear when we look at lecture eleven, the final lecture in “*Society Must be Defended*”, that Foucault does not have an obvious attitude to Neoliberalism, in the discussion of biopolitics. The discussion of biopolitics which is intertwined with the topic of Neoliberalism, as we can see when we consider that *The Birth of Biopolitics* is devoted to the discussion of neoliberalism.

The field of biopolitics also includes accidents, accidents, infirmities, and various anomalies. And it is in order to deal with these phenomena that these that this biopolitics will establish not only charitable institutions (which had been in existence for a very long time), but also much more subtle mechanisms that were much more economically rational than an indiscriminate charity which was at once widespread and patchy, and which was essentially under church control. We see the introduction of more subtle, more rational mechanisms: insurance, individual and collective savings, safety measures and so on (Foucault 2003, p. 244).

The quoted passage shows, in the context of *The Birth of Biopolitics* that Foucault’s analysis takes biopolitics, neoliberalism and state promoted welfarism together. The mention of charity as the precedent for state welfare provision connects with another important aspect of Foucault’s approach which is that power cuts across the line between state and society, that the state is always part of the concentration of economic and social power. In this case state welfarism is not simply an good or bad from Foucault’s point of view, it is part of power to manage life. Since Neoliberalism contains criticisms of biopower expressed as state welfarism, Foucault’s view of Neoliberalism cannot be taken as a simple rejection, and certainly not as rejecting all the criticisms of state power to be found in Neoliberal thought. Like the original liberalism, discussed by Foucault in “*Society Must Be Defended*” as the art of government, Neoliberalism is a product of and a strategy for the economical management of state power, and as with the original liberalism this leaves Foucault as both critic and appropriator with regard to the power which tries to subordinate death in a way earlier political economy could not: ‘Death is outside the power relationship. Death is beyond the reach of power.... Power no longer recognises death. Power

literally ignores death'. (2003, p. 248). Foucault's usage stands apart from both the critical later usage and the original Mont Pelerin advocacy. He takes 'neoliberalism' back to German criticism of the National Socialist state (itself drawing on the Austrian Liberalism or Austrian Economics which emerged in Vienna in the late nineteenth century) which entered into the central public policy ideas used in the construction of democracy in the Federal Republic of Germany in the zones of Germany occupied by the USA, UK, and France. The Ordoliberalism of that time is still an influence on German public policy and given German influence on the European Union, particularly within the Eurozone the EU can be regarded as a means for creating an Ordoliberal Europe. This is a radical simplification and not adequate for a full account of post-war Germany or the working of the European Union, but it is one aspect.

So for Foucault, the politics of Neoliberalism is identified with democratic civilian centre-right politicians particularly Ludwig Erhard and Konrad Adenauer, who are at the centre of democratic life in Europe in the immediate postwar era (Foucault 2008, lecture four), through the reconstruction of Germany in the west, the formation of the Federal Republic of Germany (1949) and then the formation of what is now known as the European Union (European Coal and Steel Community, 1951), putting a French partnership at its heart, a project which has had the combined rehabilitation and containment of Germany at its heart. In this perspective, the nature of European democracy itself has been strongly influenced by the Freiburg School, which itself participated in transmitting the Austrian Liberalism of Carl Menger and Eugen Böhm-Bawerk, Ludwig von Mises and Friedrich Hayek, along with the more loose affiliate Joseph Schumpeter.

Though Foucault thinks of Neoliberalism, like the first liberalism, as inevitably caught up in forms of governmentality, the rationalisation of the acts of government or the attempt at a rational basis to government, and kinds of state activity which deserve to be resisted in the maintenance of government power though social intervention, he does not think of it in terms of a violent sudden restructuring of society from above in the interests of the bourgeoisie in violation of preceding laws, constitutions, and democratic procedures, as the strongest critics of Neoliberalism often see it. Neoliberalism on Foucault's account emerges in the interwar opposition to totalitarianism first in Soviet communist Russia, then more significantly in reaction to National Socialism in Germany.

The distinction Foucault makes between Enlightenment liberalism and Neoliberalism is largely a distinction between a model of natural processes and a model of institutional design. Some of the language of Neoliberalism is still that of nature. Since Foucault's account does not assume a 'natural' growth of the the market economy, or its emergence as a spontaneous order in post-totalitarian conditions, he is more distant from the 'natural' theme in neoliberalism than the 'institutional' theme, which still

leaves him close to some parts of Neoliberal analysis, that is where it is less 'naturalistic'. We can think about how that might work in relation to different aspects of Friedrich Hayek's thought. So Foucault has some greater distance from the Hayek interest in customary law, natural processes and markers as examples of spontaneous orders. However, importantly for Foucault's presentation of neoliberalism, Hayek at least at times shows readiness to incorporate some element of institutional design, Ordoliberal style so that in his more 'moderate' moments, particularly *The Constitution of Liberty* (1960), Hayek accepts some role for state planning at the most structural level of the economy and the basic elements of welfare provision, which match Foucault's assumption that such design is always part of Neoliberalism, even if Neoliberalism does sometimes appear to be appealing to 'natural' processes.

Hayek connects European Ordoliberalism with American Anarcholiberalism in due to his time in America, from 1950, mostly at the University of Chicago. Before that he was at LSE, so was not directly part of German economic and public policy debates in the period where Ordoliberalism was implemented in the emergent Federal Republic of Germany. In 1962, he did join the Freiburg department of economics so completing in his institutional affiliations a chain of links in Neoliberal influence incorporating the University of Vienna, LSE, and the University of Chicago, as well as Freiburg. While locating Hayek in relation to these institutions, it is important to note that at Chicago he was a member of the Committee on Social Thought, a postgraduate institution, rather than the Department of Economics. The strain of anarcholiberalism that Foucault associates with Chicago economics therefore evolved independently of Hayek's participation. What Foucault particularly emphasises is the importance of Freiburg, including the ex-Freiburg department member Wilhelm Röpke who was working at the University of Geneva after World War Two, so was at least in geographical proximity to Germany in a German majority country, and was indeed in contact with the political, policy, and academic scene in Germany.

Röpke indeed plays an important part in Foucault's account with regard to the idea apparently shared with Konrad Adenauer of structuring the German economic and political system so as to lack a large proletariat, that is a Germany, as far as possible, of small towns and workshops rather than big factories in big cities where Marxist ideas might influence the trade unions and political parties of a large concentrated working class mass. In particular, Foucault refers to a memorandum Wilhelm Röpke wrote at the invitation of Konrad Adenauer in 1950 and which was published with a preface by Adenauer, *Is German Economic Policy the Right One?* (1982). In this essay, Röpke particular emphasises the link he sees between a centralised state and centralised economic enterprises, concentrating at this point on state owned enterprises (p. 45), but his arguments go beyond still denationalisation to an argument which links political decentralisation, small towns with a pleasant

natural environment, transfer of agricultural enterprise to nature preserving activity, increases in self-employment, and the training of a higher proportion of semi-skilled and skilled labour. The argument for deproletarianisation to avoid a base for anti-bourgeois and anti-individualist politics is not entirely explicit but is there in the direction and accumulation of Röpke's arguments.

Post-war Germany did have a revival of heavy industry, partly due to demand created by the Korean War, so Cold War military-industrial requirements, after Röpke had drawn up his memorandum, and in any case, Adenauer and Erhard did not undermine the social base of the still Marxist in principle Social Democratic Party (Sozialdemokratische Partei Deutschland, SPD), which has a history going back to Marx, Engels, and their immediate associates like August Bebel, as well as a strong trade union base. However, as Foucault points out the SPD itself accepted neoliberalism of a kind in its 1959 Bad Godesburg conference which moved it away from Marxist class struggle and revolution to what is now understood as social democracy. Bad Godesburg was itself followed by later steps towards Neoliberalism under Willy Brandt, the first SPD chancellor of the Federal German Republic, but particularly by Brandt's successor as SPD Chancellor, Helmut Schmidt.

As the above shows, the European Ordoliberal aspect is really about Germany as a Neoliberal country, in the sense that the Federal Republic was founded on Ordoliberal assumptions. The broader European context is a theme of persistent interest to Foucault, the interaction between France and Germany. In this case, he looks at the French move toward Ordoliberal neoliberalism under the presidency of Valéry Giscard D'Estaing (1974-1981), something that could be called the acceptance of a slight move towards a German France (Foucault 2008, lecture eight), though also a move towards the times in which France was seen as less of a model of statist-corporatist economics than under De Gaulle, with Giscard representing a more liberal aspect of French conservatism. That move was behind the beginnings of the Euro currency project which goes back to Giscard's time, so the consequences are still very current at the time of writing.

The element of France incorporating a German model in some part is part of an issue in European issue which is prominent in "*Society Must be Defended*", as it refers to the roots of socialist and radical movements in 'race wars' against an elite defined as foreign. Foucault mentions the role of the 'Norman Yoke' in the English radical imagination along with the importance of 'sovereignty by acquisition' in Hobbes' *Leviathan* in that connection (2003, pp. 98-111), but mostly discusses France, in lectures six to eleven in "*Society Must Be Defended*".

In the French context, as Foucault explains, it is important that the ruling class is seen as coming from foreigners of a conquering elite, that is in the German-Frankish origins of the monarchy and the aristocracy at the time of the collapse of the Roman Empire in the west. The foreign conquering

nature of the traditional ruling class, or the mythical solidification the process of the formation of the aristocracy and monarchy as a Frankish conquest, was a view of history supported by the aristocracy with regard to its fitness to rule, and this is incorporated positively and negatively in the political ideas of the eighteenth and nineteenth centuries.

Foucault does not say much directly about the most significant example, in terms of intellectual sophistication and influence, which is Montesquieu's *The Spirit of the Laws*. Montesquieu's work goes beyond immediate political rhetoric in its long term impact on political and social thought, and the political interpretation of *The Spirit of the Laws* is a rather large and difficult issue. Nevertheless, consideration of *The Spirit of the Laws* is essential with regard to consideration of Foucault's thought here, and in various other respects, and it does loom over any discussion of the idea of the German origins of the French state and ruling class. Montesquieu has an account of German tribes coming to Roman western Europe and on the whole bringing a spirit of respect for the kind of individual non-state oriented liberty of the small German communities that had existed in the forests at the edge of the Roman world. This itself draws on the writing of the Roman historian Tacitus in his texts on the ancient Germans and Britains.

Montesquieu's history is of course not to be regarded as a model of understanding of late antiquity which would stand up to all modern scholarship and interpretation. It is the expression of a particular Enlightenment concept of law and liberty, which suits someone from a hereditary aristocratic family serving as a judge in a '*parlement*', a council of judges in which local privileges and liberties, as understood by the aristocracy, are defended at the same time as applying the royal laws. It is a historical vision in which German liberties mingle with the legacy of Roman law and antique republicanism in what we now know as medieval and early modern Europe. It draws on a Roman vision of barbarian liberty as discussed by Tacitus with regard to Germany and Roman Britain, which itself is based on an idealisation of the early Roman republic, so complicating the German liberty against Roman imperial state theme in Montesquieu's account, which is in any case ambiguous in many ways. Montesquieu's interest in the *parlement* also has unarticulated but substantial origins in Machiavelli (*The Prince*, Chapter 19), who praises their role in the French monarchy, so suggesting a neo-Roman republican appreciation for the institution. Another source for Montesquieu's thoughts on this topic can be found in the *Essays* of Michel de Montaigne, essay thirteen from book three, for example, emphasises the working of the French courts of the time, though in a rather pessimistic and sceptical spirit.

It is a big jump from Rome and ancient Germans to France and modern Germany, but that kind of comparison of variance runs across Foucault's work. Drawing on Montesquieu again, the Medieval French

monarchy can be understood as reviving Rome through the late transmission of Justinian's codification and its application to French law. Though as Foucault suggests, the river of Roman sovereignty divides between many channels in the Middle Ages. Foucault himself describes this process in the European middle ages as juridification and has his own account of it *Wrong-Doing, Truth-Telling* (2014), which places a great deal of weight on the church as the inheritor of Rome, broadly following the precedent of Weber as well as Vico along with Montesquieu in Enlightenment thought. The main point here is the consistency with which Foucault holds to a France-German interaction, of an ambiguous but persistent kind. The German pole can represent more of a despotic state than the French pole, most obviously for the National Socialist period, and maybe for figures of Imperial German power, such as Charlemagne. The Charlemagne example itself shows the ambiguity of the contrast, since Charlemagne was a Frank, so a proto-French king, ancestor of Frankish kings in a dynasty that lasted until the tenth, so playing a role in the formation of the French state, which came out of the Frankish-Germanic state. Charlemagne was though a German speaker, and the ancestor of German Emperors as well as Frankish kings, the two positions becoming divided after his death, in that the Kingdom of the Franks (later France) was given to one son and Germany to another. Foucault argues that Charlemagne's Imperial dominion was associated with a less despotic kind of authority than the French monarchy, for thinkers of eighteenth century France (2008, pp. 59, 72) and during the French Revolution (2003, pp. 210-211) during which the Roman imperial tradition at least symbolically revised by Charlemagne suggested something more republican, less based on direct personal power than than Bourbon absolutism in France. The institution of Roman Emperor did not appear in an explicit abolition of the Republic, but in an addition

So Foucault's account of Ordoliberalism in Germany and its impact on France, has some continuity with his accounts of earlier French, German, and European discourse of sovereignty. It belongs not with a discussion of contemporary sovereignty, but with a history of interactions between ideas of sovereignty, the concepts of French and German statehood, and the idea of Europe. Foucault also presents another pole within neoliberalism, which is the American anarcholiberal pole as he understands it, so bringing in ideas of America and of the history of ideas of sovereignty and nationhood, associated with the United States along with ways in which the United States and Europe are defined in relation with and opposition to each other.

The use of the word anarcholiberal allows the joining of anarchist and liberal thinking bringing non-anarchists like Milton Friedman and Gary Becker into relation with anarcho-capitalists, most notably Murray Rothbard, round a theme of radical suspicion of the state, as opposed to the relatively state tolerant position of the Ordoliberal perspective. Foucault does not mention Rothbard or other individualist anarchist directly, but that kind of reference makes sense of Foucault's understanding of an anarchist theme in

American liberalism. It also hints at an association between neoliberalism and the French anarcho-communists mentioned in *On the Punitive Society* (2015). These are two opposite poles of anarchism, but one underlying preoccupation of the *The Birth of Biopolitics* is that neoliberalism comes out of Weber's reaction to Marx, so an interplay of opposing positions and that Frankfurt School Marxism also comes out of Weber's reaction to Marx, setting up similarities and oppositions between neoliberalism and the Frankfurt School, who Foucault presents as two products of Weberianism on opposite sides in the 1968 wave of radical protest movements (Foucault 2008, lecture eight). Given this context, a significant liaison between Foucault's thoughts about anarcho-communism (Foucault 2015) and the anarchist aspect of neoliberalism looks plausible. This would be concerned with the way that both forms of anarchism criticise the intrusion of the state into what could be a purely voluntary sphere of laws and practices regarding labour and property.

The role of anarcholiberalism fits with the way Foucault suggests that America has appealed in Europe over time as the source of a critique from both left and right of the state. There is an echo here of the contrast between France and Germany, with the ideas of Roman law and sovereignty, and barbarian natural liberty in the background. Some significant part of what Enlightenment and nineteenth century comments on liberty in America say refers to the idea of barbarians or even savages free of some kinds of state constraint, which itself refers both to images of colonists isolated in the wilderness and of the native Americans as 'savages'. Again this is context to Foucault rather than what he asserts, but it is difficult to make full sense of what he asserts without reference to that context.

Foucault notes Hayek provides a personal connection between the two streams, bringing Austrian-Freiburg liberalism to America and then bringing anarcholiberalism to Freiburg. Hayek and the Freiburg liberals developed their version of liberalism in reaction to National Socialism in Germany and Soviet communism, while American liberalism (in the sense of anarcholiberalism rather than the progressivist use of the word 'liberal') develops in reaction to the New Deal. Foucault is sceptical about the merger of the two concerns (totalitarianism and welfarism), though the attempted merger is of course very apparent in Hayek's *Road to Serfdom* (1944), though that is more of a reaction to William Beveridge's proposals for increased state welfarism in the UK which were implemented after World War Two. Foucault has an account of why National Socialism and Soviet communism should be understood as more than a deepening of the sort of state interventions favoured by Roosevelt and Beveridge, which is that the totalitarianism is the product of a party state rather than just the radicalisation of state action. The radicalisation of state actions achieves totalitarian aspects where the state is used to apply the complete political and ideological power of a party through its administrative and coercive apparatus.

At a more detailed level, the main feature of ‘anarcholiberalism’ discussed by Foucault is Becker’s work on human capital. In Foucault account, this is the analysis of the individual as enterprise, producing and consuming itself, so taking the analysis of labour beyond the models of both Smith and Marx. Becker represents a kind of limit case in the individualisation of analysis. Becker’s overall discussion of human activity on an economic model expands on the individualised understanding of labour factor in economics into discussion of crime and drug taking. In this part of *The Birth of Biopolitics*, the most obvious intersection with other texts by Foucault is *Discipline and Punish*, to which can also be added *The Punitive Society* (2015), though the tone adopted towards the Enlightenment and Utilitarian analyses of crimes is comparatively positive. In *Discipline and Punish*, Foucault emphasises the relation between Enlightenment and Utilitarian approaches to punishment of criminals with power, in the context of the movement from spectacular punishment to confinement which is also a movement from sacralised power to disciplinarity, following Giambattista Vico’s movement from a world of heroic poetry to a world of universal legalism in *The New Science*.

Foucault suggests another side of his earlier contextualisation of penal reform with regard to the interests of sovereignty and class benefits, when in *The Birth of Biopolitics*, he emphasises that the art of government, the attempts to economise on the forces expended in government, itself tends to result in a less violent and coercive approach to crime. The violence and coercive effort of government is minimised as is the suffering imposed, since the Utilitarian approach in particular brings the calculus of pain and pleasure into the subjectivity of the criminal as much as any other subjectivity, in its evaluation of aggregate pains and pleasures. Despite the reservations Foucault brings up in *Discipline and Punish* and earlier in *The Punitive Society*, with regard to the humane effects of penal reform and the limitations on sovereign power of such reforms, his discussion of Neoliberalism strongly suggests that Foucault welcomes Enlightenment and Utilitarian penal reformism, and wishes to deepen it, possibly with some reference to some forms of rectification used in pre-Enlightenment and even pre-‘juridification’ societies, used rather than simply reject it.

What Foucault points out in his commentary on Becker is that there is an increasing decline in benefits from the costs of law enforcement the more law enforcement there is, and that the most significant consequence of the criminalisation of drugs is to increase the profits of drug suppliers, since demand is ‘inelastic’, that is addicts will pay anything for the addictive drugs concerned, so price increases do not prevent consumption, but the price of the drugs available does increase since law enforcement can reduce supply. The willingness of addicts to pay an infinitely high price for drugs itself increases criminality, as addicts resort to crime in order to cover the cost of purchasing less available and increasingly expensive drugs. Though Foucault does not

make an explicit endorsement of Becker's economics, and even tacit approval of one part of it does not mean approval of every aspect, it would be a very strained argument that tried to deny that Foucault is in sympathy with the prominent Chicago Neoliberal economist at the very least on this point. Becker himself responded to the appropriate sections of *The Birth of Biopolitics*, indicating that he found them to contain an accurate representative of his own views, and that he found Foucault to be adopting similar positions to himself on human capital (Becker, Ewald and Harcourt, pp. 10-11).

In this argument, and others, Foucault in part conceives of Neoliberalism as a continuation of Enlightenment liberalism, particularly with regard to political economy, though with changes in political economy as it existed up to Ricardo. In particular the political economy of Adam Smith rather than the Physiocrats, since Foucault sees the Physiocrats as tied to the efficiency of the art of government of despotism, rather than limiting government powers from the political point of view as well as the economic point of view.

For political economy, nature is not an original and reserved region on which the exercise of power should not impinge, on pain of being illegitimate. Nature is something, that runs under, through, and in the exercise of governmentality. It is, if you like, its indispensable hypodermis. It is the other face of something whose visible face, visible for the governors, is their own action. Their actions has an underside, or rather an, it has another face, and this other face of governmentality, its specific necessity is precisely what political economy studies (The Birth of Biopolitics, pp. 15-16).

Smith along with Scottish Enlightenment thinkers also goes further than earlier thought up to Rousseau in distinguishing civil society from the legal juridical powers of the state as a condition of 'liberty' or art of government. The clearest area of distinction between neoliberalism and Enlightenment liberalism is with regard to the role of the 'natural' in Enlightenment thought (*The Birth of Biopolitics*, pp. 65-66; also in "*Society Must Be Defended*") and the influence of Phenomenological anti-naturalism on Ordoliberalism. The idea of 'natural liberty' and the natural development of wealth is prominent in Smith and other thinkers of the time, though there is some ambiguity about how far that 'natural' is left behind in civil society and how far civil society is a product of nature.

What attracts Foucault's genealogical and discourse archaeological attention, in particular, is the famous metaphor of the 'invisible hand', which has a brief but strategic appearance in *An Inquiry into the Nature and Causes of the Wealth of Nations*. The language of visibility and invisibility has

considerable resonance in Phenomenology as it develops in Maurice Merleau-Ponty, who taught Foucault at the École Normale Supérieure. The book he was working on at the time of his death in 1960 was *The Visible and the Invisible* (1968). However, it is Phenomenology according to Husserl that Foucault refers to explicitly in connection to Ordoliberalism. As the focus on visibility suggests, Foucault nevertheless brings Phenomenology as it develops after Husserl, particularly in Heidegger, and Merleau-Ponty into his thoughts on political economy, though he does not choose to draw attention to the situation.

Foucault introduces Phenomenology into Ordoliberalism with regard to naturalism and anti-naturalism. His suggestion is that the Ordoliberal commitment to the design of institutions, evident in the construction of Federal Germany's new institutions, has roots in Husserl's opposition to naturalism in the philosophy of consciousness. That is Husserl wished to separate his study of forms of consciousness from experimental psychological work. Identifying the necessary structures of consciousness is different from evidence of the empirical workings of the mind, and here Husserl approaches the traditional topics of metaphysics through considerations on what is necessary for consciousness to have coherence and meaning. In Husserl, this does have a timeless transcending ahistorical characteristic. There is maybe some element of this in Foucault's understanding, but much more as the historically variable arrangements of basic possibilities of forms of knowledge, rather than a single transcendental structure. Foucault himself has little to say about naturalism in consciousness in *The Birth of Biopolitics*, or anywhere else, but we can take his thoughts to be in line with standard scholarship on Husserl, such as Dermot Moran's 'Husserl's transcendental philosophy and the critique of naturalism' (2008). The element of deliberate institutional design that Foucault identified in Ordoliberalism goes beyond the transcendental subject invoked in Husserl's form of phenomenology and it is here that Merleau-Ponty's *Phenomenology of Consciousness* (2012 [first published 1945]) is relevant, because it is concerned with consciousness as subjective in an individualised way, existing in a physical and social world, not like a transcendental observer of the world. Foucault does not establish details of how the development of Ordoliberalism relates to the development of Phenomenology, but there are some tacit suggestions. One possibility Foucault does not investigate is the relation between Merleau-Ponty on perception (2012) and Hayek's work in that area (*The Sensory Order*, 1952). He does provide the some of the elements for beginning a discussion of the connection. Foucault constantly emphasises the role of subjectivity in Ordoliberal and earlier Marginalist discussions, which overlap, with Austrian liberalism via Carl Menger, and that offers a way into Phenomenology, as does his discussion of the Ordoliberal design of institutions, if we understand it more as an interactive and intersubjective reaction to historical context rather than the imposition of an a priori scheme.

The themes of visibility and invisibility have other resonances in Foucault's earlier writing, particularly *Lectures on the Will to Know* (Foucault, 2013) and the expansion of one of the lectures as 'Oedipal Knowledge', published in the same volume. Sophocles' tragedy *Oedipus the King* had an enduring interest for Foucault, which included the ways in which he though Euripides reacted to *Oedipus* in *Ion* (2010). What Foucault emphasised about Oedipus in relation to knowledge in the early seventies was the physical blindness self-inflicted by Oedipus, which is a commentary on his blindness with regard to knowledge and chance before the revelation that he had killed his father and married his mother. This blindness is the position of the tyrant ruling against chance and the illumination of reality. The Phenomenological perspective Foucault brings, directly and indirectly, into his discussion of Neoliberalism and of Enlightenment liberalism is of a kind that emphasises the blindness of vision, in the sense that visibility is always limited. *The Will to Know* sets itself up as showing how Greek tragedy explores the kind of knowledge that is not part of what Aristotle identifies in a famous passage of the opening of the *Metaphysics*. This is very suggestive in combination with Hayek. This could be followed up with regard to Hayek's 'Use of Knowledge in Society' along with Ludwig von Mises considerations on value in *Human Action* (1966), as a whole but with chapter XVI on prices as particularly important. This goes beyond the scope of Foucault's account, but is important context for it.

The Order of Things looks at the different ways the world becomes visible according to different 'epistimes', starting the book with the discussion of the Velázquez painting 'Las Meninas' in order to set up the issues of the different perspectives that 'visibility' contains, including the relation between the perspective of someone looking at the painting and the perspective of the painter. *Discipline and Punish* partly explains 'disciplinarity' as an attempt at a constant absolute vision, which works through the lack of vision those who are observed with regarded to whether they are observed or not. At any moment the prisoners in the panopticon may or may not be under observation from a central tower, creating a kind of constant condition of observation which is also to some degree a condition of blindness, because much of the time no one is observing. For Foucault, Neoliberalism compared with disciplinarity, or maybe as one version of it, makes more allowance for inevitable blindness since it rests on the interactions of multiple subjects and economic chances which cannot be constrained by the rationality of an all powerful state, despotic, welfarist, or based on any other justification for sovereignty.

The intensification of subjectivity, or the intensified experience of the inner, is itself a value of some kind for Foucault, which informs his attitude to antique style of living and the beginnings of juridification. There is a preference for the self-relationality of style of living over the imposition of law, though there is also a rejection of any deep self. Subjectivity in Foucault

is valued in its intensity, but not in the sense of a self that is beyond experience or contains a truth that is more than what is contained in subjective activity. The constant acts of changing subjective valuation which inform the Neoliberal approach to political economy does not in itself bring up the more intense forms of aesthetic or poetic existential subjectivity that have importance for Foucault, but they do refer to something else important to Foucault which is the more routine capacity for self-direction, which comes in the discussion of the use of pleasure, care of the self, and government of the self in the antique context. There are at least some points of liaison with regard to neoliberal individualism and criticism of state uniformity. We can see this in an interview on welfarism in the French context from 1983, 'Un système fini face à une demande infinie' (*Dits et écrits*, Foucault, 2001, pp.1186-1202), where Foucault makes clear his concern that state welfare provision might assume forms that undermine individual initiative and difference.

Foucault does accept the principle of welfarism here, and this may lead those Foucault commentators who wish to establish the distance between Foucault and Neoliberalism. What this misses is that Neoliberalism is not inherently opposed to welfarism and Foucault recognises this. The more 'anarcholiberal' forms of neoliberalism are going to reject welfarism as a state policy since they reject the existence of the state. Where neoliberal thinking accepts the existence of the state, and that the state is engaged in more than the most austere and pure law and order and national defence functions, and since all of the Ordoliberal writers believed the state should have a more than pure minarchist role, then state welfare programs have a role in Neoliberal thinking. As Foucault notes, these neoliberal approaches to welfarism do not have the egalitarian goals of more expansive forms of welfarism, as they establish an absolute poverty level, which citizens can be protected from through state assistance. As Foucault notes, the absolute poverty level here is calculated with regard to increasing economic levels over time so is only absolute for a moment of time, not over all history.

Those familiar with the literature of Neoliberalism, in the sense of thinkers who are neoliberal, are aware that two of its major figures suggested welfarist programs of a kind they hoped would avoid constant magnification of state activity. Friedrich Hayek proposed a universal basic income scheme and Milton Friedman proposed a negative income tax scheme, which maintains everyone's income at a minimal level, through payments for those with low or no-income rather than unconditional payments. The Friedman proposal can also be seen as on the lines of earned tax credit and working tax credit schemes, which have been implemented by social democratic inclined governments. So Neoliberalism is not inherently opposed to welfarism and Neoliberal ideas about the best form of welfarism have influenced governments based on egalitarian and welfarist impulses. It should also be noted here the Friedman played in large part in arguments against the military

draft in the United States and was a strong opponent of drugs prohibition, placing him in at least two major areas of public policy closer to a counter-state counter-cultural leftism than to conservatism. So it would be a mistake to think that where Foucault expresses support for welfarism that he places himself in opposition to Neoliberalism, and that is particularly the case where the concerns he expresses about possible negative effects of welfarism and what is necessary for better welfare schemes are similar to what can be found in Neoliberal thought.

Foucault himself puts forward the Marxist and liberal traditions as both critiques of power and both as contributing to power of kind which requires criticism. Enlightenment liberalism has the Panopticon prison as one aspect, as Foucault details in *Discipline and Punish*, and the state working on behalf of very strong bourgeois power over workers, as detailed in *The Punitive Society*, a power which undermines the voluntary contractualism liberalism holds up as an ideal. Marxism in power, as a suppose power of science, give rise to Soviet Communism, including the Gulag Archipelago. It seems clear though that Foucault is more horrified by the latter than the former and his discussion of those issues round Marxism in power coincides with an interest in a French wave of left liberalism, with similarities to other liberal leaning social democratic revisionist movements, known as the Second Left ('deuxième gauche'), who best known representative as a political thinker is the social democratic leaning Pierre Rosanvallon, though it is also associated with the more Marxist influenced thought of Claude Lefort and Cornelius Costariadoris. The 'deuxième gauche' itself has a context in the revival of French liberalism particularly associated with François Furet. As Foucault notes, French liberalism had a notable earlier history even though occupying a rather marginal status in the mid-twentieth century, a history particularly associated with Raymond Aron, who provided a personal link between the Ordoliberal tendency and French liberalism through his participation in the 1938 Walter Lippmann Colloquium (*The Birth of Biopolitics*, p. 132). Foucault refers to a 1939 Colloquium presumably meaning the 1938 Colloquium were the term Neoliberal was first used and was applied in a positive sense, unlike the more recent history of its usage. Though Foucault does not endorse Aron or the few other liked minded French writers of the time, he does not put forward the state sovereigntist-economic corporatist tendencies of the time they were criticising, or Marxism of any kind, as preferable either. Certainly some left-wing commentators on Foucault have found him to be worryingly sympathetic to Neoliberalism (Lagasnerie 2012).

Foucault focuses his account of Marxist and liberal ideas of freedom on Germany (which in this context could be taken to comprise the broad German and language cultural community that also includes Austria) where he sees an evolution from Marx to Weber, in which both the Frankfurt and Freiburg schools inherit the Marx-Weber inheritance. Foucault implicitly places Weber above Marx, by suggesting that Weber's problematic of reason

versus unreason displaced the Marxist problematic of class conflict. Weber evolved politically over time, so it is hard to say what Foucault might mean by elevating him in the way. Roughly speaking Weber evolved from a nationalist kind of constitutional conservatism to a more liberal position, and at the end of his life he had some friendly contact with Ludwig von Mises, a leading light of Austrian liberalism, so was also an influence on the Freiburg School, and later on made a direct contribution to the US neoliberal culture as a Professor at NYU. Anyway at all times we can take Weber as a critic of socialism, committed to constitutionalism, legalism, and the civic culture that evolved in medieval Europe at all times. Weber's influence was very diverse and as the appeal of pure Marxism has waned, part of the gap had been filled by taking an anti-capitalist version of Weber as a basis. Foucault refers to that history through the case of the Frankfurt School, largely taking up Marcuse, Adorno and Horkheimer, and the cultural critique of capitalism. This is where Weber comes in, with his view that though capitalism was an admirable economic system, it involved an evacuation of meaning from the world of life experience in the prevalence of rational bureaucracy and instrumentalism, lacking charismatic or traditional authority. Reason becomes irrational lacking any grounds for its use. For Foucault this Weberian theme flows through both the Frankfurt and Freiburg schools as both are concerned with unreason in the capitalist world view and the desirability of freedom freed from the most out of control kinds of instrumental calculative reason. For Freiburg the unreason is in the attempted steering of the economy by the state,

the whole question of critical governmental reason will turn on how not to govern too much. The objection is no longer to the abuse of sovereignty but to excessive government. And it is by reference to excessive government, or at any rate to the delimitation of what would be excessive for a government, that it will be possible to gauge the rationality of governmental practice

[...]

fundamentally it was political economy that made it possible to ensure the self-limitation of governmental reason (Foucault, 2008,13).

while for Frankfurt the unreason is in the treatment of value as a matter of use and an ends-means relation. The moment of 1968 was a conflict between two groups of followers of Weber, the Ordoliberals in government, and the Frankfurt School radicals in the protest groups. Foucault does not indicate a preference between them, and to some degree he is implicitly suggesting that both have insightful points about liberty and power that can be usefully merged.

Foucault demonstrates scepticism about power from above, about the state as a morality and discipline enforcing entity that is everywhere. We see that in his sympathetic account of antique art of life and less sympathetic account of juridification, the criticisms of disciplinarity together with the recognition that liberal 'art of government' is less 'despotic' than the Mercantilist state even if Foucault has much that is critical to say about nineteenth century capitalism. That criticism is very much directed against the state's role in furthering class relations, the moralisation of state power, and the continuation of disciplinarity and moralisation through biopolitics. Foucault's criticisms of liberty as fixed institutions or as a sovereign self-contained, transparent, self-commanding self (more directed at Sartre than liberals anyway) should not be allowed to obscure the degree to which he though subjectivity as a self-relating active process should be placed above the imposition of absolute sovereignty and uniform institutionalisation on individuals.

We can locate Foucault in relation to the three best known thinkers mentioned in relation to Neoliberalism, i.e. Friedrich Hayek, Milton Friedman, and Robert Nozick. Though Nozick is associated with the rise of Neoliberal thinking in the 1970s, he stands apart from Hayek and Friedman, because unlike Hayek and Friedman he restricts the role of the state to the purest watchman activities of national defence and a legal system. Nozick is closer to the anarcholiberal label Foucault attaches to Becker than Becker himself. Nozick had met the key inspiration for anarcho-capitalism, Murray Rothbard who established himself as a leading proponent of the position in 1962 with the first edition of *Man, State, and Economy* (2009). *Anarchy, State and Utopia* is in part a response to Rothbard (Nozick 1974,xv) explaining why a state, if a very minimal one, is justified and necessary for the protection of liberty. The line through Rothbard and Nozick into minarchist and anarchist positions of an individualist kind is part of the context of Foucault's account of Neoliberalism which he does not explore himself. We can use Foucault's work to see how anarcho-capitalist (also known as individualist anarchism) influence the miniarchism of Nozick which further influences a broader range of Neoliberal thinkers for whom the state has a larger role than Nozick allows for it. Hayek's contributions, which has its final major comprehensive expression in *Law, Legislation and Liberty* (1982) always assume a larger role for the state than Nozick, though he himself tended to favour a smaller state over time. So for example Hayek always refers to the role of the state in maintaining a minimum income for the poorest. Hayek's thought is based on Austrian School economics while Nozick came from a normative tradition of political theory, also associated with John Rawls. Normative theory has roots in Kantian ethics and political philosophy, according to which there is always a moral basis to political principles of justice and liberty. This inevitably makes a large degree of separation between the concepts of normative theory and the historical development of political concepts. Hayek's approach to

political philosophy was more pragmatic in two senses. In the sense that concepts have some historical basis and evolve over time. It is also pragmatic in the sense that Hayek wrote political philosophy after becoming well known as an economist, because he thought no one else was doing work of this kind based on the more limited government and market liberal versions of liberal tradition. Like Hayek, Friedman was an economist who moved into political thought, particularly in *Capitalism and Freedom* (1962). He was less concerned than Hayek with building a complete political philosophy for market liberalism and limited government than Hayek. The book is wide ranging, but in a mix of policy suggestions and general principles rather than a complete investigation of principles as the basis of policy. Another distinction between Hayek and Friedman is that Hayek had graduated in law. This shows in the centrality of law in Hayek's writing. For Friedman ideas of rule of law as preferable to discretionary authority are central, but are not explored in the same way as Hayek. Friedman's background in Chicago economics gave him a much more technical approach than Hayek's earlier education. In any case, Hayek was suspicious of reducing economics to mathematical models which he thought could be no more than attributes of economics rather than the main way of expressing its central insights. Though both Friedman and Hayek favoured a much smaller state than that normal in developed economies by the postwar period, both favoured more state activity than allowed by Nozick. Hayek tended to be more suspicious of state intervention than Friedman, particularly round issues of money supply and counteracting economic depression. Friedman favoured the 'monetarist' strategy of stabilising the economy and the currency through very strict rules on the issuing of currency. Friedman's considerable historical work on the Great Depression of the 1930s (1963) led him to believe that bank rescue was essential in conditions of major economic depression to prevent the collapse of financial services. Hayek believed that bank rescue, along with measures to stimulate the economy would lead to bad banking decisions with regard to issuing loans. Government action to rescue banks and stimulate the economy through low interest rates, erode economic knowledge by weakening the market signals that come from market based collapse of firms and formation of new firms, along with interest rates based on market activity.

If we think of Neoliberalism in relation to Nozick, Hayek and Friedman then we can see it as existing between minarcism with normative foundations, a limited state defined by law and evolving institutions, and a limited state defined by economic welfare and a stable state framework. These are not mutually exclusive positions, there are possible overlaps but these three positions usefully clarify the range of views with Neoliberalism. Views that can favour: limited government or government that is strictly minimum; the evolution of the economy and non-economic institutions or an economy more defined by rationally based state activities, moral foundations or more technical definitions of economic welfare, law as an evolving set of practices

and institutions or more ideal abstract definitions of justice, a state that alleviates poverty and some other social problems or a state that presumes it can only justly enforce laws protecting individual liberty and property. This both provides the background against which Foucault was writing and a way of evaluating Foucault's writing on Neoliberalism. As has been argued above, Foucault's distinction between Ordoliberalismus and anarcholiberalism is a successful way of dealing with the complexity of Neoliberalism. Since no investigation and theorisation is perfect, it is important to see that there are distinctions and oppositions which Foucault does not bring into his account.

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