Biopolitics and its Discontents

1.

Writing in 1930, Sigmund Freud proposed that the “phenomena of life could be explained from the “concurrent or mutually opposing action” of two instincts, one that preserves living substance and joins it into ever larger units, and another that seeks to dissolve those same units, returning them to the originary unliving state from which they emerged. So completely convinced by the silent agency of the latter—the “death drive” [Todestriebe]—that he “no longer could think in any other way,” Freud nevertheless found himself unable to convince his disciples of the same. Psychoanalysts ranging from Otto Fenichel to Erich Fromm and Norman Brown, and even to some extent Anna Freud herself, would swerve from Freud’s teaching on the death drive, interpreting aggressivity, destructiveness, and sadism not as the result of an autonomous drive, but instead as the vicissitudes of an instinctual monism governed exclusively by Eros. For these Freudians, death and destruction remained anomalies within the field of life, and their pathological status could be diagnosed relative to the norm of life as well. “The assumption of the existence of an instinct of death or destruction,” Freud would note with characteristic understatement, “has met with resistance in analytic circles.”

A somewhat homologous resistance is perceptible in contemporary commentary on biopolitics. Generated in large part by Michel Foucault’s 1976 Histoire de la sexualité, but deriving as well from Foucault’s concomitant lectures that year at the Collège de France, this commentary is governed by the logic of a curious doubling. According to this logic, there can be no example of thanatopolitics that is not also, however tacitly, an example of a violation of human rights—such as genocide, state racism, and slavery. It is as though certain of Foucault’s readers do not consider the concept of “thanatopolitics” to be sufficiently coherent to be deployed in any instance where various juridical forms had not first cleared the way—as if illegality under international law, in short, were the prior and unstated condition on which the concept of thanatopolitics then could become intelligible. Or worse: as though the concept of thanatopolitics were only applicable in instances where it is redundant, with the perverse result that the only purpose of thanatopolitics is to repeat, without also or first working-through, the intolerability of what international law already has criminalized.

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3 We note this homology recalling Jacques-Alain Miller’s argument that “psychoanalysis is at the heart of the project which seems to have occupied Foucault throughout his later years: namely, the history of sexuality” (“Michel Foucault and Psychoanalysis,” in Michel Foucault, Philosopher: Essays Translated From the French and German, Ed. Timothy Armstrong [New York: Routledge, 1992], 58).
In the same way that manifestations of the death drive—aggression, destructiveness—seem to be intelligible without reference to the death drive, so too the manifestations of thanatopolitics—genocide, state racism, slavery—seem to be criticizable without reference to thanatopolitics. This doubling is particularly odd given that, in Histoire de la sexualité, Foucault called into question the assumption that law is always and necessarily “the very form of power,” and declared the need to free political criticism from juridical criticism. If certain Freudians resisted the concept of the death drive on the grounds that it was not Freudian, it would seem, certain Foucaultians seem to have produced a discourse on thanatopolitics that rests on grounds that are not Foucaultian.

And if it should turn out to be the case that discourse on thanatopolitics remains attached to and supplemented by the very “juridical forms” from which Foucault sought to liberate political criticism—what then? Should we not then consider the hypothesis that there never has been a properly political—or, better, properly biopolitical—critique of thanatopolitics? That the discourse on thanatopolitics that has been generated from within the horizon of biopolitics largely has derived its premises from what Louis Althusser would call the évidence or “obviousness” of international law? It is worth recalling that Foucault’s first use of the word “thanatopolitics” occurs quite belatedly, in a lecture he delivered at The University of Vermont in 1982.¹ There is, in other words, a curious time-lag between Foucault’s initial theorization of biopolitics and his subsequent theorization of thanatopolitics. The more we read Foucault on his own terms—as, precisely, a nominalist, which is to say, someone for whom naming is the very name of thinking—the more seriously, in turn, we need to take this time-lag. What concept of thanatopolitics might become available for retrieval if we reconstruct Foucault’s itinerary during this interval? Might it be possible, in other words, that this itinerary might enable us to think a thanatopolitics irreducible to the field of international law?

These questions, certainly, run the risk of stretching Foucault’s thought past its own limits. Before he spoke of thanatopolitics, after all, Foucault himself limited himself to discussions of colonialism, racism, and genocide (which each in their own way were


problematized by international law prior to the 1970s, and which all therefore remain subject to the doubling at issue here). To think past this limit is to risk inventing a “Foucault” that Foucault himself would not recognize. But of course, running this risk is far from disloyal to the thought of a “masked philosopher” who once said, “do not ask me who I am, and do not ask me to remain the same.” In fact, so far is it from being the case that inventing Foucault is disloyal to Foucault that it is perhaps only such an invention that can allow us to remain loyal to his thought. It is perhaps only this invention, that is to say, that allows us to close the gap between the material internal to Foucault’s 1978-9 lectures (his close readings of various neoliberal thinkers), on the one hand, and the name Foucault gave those lectures (“Birth of Biopolitics”), on the other. Let us then see what happens when we take a step further this very same interpretive principle—the principle according to which the loyal reader of Foucault must be loyal, paradoxically, to Foucault’s own disloyalty to his own thought. Let’s consider, in particular, the possibility that the problem with Foucault’s readings of the neoliberals is that they are undialectical with respect to their own stated aims. Or, stated simply, that they are at once too immanent and not immanent enough.

Too immanent because Foucault spent most of his time during his 1978-9 lectures producing a commentary on the self-understanding of neoliberal theories of law and economics, without also moving beyond that self-understanding to name the historical a prioris that condition and constrain those theories. If one takes (for example) Foucault’s analyses of Ludwig von Mises and Friedrich Hayek, one finds that he spends so much time on reconstructing their own argumentation that he is then unable (for administrative reasons, for reasons of space and time) to put a name to what remains unthought in that argumentation—the unposed questions that enable their thinking, that are indispensable in their thinking, to which their thinking is little more than the prolonged answer, but about which their thinking can say little to nothing. We are therefore left with long passages in which Foucault reproduces neoliberal arguments, but without ever reiterating those arguments—without ever repeating them differently. Not only does he not draw out the sense in which neoliberalism derives its paradigms from biopolitics; he also does not describe the ways in which neoliberalism entails thanatopolitics.

Certainly, he does come close, as when he speaks of unemployment and social policy as a problem within neoliberal thought. One certainly can fill in the blanks here: the market dictates that society must not protect whatever enterprise (the single living being) who does not first (we might say) “proactively” protect himself from the risks (of security and health) to which he is vulnerable, and for which he alone is responsible, abandoned to his own impossible freedom. Because any such protection would entail a distortion in the market’s ability to price and hence accurately convey information about the value of that enterprise (and, again, we are speaking here of the single living being), the market dictates that this protection not exist—producing as a “collateral

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8 Foucault, Birth of Biopolitics, 135, 142-5, 206.
effect” of its dictation the nonexistence of the living being as well. Certainly all of this is there, waiting to be said, at the limit of the text. But surely it is a remarkable feature of Foucault’s lectures that not only do we receive no new name for the mode of thanatopolitics specific to neoliberalism, but that, precisely in his loyalty to the terms he wants to problematize, he ends up being disloyal to his own terms, leaving in silence the very term that ostensibly brought him to neoliberalism in the first place: biopolitics. If we therefore say that Foucault’s lectures on neoliberalism remained too immanent we therefore mean that the driving questions of those lectures remained almost completely defined by the internal horizon of the very thought Foucault seems to have wanted to “problematize.”

The opposite, however, also would seem to be true: even as it is too immanent, Foucault’s analysis of the neoliberals is also not immanent enough. From a very early period, neoliberal thinkers showed great interest in the question of how the impersonal discipline of the market could and should relate to colonial populations. In 1941-2, Mises would extend and intensify this interest by traveling to Mexico to argue against state planners there, and to draft policies for the privatization of Mexico’s publicly-owned railway system. In 1949, Mises would publish the English translation of his landmark 1940 book Nationalökonomie (under the title “Human Action”), which would focus on (among other things) the unintended consequences of introducing advanced health and medical technologies into “backward” populations in Asia and Africa. In 1950, three years after Mises helped Hayek convoque the inaugural meeting of the Mont Pelérian Society, Mises would propose to the Society that it focus on the question of “Liberalism and the Underdeveloped Countries” (which they did, in the Beauvallon meeting of 1951, alongside the related question of pro-Soviet feelings outside of the USSR). During these same years, the leading “ordoliberals” would take up the same question. In his monumental 1950 work Ortsbestimmung der Gegenwart (translated into English under the title, “Freedom and Domination”), Alexander Rüstow would write with great passion about the need for Vitalpoliteik—”a policy for enhancing the quality of life”—to be the “form of government” that “the West” offers to “the liberated colonial peoples as an alternative to the imposing model of Bolshevik dictatorship.” Rüstow would share his thoughts at the Mont Pelérian Society meeting of 1957, in a panel called “Colonialism and Liberalism” (at which Ludwig Erhard, the West German Minister of Economics about whom Foucault wrote so much, almost certainly was

Foucault, Birth of Biopolitics, 78, 185, and especially 317.


Rüstow, Freedom and Domination, 668, cf. 664.
Beginning at least in 1953, meanwhile, the ordoliberal Wilhelm Röpke also turned his attention to questions of development, asking his colleagues at the Mont Pelèrin Society to take care to ensure that development policies, which were intended as an antidote to Soviet influence, did not end up relying upon the “collectivist state planning” that, as neoliberals in general held, would end up affirming Soviet totalitarianism.

One could go on, for the dossier is quite extensive, but the basic point should be clear: in the very same texts to which Foucault turns in his lectures (such as Mises’s Liberalism and Rüstow’s Ortsbestimmung), and in the very same period of German politics that occupies Foucault’s attention (most particularly the most successful period of Erhard’s tenure as finance minister of West Germany, 1948 to 1957), the very same neoliberal thinkers about whom Foucault writes (Mises, Rüstow, Röpke, etc.) spent considerable time focusing on the question of how the apparatus of the market might be brought to bear on populations who were then emancipating themselves, or who in some cases already had emancipated themselves, from colonial rule. And yet, even though the neoliberals understood that newly postcolonial populations constituted a problem for their thought, their understanding to this effect seems to have been a nonproblem within Foucault’s thought.

If this oversight is important, it is not simply because it is a simple “exclusion,” but rather because its absence marks the dead center, in every sense, of Foucault’s lectures that year. For, as it turns out, it is with reference to the political space of the colonies that the neoliberals speak most candidly about the problem of “population.” To remain silent on the former is also to render the latter inaccessible as a problem for thought, and that is exactly what happened in Foucault’s lectures of 1978-9, this strange seminar that spoke of biopolitics without also speaking of biopolitics.

2.

In order to reread these lectures, it will be useful to connect them to Foucault’s work of the early 1970s, and in particular to what in 1973 he called a “juridical form,” which is to say, a form of truth the schema of which is unintelligible unless one thinks it simultaneously also in genealogical terms, as a response to an unposed question, and as the site of an unthought practice of juridical force. Consider Foucault’s claim about the

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market as a technique of "veridiction." This term, which Foucault develops as a non-territorial double for the more familiar term "jurisdiction," designates the capacity of the market to say when it is that governmental practice exceeds its own intrinsic limits. It enables economic liberalism to answer questions that government cannot answer on its own terms: when is government governing too much? when is there too much government? what is government for? Neoliberalism raises the coefficient on this technique. It draws upon the "veridictional" quality of the market to respond to the excesses of the early twentieth century "police state," defined as a mode of governmentality in which the coercive force of law has become indistinct from the ad hoc, localized, unappealable powers of administrative reason.

Although Foucault does not say so explicitly, it is clear that the "police state" must be understood with reference to his lectures of the prior year, and in particular to his analysis in those lectures of the problems posed by the Ciceronian maxim "salus populi suprema lex esto" ("the safety of the population is the highest law"). One of Foucault’s desires in the 1970s was to understand the odd way that the modern state depends for its coherence on a justificatory framework that seems repeatedly to exceed, from within, the very institutions and practices that framework also founds. Foucault noticed that the safety, security, well-being, health, and welfare of populations was at once central to the modern state and, at the same time, at odds with the laws that give the modern state with its continuity, stability and consistency over time. To explain this impasse, this strange antinomy between law and sovereignty, Foucault traced the modern state to its origins in an apparatus he calls "pastoral power."

Pastoral power, Foucault argued, was quite distinct from the sort of power envisioned by classical political reason. Whereas classical political reason framed its objective with reference to the figure of the helmsman whose specific skill was the ability to steer the "ship of state" into safe harbor, pastoral power understood its aims with reference to the figure of the shepherd whose specific skill was to care for his flock as it moves from place to place. Pastoral power accomplished this not by using commands to ensure that the many cooperate and function as one, but instead through an intense, soul-searching inquiry into the truth and life, the quality and experience, of each individual member of the flock. By inciting individuals to examine their consciences, to bare their souls, and to account for their lives through practices of confession and attestation, and by caring for these individuals in the aggregate in the

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* Foucault, Birth of Biopolitics, 32-8.
* Foucault, Birth of Biopolitics, 32.
* Foucault, Birth of Biopolitics, 319-321.
* Foucault, Birth of Biopolitics, 37, 93, 168.
same way a shepherd would care for a flock, pastoral power sought “to constantly ensure, sustain, and improve the lives of each and every one.” If the aim of classical political reason was the creation of unity through command, the objective of pastoral power was the salvation (salut) of souls through knowledge.

Although pastoral power was therefore primarily an individualizing power, it did not lack an expressly distributive dimension. The pastor’s aim was to save souls—in the plural. Pastoral power was a care for “all and one” (or, as Foucault would put it elsewhere, omnes et singulatim) that was organized by an internal logic that was very different than the logic of the one and many in classical political reason. In contrast to the figure of the helmsman, whose subjects are unified to the extent that they share a common destiny and fate (or, as it were, are “all in the same boat”), the shepherd’s relation to his flock involved the distinct and ever-present possibility of sacrifice. This sacrifice obeyed a logic of reversibility: it involved the willingness and ability to sacrifice any sheep who (for whatever reason) could compromise the whole, but it also involved (if need be) the willingness and ability of the shepherd to sacrifice himself for the sake of the flock. So complete was the obedience that emerged in and through this sacrificial relation that pastoral power not only released the flock from its obligation to obey earthly commands but, indeed, considered those commands to be obstacles to the salvation that should be the source of any true obedience. Pastoral power, Foucault consequently argues, is antinomian: it acquired its very form and coherence in opposition to the concept of law as such.

On this analysis, the collection of institutions and practices that we today recognize as “the state” came into being under conditions where, under the influence of new non-teleological natural sciences, pastoral power was obliged to translate its old objectives now into the language of calculative, mechanistic instrumental reason. From this perspective, Foucault argues, the state is “a modern matrix of individualization, or a new form of pastoral power.” This is not, however, the same as saying that the modern state “secularized” pastoral power in any direct or straightforward sense, as if all political concepts necessarily came into being by simple analogy to theological concepts. Foucault’s point is rather more nuanced than that: it is that the modern state derived its coherence, in part, from its translation of a paradigm of law and sovereignty that both preceded and exceeded the self-understanding of the modern state itself. Unlike pastoral power, which led individuals to salvation in the next world, the modern state sought to ensure salvation in this world. “And in this context,” Foucault suggests, “the word ‘salvation’ takes on different meanings: health, well-being (that is, sufficient

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a Michel Foucault, “’Omnes et Singulatim’: Toward a Critique of Political Reason,” in Power, 307.

a Foucault, Security, 179.

a Michel Foucault, “The Subject and Power,” Trans. Leslie Sawyer, Critical Inquiry 8 (Summer 1982), 783.
wealth, standard of living), security, protection against accidents.”

To this retranslation, there would correspond a whole series of epistemic shifts. Once concerned mainly with the truth of the mind and the soul, the pastor’s knowledge of his flock now focused on calculations and measures of the body. The singulatim and the omnes that once characterized the old powers of the “pastor-sovereign” here became scientized. What was once the pastor’s intense curiosity into the soul of the single member of the flock now became a steady and constant gaze into the minutiae of the individual’s conduct (or what Foucault calls “discipline”). What used to be the pastor’s care for the flock overall now became the state’s duty to manage the safety, security, health, and well-being of its whole population (or what Foucault would come to call “biopolitics”). Above all, while the modern state certainly did deploy pastoral power now to a new end—summarized by the doctrine of raison d’état, the principle that the state must be strong to win its wars against its enemies—the modern state also carried forward the old modes of antinomianism and sacrifice that characterized pastoral power. Whenever the state’s laws happened to begin to constrain the state’s fostering of the health and welfare of its populations, the institutional and administrative forces responsible for maintaining that health and welfare (the police and the various ministries) would not hesitate to repeat the antinomianism of pastoral power, suspending the law. When the security or safety of the state’s populations was endangered by any one of its parts, the state would not hesitate to repeat the sacrificial violence authorized pastoral power, either by purging the part for the good of the whole, or by sacrificing itself, undoing its own condition of possibility—law—in the name of the security and safety of the population. In short, the ambiguous “salus” that was at the core of the modern state’s deployment of Cicero’s salus populi suprema lex esto translated into the apparatus of the modern state a paradigm, the salvation [salut] of pastoral power, that both informed the modern state and was incommensurable with its own self-understandings and self-justifications.

For the purposes of thinking about the translation of salus, there are two important lessons to take away from Foucault’s lectures. The first is that Foucault’s genealogy of pastoral power is, in effect, a genealogy of the jurisprudence of emergency. The salus of the jurisprudence of emergency, like the “salvation” [salut] that grounded pastoral power, is antinomian: it demands exceptions to the laws of the modern state. But Foucault’s genealogy of pastoral power does not allow us to rest content with moralistic condemnations of the pathological quality of raison d’état (its tendency, e.g., to suspend the normal rule of law, its constant need for war and enemies). It teaches us, to the contrary, that such pathologies are already immanent to the norms of the modern state itself. Salus is the norm of all norms: its constituent polysemy, its fecund untranslatability, guides each of the various fields of the state’s biopolitical interventions (the state’s maintenance of the health, welfare, safety, and security of its populations). From this perspective, we can see plainly that the same logic of part and whole that manifests itself as martial law during times of “political necessity” (when the safety and security of the people, as the highest law, trumps the protections and promises written into the normal rule of law) is little more than an

Foucault, “The Subject and Power,” 784.
extreme expression of the standard aim of the modern state (which justifies its continued existence in large part with reference to the living standards of its populations). To presuppose \textit{salus} as the basic norm of the state is thus already to concede the latent possibility and even desirability of the very doctrine, \textit{raison d’état}, that liberal legality considers anathema.

From this follows a second lesson. According to its own self-understanding, the neoliberalism of the early and mid-twentieth century was an attempt to protect the rights of the person and property from the “totalitarianism” that, in the view of the neoliberals, was the inevitable result of “collectivism” and “big government.” Reacting against the racism and militarism of these governments, neoliberal thinkers like Ludwig von Mises and Friedrich Hayek proposed a revival of nineteenth-century liberalism, particularly its principles of “the market” and “the rule of law,” as the best way to establish limits on \textit{raison d’état} from within. Understood genealogically, however, neoliberalism was not at all an antithesis to the logic of \textit{raison d’état}. It was a refinement and intensification of that logic, a strategy for the state to manage the health, welfare, and safety of populations indirectly rather than directly, by extending techniques of “governmentality” beyond the formal limits of government itself. Under conditions established by the unpredictability of the market, on the one hand, and the predictability of the rule of law, on the other, individuals and populations are not, of course, free in an absolute sense. Rather, their conduct is governed by the discipline of the market and the constraints of competition, which produce a milieu in which the “rational self-interest” of individuals and populations dictate that they conduct themselves as “entrepreneurs of the self”—as “persons” who are incentivized to regard themselves as “corporations,” who precisely “incorporate” themselves as “start-up” entities, who engage in practices of self-branding and self-advertising (principally social media), and whose “human capital” must be prudently developed and invested as a precondition for any chance at \textit{salus}. Put simply, neoliberalism is a genealogical descendent of pastoral power.

Whereas \textit{raison d’état} managed populations as a means to the end of strengthening the state into a force capable of waging and winning war, neoliberalism shifts emphasis from the political to the biopolitical. No longer concerned with managing the \textit{salus populi} as the means to the end of defeating an enemy, neoliberalism began to treat the \textit{salus populi} as an end unto itself, weakening the state into a means for accomplishing higher “living standards” for one and all, while also giving property rights and the rule of law a new function as the formal limit upon administrative attempts to satisfy the constitutively limitless pursuit of the \textit{salus populi}. In this way, at least in theory, the neoliberal state would be immune to the sorts of administrative excesses that characterized the regimes that neoliberals liked to call “totalitarian.” But neoliberalism has broken neither with pastoral power’s antinomianism (which it has reiterated in the discourse of the “deregulation of markets” and the removal of the welfare state’s “defenses” against unemployment, disease, and other risks), nor with its concern over knowledge of “the flock” (which it pursues by means of regular studies of the “living standards” of various populations), nor finally with its emphasis on sacrifice (which it practices by abandoning populations to disease and death under conditions where achieving the health and safety of those populations would place property rights or the rule of law into question). Most of all, neoliberalism systematically failed to think
through the despotic, administrative apparatuses that were central to the very
nineteenth-century liberal thinkers—such as J. S. Mill and A. V. Dicey—whose revival
in the twentieth century was, in their view, supposed to liberate the West from the
racist bureaucracies of the totalitarian regimes. As explicitly neocolonial as it was
implicitly theological, neoliberalism was not, then, the antidote to repression it
imagined itself to be: translating a set of premodern religious problematics (not only the
“salvation” of pastoral power, but also the “providence” of oikonomia) into the
unerring laws of late modern “economic science,” neoliberalism remained unthinkingly
guided by the same salus populi whose excesses it opposed in its fight against
“totalitarianism.”

Salus populi is, in short, a maxim for emergency powers (it is frequently cited
when states suspend the rule of law to save or protect their very existence) and its
central term, salus, brings two of the main biopolitical problematics, health and safety,
into contact with one another. On these terms, what exactly is a police state? It’s not
simply an administrative state, as Hayek and Mises thought. It’s a symptom of
secularization. It’s a state in which government infinitely obeys and infinitely gives
expression to life’s infinite demand for security and health, its infinite demand for the
secular equivalents of salvation. It’s a state in which the ad hoc administration of the
processes internal to the lives of populations undoes the rule of law from within,
converting the forms of liberal legality—publicity (through promulgation), consistency
(through reference to precedent), impartiality (through principles of equality and
liberty), predictability (where law’s coercion may be anticipated in advance)—into a
formless, unpredictable, chaotic apparatus.

With this in mind, I think we can offer a preliminary definition of the sense in
which the veridictional techniques of the market become, under neoliberalism, a
biopolitical phenomenon. The market’s ability to “tell the truth” about government
allows neoliberal governmentalty to turn the police state’s government of life (where
life is the dominating term, defining and setting limits on the possible forms assumed
by politics) into a government over life (where politics is the dominating term, defining
and setting limits on the possible forms assumed by life). The neoliberal theory of the
market, from this genealogical perspective, is not then a simple mask for capitalism: it is
instead a form of truth whose reason for being can only be understood genealogically,
with reference to the salus populi—the biopolitics—it at once restrains and enables, at
once liberates and limits. Neither, however, is the neoliberal theory of the market a
simple science, for the truths it expresses silently imply an effectivity or forcefulness
that owes to a juridical practice, one we might call “dictation” or “decision.” When
neoliberals say that government should “let the market decide,” or when they say that
the laws and policies of the government should obey the “dictates” of the “laws” of the
market, even (especially) if those “decisions” or “dictates” should come at the cost of
the health and safety of populations, their statements have recourse to a juridical
practice whose forcefulness or effectivity at once precedes neoliberalism and, as we
shall see, exceeds it from within. Only to the extent it is not simply a concept but a
“juridical form” is the neoliberal theory of the market able to fulfill its function as a
new, twentieth century "check" on government (or, really, on a certain declension of
biopolitics), a check that is just as effective and forceful, or that is even more effective
and forceful, than were those old eighteenth century “checks” on government, the
legislative and the judiciary.

3.

This preliminary definition, however, still leaves much to be desired. Look again at Foucault’s 1977-78 lectures on *salus populi*, which provide the background against which Foucault paints his portrait of the neoliberals. Foucault’s genealogy of *salus populi* is at one and the same time an analysis of the problem of secularization, or, the process of transposition by which medieval theological concepts survive their own negation in and by the concepts of modern, nontheological political science and jurisprudence. Foucault, you will recall, traces the ensemble of institutions and practices (the *dispositif*) that we today recognize as “the state” to its origins in what has calls “pastoral power,” a technique of power which sought to ensure the salvation of the souls of one and all through techniques of constant knowledge and care. What we sometimes are in the sloppy habit of calling “the state” (and we should remember that, in Foucault’s thought, there is no simple or ahistorical concept of “the state”27) came into being under conditions where, under the influence of new nonteological natural sciences, pastoral power was obliged to translate its old objectives now into the language of calculative, mechanistic instrumental reason. From this perspective, Foucault argued, the state is “a modern matrix of individualization, or a new form of pastoral power.” This is not, however, the same as saying that the modern state “secularized” pastoral power in any direct or straightforward sense, as if all political concepts necessarily came into being by simple analogy to theological concepts. Foucault’s point is rather more nuanced than that: it is that the modern state derived its coherence, in part, from its translation of a paradigm of law and sovereignty that both preceded and exceeded the self-understanding of the modern state itself. Unlike pastoral power, which led individuals to salvation in the next world, the modern state sought to ensure salvation in this world.

Even so, Foucault’s understanding of secularization remains, as Roberto Esposito writes, “indecisive,”28 and nowhere is this indecision more pronounced than in Foucault’s analysis of the “state-phobia” internal to neoliberalism. “State-phobia,” of course, is the name that Foucault gives to the “inflationary tendency” that one repeatedly finds in the neoliberal criticism of “the state.”29 According to this criticism, the state is intrinsically expansive, it is always already secretly on the verge of exploding into totalitarianism, even (especially) when its representatives expressly deny any totalitarian intensions, even (especially) when there are no explicit signs or symptoms that this explosion is imminent. As the proof positive of this paranoiac criticism, the discourse of “state-phobia” adduces the example of the nuclear bomb, which it treats as the paradigmatic instance of sovereign power. The neoliberals read

27 Foucault, Birth of Biopolitics, 76-77.

28 Roberto Esposito, Bios: Biopolitics and Philosophy, Trans. Timothy Campbell (Minneapolis: University of Minnesota, 2008), 42 & ff.

29 Foucault, Birth of Biopolitics, 187.
the bomb not as Foucault did—where “the power to expose a whole population to death is the underside of the power to guarantee an individual’s continued existence.”30

Even though the neoliberals understand themselves as the great defenders of the Anglophone tradition of liberalism, they are nevertheless not careful readers of Hobbes, the founder of that tradition. The neoliberals don’t appreciate the extent to which the Leviathan is more than just a mortal god and a cold monster, indeed is a functional machine—a prosthetic device that fully secular, wolflike homini create in order to save ourselves from the “war of all against all” we are at risk of perpetrating upon ourselves; and that anyone who is afraid of death, and yet who criticizes sovereign power as tyranny, is nothing more than a “tyrannophobe,” who, just like a dog infected rabies, is dying of thirst but will not drink.31

No, the neoliberal statephobes, just like Hobbes’s tyrannophobes, wash their hands of the complicity that exists between their strongest secular drive—to preserve human life, at all costs, and by whatever means—and the terrible technologies that are the result of that desire. Instead of recognizing the nuclear bomb as the externalized, technological symptom of their most intimate drive for biopolitics, the neoliberal statephobes instead disavow the nuclear bomb, treating it as nothing more than the external realization and purest example of the inner principle of the state itself, of the state’s desire to act as an “mortal god” or “Leviathan.” The bomb, for the statephobe, is not a sign that human life is the highest good, and that the sovereign power that represents human life must do whatever is necessary to protect the safety and security of populations. It is not, in other words, a sign of an intimate drive. No, it is a sign of the dangerous hubris of the state, of the state’s desire to usurp the power of the sun, the power of God himself; and, for the neoliberals, this hubristic, mad desire is just as contaminative as radioactivity itself. The state invisibly infects everything and anything it touches, and if it touches the economy, it will infect that too—thus argues the statephobe.

According to state-phobia, then, not only is there no economic sovereign, no sovereign in economics; but sovereign power itself operates, as an object within economic science, with all of the characteristics and properties of what Freud would call a taboo. For the statephobe, the sovereign state would seem to have all of the properties of a sacred thing, a thing at once hated and desired, feared and loved, attractive and contagious, excessively pure, but also so wonderfully dirty and contaminating, so exquisitely bad that it’s good, so blindingly good that it’s bad—untouchable in every sense, untouchable in the most ambivalent sense possible. State, bomb: power of the sun, source of all life; state-bomb, power of the sun, absolute taint and death. For this “state”—this radiant, radioactive thing—to touch the economy, it would be for the

* Foucault, History of Sexuality, Volume 1, 137.


economy to be touched by the untouchable; it would be for the economy to be tainted by a stain whose mark is irreversible—so holds the state-phobe. To understand this marvelous phobia, clearly, one must learn to read the symptoms of the return, within the secular world, of the sacred that is repressed by the secular world. But for this, one must carry Foucault beyond himself, one must be more loyal than was Foucault himself to the secularizing dimension of the genealogy of the “state” against which the neoliberals so symptomatically react (even and especially as certain neoliberals would reiterate the problematic of “tyrannophobia” as “economophobia”)

This dynamic is clearly perceptible in the first book to explicitly advocate for a “new liberalism”: Ludwig von Mises’s 1927 Liberalismus. Mises today may be best known for his works of economics, but his 1906 doctorate from the University of Vienna was in law. His earliest intellectual influences derived not only from the disciplines of economics (mentions of Mises’s relation to Carl Menger and Eugen von Böhm-Bawerk are frequent in the secondary literature on Mises, such as, for example, Israel Kirzner’s biography of Mises) but also the sociology of law (and I am thinking here, above all, of Mises’s friendship with Max Weber). He was employed in the Vienna Chamber of Commerce, where he met Friedrich Hayek in the 1920s and rubbed shoulders with Karl Polanyi as well. From 1920 to 1934, he held Privatseminars in his Vienna home that were attended by many of the same economists who later would go on to found the Mont Pèlerin Society (such as Wilhelm Röpke, Lionel Robbins, and Fritz Machlup). It was also during this time that he converted Weber’s early sociological studies of socialism (summarized nicely by Massimo Cacciari) into a critique of “socialist calculation,” a condensed version of which one finds in Section 2.4 of Liberalism, and which one finds as well in Hayek’s 1944 Road to Serfdom. In 1940, under conditions of creeping Nazism, Mises, who was Jewish, left Europe for New York City, where he spent his time working in think tanks (such as the Foundation for Economic Education), consulting with business groups (such as the National Association of Manufacturers), and lecturing at New York University. Beginning at least in 1942, when he was appointed a visiting professor in the School of Economics at the Universidad Nacional Autónoma de México, Mises took special interest in “development policy” in Latin America, lecturing on the topic not only in Mexico, but also Peru (1950) and Argentina (1959). In short, Mises—like the neoliberals more generally—was especially interested in societies that had not yet reached what Foucault would call “the threshold of modernity,” and which had not yet—or not at all—waged “the life of the species” on their own political strategies.

In his postface to The Road from Mont Pelèrin, the historian of economic thought

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35 Foucault, History of Sexuality, Volume 1, 143.
Philip Mirowski spends much time wondering about what it means to use the word “neoliberalism.” Mises does not seem to share these qualms. Already in Socialism (1922), Mises would oppose “modern liberalism” to what he calls “older liberalism,” and, as I have mentioned, Liberalism would announce its project by distinguishing between the “older liberalism” and the “new liberalism” [neuen Liberalismus]. In each of these cases, Mises deploys the term “new liberalism” not just on a semantic register, but also on a political philosophic register. Neoliberalism in Mises’s sense breaks with the mode of argumentation that characterized old liberalism: whereas the latter conceived liberty and equality to be basic rights granted to man by God or Nature, Mises denounced such conceptions as “illusory doctrines.” Unlike older liberalisms, Mises would argue, “we avoid, on principle, drawing God and Nature into a dispute over mundane questions.”

This holds even for problems, such as slavery, that earlier liberalisms would have resolved with reference to God or Nature (inasmuch as they resolved it at all). For neoliberalism, slavery is wrong not because it desecrates the sacred essence of human beings (as defined by theologically inclined liberals), because it violates the human being’s natural rights (as defined by Hobbes and Locke), because it does not recognize the human being’s inherent dignity and worth (as formulated by Kant), or because it causes suffering (as Bentham would insist). Slavery is wrong only and precisely because it is less productive, only and precisely because “free labor creates more wealth for everyone than slave labor once provided for the masters.” Whereas early modern liberalism held that human equality was a principle of natural law and natural right—understood as expressions of God’s will—neoliberalism holds that equality is nothing more than an abstract legal form that abolishes the artificial privileges left over from early modernity and the Middle Ages; but that does not seek to counteract the inequalities produced by a different mode of nature: the natural inequalities of “physical and mental attributes” that become plain to us through the study of nature as biology.

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* Ludwig von Mises, Socialism: An Economic and Sociological Analysis, Trans. J. Kahane (New Haven: Yale University Press, 1951), 19, see also Human Action, 864


* Mises, Liberalism, 4.

* Mises, Liberalism, 5.

* Mises, Liberalism, 9.
And yet: Mises’s neo-liberalism is nevertheless also still a neo-liberalism. It recapitulates—in an age dominated by anti-liberalism (fascism, nazism, communism, socialism), and on the basis of reason and science, not faith and religion—the as yet unrealized program of “classic liberalism.” a Mises defines this program with reference to a number of features with which we are by now quite familiar: a state that protects property, liberty and peace (but only these things, and nothing more); a market mechanism in which “price” is the basis of all decision and functions to equalize the relation of demand and supply; an economy defined by competitive forces, free trade, and limited government intervention; and a human being who is defined by “an inherent desire for the improvement of his material condition,” c by his capacity to be “incentivized” by competition and inequality, and “stimulated” by luxury (which, far from qualifying as wasteful excess, is itself the paradigm of the necessities of tomorrow). d

Liberalism thus construed is not simply one among many social systems. It is the only possible social system. e There is no middle way. e All other conceivable alternatives are unworkable or even pathological (where “pathology” is defined by the agency of “saving lies”). e That higher living standards stand as the ultimate goal of all government is, after all, something that is agreed upon by all secular political thinkers (or, in Mises’s words, “all men of white races” e), no matter what theological, political, or economic opinions may otherwise divide them. e And because neoliberalism pursues this end with greater efficiency and success than do even and especially its antiliberal adversaries, e and hence succeeds on antiliberalism’s own grounds, e neoliberalism is

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a Mises, Liberalism, xvii

b Mises, Liberalism, 15-19.

c Mises, Liberalism, 46-50.

d Mises, Liberalism, 2.2, 2.5, 3.7

e Mises, Liberalism, 5.

f Mises, Liberalism, 59-63.

g Mises, Liberalism, 53.

h Mises, Liberalism, 2.5.

i Mises, Liberalism, I.6, 2.5-6.

j Mises, Liberalism, 150 (“alle Menschen der weißen Rasse”), cf. 9.

k Mises, Liberalism, 2.4, 5.

l Mises, Liberalism, I.5
quite simply the only possible mode of government for reasonable populations.

That there is, in Mises’s view, no alternative to neoliberal government is clearest from Mises’s arguments about neoliberalism’s necessarily global character. Reprising a classic liberal argument derived from thinkers like Adam Smith and Immanuel Kant, Mises argues that only the free market can and will produce the conditions for the elimination of war, and for the establishment of peace. The more that each political community comes to depend on trade, the more the division of labor is international rather than national, the less autarkic any given political community will be, the more the internal living standards of each political community will come to depend upon its ability to external cooperation with all other political communities, and the less likely it will be that any single political community will wage war on any other political community. Neoliberalism removes the incentive for war, Mises gives us to see, not by proclamation or edict, but by producing living standards that are so satisfying to one and all that there is no longer any conceivable reason why anyone would resort to military aggression to achieve their wishes. Neoliberalism is thus intrinsically expansive (and, as Mises says repeatedly, “must be,” for the sake of peace). But it is expansive according to a modality that, although inexplicit in Mises’s text, would seem to differ from the militaristic mode of imperialist expansion, which deployed military force to expand protected markets outside of Europe. Neoliberalism’s compulsory form—the fact of there being no alternative to neoliberalism for reasonable populations—cannot then be said to be limited to this or that population, this or that state, this or that territory. To the contrary, the more that neoliberalism realizes its inner potentialities—the more that various sorts of goods and services come under the sway of the price mechanism, the more that populations strive after higher living standards, the more the division of labor becomes international rather than national, the more the state limits itself to “just those tasks that it alone can perform,” etc.—the more its inter potentialities will “de-realize” (or “virtualize”) all boundaries. The only population to which neoliberalism properly applies is thus humanity as such, the whole of mankind; and the only space in which it properly belongs is the world as such, the globe as globe. One sees that Mises has read Marx closely.

But even though neoliberalism does therefore entail some apparatus of

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* Mises, *Liberalism*, 2.3, 5
* Mises, *Liberalism*, 3.3
* Mises, *Liberalism*, 3.1, 3.9, 3.10
* Mises, *Liberalism*, 3.10
* Mises, *Liberalism*, 3.5
* Mises, *Liberalism*, 3.3, 3.9
* Mises, *Liberalism*, I.5, 3.10 // 3.1, see also 3.2
“supranational organization,” Mises insists that this apparatus will not be the League of Nations (or even, more generally, anything related to international law). What apparatus is it, therefore, that will govern the world united by the market? Mises is not especially clear on this point. On the one hand, clearly, the state would remain in place; Mises does not seem to think it desirable or necessary that it would “wither away.” On the other hand, the modes of decision that will characterize this state seem neither to be parliamentary (which is “in crisis”), nor dictatorial (Mises opposes “command economies”), nor democratic (at least in the degraded sense that we imagine it today, where “voting” is the paradigmatic democratic act). Democracy, for Mises, does seem to include “elections,” but it is not limited to elections. It seems to extend to include anything which “makes possible the adaptation of the government of the governed without violent struggles.” Whence the centrality, in Mises’s text, of a “juridical form” [Rechtsform]— the plebiscite—that at first appears marginal within that text. Liberalism invented this juridical form, Mises argues, to allow populations to determine their own relation to the territory they inhabit. As such, it is not difficult to see that the market is the most powerful plebiscite, since in it one is always already voting in one’s own best self-interest, even without saying a thing, for to the extent that living itself constitutes my main and central interest, then the way I live, the totality of the choices that comprise my living, amount to the constant representation of my “political” desires—although these desires are of course less “political” than “biopolitical,” and although the mode that allows for the representation of these biopolitical desires is not the occasional vote but the constant fluctuation of the price mechanism.

This can and should be read in a “field of adversity” not only with the socialist command economies against which Mises explicitly polemicizes, but also with Schmitt, against whom Mises so often seems to polemicize implicitly. Let’s be clear about this: Mises’s discourse on the price mechanism is a discourse on what Schmitt would call “the decision.” The market for Mises is not simply a site of profit; it is, more significant, that in the absence of which no rational decisions are possible. Absent the ability of money to serve as a “uniform standard of measurement” or “common denominator” (or, as Marx would put it, as a “general equivalent”), Mises argues, there would be no way to decide the relative value of the radically heterogeneous goods and services that together comprise a complex economy. All decisions would be what Schmitt calls “sovereign decisions”: arbitrary decisions that rely upon the figure of the “enemy” to produce the equivalent, now within the horizon of secular politics, of the same “integrating” or “unifying” effect, the same reconciliation of opposites, the complexio

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62 Mises, *Liberalism*, 3.1, see also 3.2. / / 3.10
66 Mises, *Liberalism*, 2.4
used to produce within the horizon of medieval theology. The power of decisionism, in Schmitt’s sense, is always a “morphogenetic” (or form-giving”) power. (And remember, there is more to Schmitt than just the Schmitt of 1922, the Schmitt of decisionism; the Schmitt of 1922 can only be comprehended alongside his 1923 work on the complexio, and, for that matter, his 1927 work on “the political.”) The price mechanism, as Mises theorizes it, doesn’t dissolve the form-giving force of the Schmittian sovereign decision; it simply depoliticizes it. It displaces the decision from the person of the sovereign (and the sovereign, in Schmitt, is always a person) and the enmity of the political (in a Schmittian sense, where the “political” designates the distinction between friend and enemy), placing it now instead at the service of the economic (or, more precisely, the impersonal discipline of the market), where it should in principle neutralize all enmity, in a movement of the market toward perpetual peace.

Critics of neoliberalism frequently claim that it is “individualistic,” and that it seeks the abolition of any and all “collectives” or even the very category of the “social” (as even some of Mises’s own more Thatcherite disciples will claim). On a strict reading of the first text to advocate for the “new liberalism,” nothing could be further from the truth. Neoliberalism has the same telos as socialism—the material well-being of all—but achieves that telos according to means that are mutually exclusive with socialism, that are superior to socialism in the ease with which their administrative efficiencies release the productive powers of labor, and that as such exceed socialism from within, such that socialists are in fact nothing more than unconscious or unselfconscious neoliberal. “Private property is not a privilege of the property owner, but a social institution for the good and benefit of all, even though it may at the same time be especially agreeable and advantageous to some.” Neoliberalism does not negate the category of the social; it raises that category to the level of a “moral law” (“Everything that serves to preserve the social order is moral; everything that is detrimental to it is

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<sup>f</sup> David Harvey, *A Brief History of Neoliberalism* (Oxford: Oxford University Press, 2005), 82.

<sup>g</sup> Mises, *Liberalism*, I.4.

<sup>h</sup> Mises, *Liberalism*, 2.4
immoral”). Last but not least, as we have just seen, it is not content with anything less than the governance of the world as such. So far is it from being the case that neoliberalism aims at the “methodical destruction of collectives,” that it in fact is the only possible mode for governing collectives of collectives. In Platonic terms, neoliberalism is without question a thought of the One—it is a thought of the unity of the world market. But it is at one and the same time a thought of the not-One—of a world market that is unified only by its separations, only by the competition of free trade, only by the international division of labor, and that comes into being only on the basis of the rigorous exclusion of the possibility of a philosopher-king.

At first, the doctrine of the state in Mises’s Liberalism seems to have nothing whatsoever to do either with phobia or secularization. The state must restrict itself to only those tasks which it can perform without incoherence and contradiction. These are the protection of life, liberty, property, and health of the individual. Any other tasks will lead it to an expansion which will undermine state and economy alike. It should not engage in public education, it should not dictate languages, it should not protect labor by allowing for trade unions, it should not seek to limit unemployment. Above all, it should not seek to direct production. If the state is involved in production, after all, it will have to oversee so many details that it will be impossible to restrict or predict its action in advance, which would leave the door open for arbitrariness, bias, and the abuse of power. One could object: the absence of public administration simply opens the door to the same apparatus, only now in a commercial mode. But, in Mises’s view, there is a qualitative difference between public and commercial administration, and that difference derives from their relation to the price mechanism and the profit motive. Where the entrepreneur (whose principle is to make as much profit as possible) can be assumed, and where bookkeeping and accounting allow for precise calculations of success and failure, it is possible to objectively evaluate and measure the success or failure of large administrative units. The same cannot be said of public administration, whose success or failure is the object of differing subjective (political) opinions, which cannot be measured precisely, and which tries to compensate for its ambiguity by prescribing ever more formal rules and procedures—which, however, simply make it more inefficient. In both cases, public administration is characterized by an “inflationary tendency”—a tendency to produce the conditions for its own excess.

\footnote{Mises, Liberalism, 2.6}

\footnote{Mises, Liberalism, 3.3.}

\footnote{Mises, Liberalism, 3.3}

\footnote{Mises, Liberalism, 3.3}

\footnote{Mises, Liberalism, 2.8}

\footnote{Mises, Liberalism, 2.8}
This is not the same as saying that neoliberalism abhors all activity on the part of the state in relation to economic life. To the contrary, whatever non-intervention in the economy is required of the state by neoliberalism is required on the basis that private property ownership allows for the most efficient use of humanity’s productive forces, and consequently too is the best means to the end of high living standards. As a means to protecting and preserving private property, the neoliberal has no hesitation about using the compulsory power of state coercion, especially when it should be the case that “antisocial” forces (socialism, communism, fascism) take control of the state. The neoliberal turns to the coercive power of the state not simply in the name of this or that political community, but in fact in the name of humanity itself (whose interests, remember, will be best served in a market economy). The “humanity,” in question here is neither Foucault’s homo economicus. It is homo conatus, the human being who is defined by “an inherent desire for the improvement of his material condition,” by his capacity to be “incentivized” by competition and inequality, and “stimulated” by luxury (which, far from being excess, is itself the paradigm of the necessities of tomorrow). It is a being who, to the precise degree that he “thinks” at all, is defined by his restlessness, of desire defined as ceaseless striving. Neoliberalism is simply the “social technology” [gesellschaftlichen Technik] this being creates for himself when he applies science (principally economics and sociology) to the problems of social policy. As we shall see in more detail in a moment, the reverse holds as well: just as neoliberalism is a form of “social technology” so too technology itself belongs intrinsically and essentially to liberalism, that cannot exist outside of liberalism. Nowhere in any of this does there seem to be anything either remotely phobic or secularized.

Look again, however, at the discourse on “higher living standards” that is introduced at the outset of this text. It goes hand in glove with its discourse on “spiritual goods” and “religion.” Precisely because neoliberalism proclaims toleration for all faiths, and precisely because the inner, highest things cannot be touched by outward regulation (by law), neoliberalism concerns itself exclusively with man’s material well-being. To the precise degree that neoliberalism is committed to the

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79 Mises, Liberalism, 1.7

80 Mises, Liberalism, 2.2

81 Mises, Liberalism, 2.7

82 Mises, Liberalism, 5.

83 Mises, Liberalism, 2.2, 2.5

84 Mises, Liberalism, xiii, cf. 60.

85 Mises, Liberalism, 2.6

86 Mises, Liberalism, I.2, 1.12
toleration of diverse faiths, its concepts of law and life, state and economy, must be purged of any and all traces of religion. Neoliberalism is secular not out of lack of respect for religion, in other words, but out of excessive respect for religion. Its relation to the secularization may be formulated thusly: out of excessive respect for the sacred, precisely because the sacred is and must remain sacred, the secular must have no contact whatsoever with the sacred. Neoliberalism’s focus on living standards alone is not then justified by living standards alone: it is justified only and exclusively by the requirements of what Weber called “value-free” [Wertfrei] science, science from which all value judgments, above all those of religion, have been rigorously cleansed.

This presents special difficulties for Mises’s concept of the state. The state as Mises presents it bears traces of the Hobbesian sovereign who is a “mortal god.” It is an “abstract concept” that “etatist mystics” and “state-worshippers” tend to “deify” and that in turn tends to “corrupt” those who, having entered into its service, become intoxicated with “pharisaical self-righteousness, conceit, and arrogance.” To think the state is thus to think against the intrinsic tendency of the state to desecularize itself, to retetheologize itself, to convert itself into a deity and to deify in turn those who touch it. If the state is in need of extrinsic minimalization by the market, it is because it is essentially and at root an intrinsically maximal entity—an abstract concept that tends towards idolatry, that tends toward its own becoming-god, and that tempts man in turn to participate in that deification. Already in 1922, five years before Mises wrote Liberalism, and one year before Schmitt wrote The Crisis of Parliamentary Democracy, to which Mises seems to obliquely refer toward the end of this text, Schmitt already had argued that all significant concepts of the modern state are secularized theological concepts. Mises is not necessarily in disagreement with this at all. To this Mises seems to add: secularization must not be unselfconscious; it must be taken to its logical conclusion, such that any self-conscious neoliberalism would affirm the self-conscious secularization of the state as a task for thought.

All fine and good so far. The trouble comes, however, when it comes time for Mises to define what the essence of the fully disenchanted state would be. And the answer is clear: the fully disenchanted state is, we might say, “radiant with triumphant calamity,” for its essence as Mises defines it is pure and simple fascism—not in a pejorative sense, mind you, but instead in the most “sober” and neutral sense possible. Fascism is internal to the state first of all in its practical and modern form, as a momentary stopgap or makeshift [ein Notbehelf des Augenblicks] that allowed for the state to violently suppress communism. But it is secondly internal to the state as the theoretical normalization of that momentary makeshift, where the essence of the state itself is the ancient Roman emblem of the axe and rod—i.e., the Fasces.

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* Mises, Liberalism, 3.11, see also Socialism, “Conclusion”

* Mises, Liberalism, 2.13

* Mises, Liberalism, 30.

* Mises, Liberalism, 2.13
Let us be clear about this: Mises opposes Fascism without question. But he also sublates fascism: he opposes it, but in such a way that guarantees fascism’s permanence and even legitimacy in any “scientific” account of the state (where science is a combination of economics, sociology, and biology). Mises clearly opposes Fascism, in other words; but he does so precisely and only by raising Fascism to a higher level, by elevating into, and as, the very essence of the state itself.

As such, the state in Mises is no longer here what sovereign power was for Hobbes (the logical conclusion of the natural right and natural law to preserve one’s life by any means necessary). It is no longer what the commonwealth was for Locke (the logical conclusion of the natural right and natural law to preserve one’s labor, against waste and spoilage). It is not even the “monopoly on legitimate violence over a territory” that Weber so famously described. Mises accepts that the state is intrinsically and essentially evil (that it is fascist, that it corrupts, that it theologizes the political), in order then to argue for its minimalization, in order then to insist upon the necessity of it being minimalized. Because the state on its own terms is intrinsically maximal—because the state itself tends towards idolatry, toward the becoming-god of man, toward the antiliberalism of fascism, where force is a positive value—the neoliberal must remain ever vigilant about its minimalization, without also denying its essential place and function within the neoliberal economy. As a result, we receive a portrait of the state as both necessary and evil. Above all, the state is internally excluded within neoliberalism as the antiliberal core that is at once antithetical to neoliberalism (since it is Fascist at root) and also neoliberalism’s condition of possibility (since it alone can defend liberal economic order against its enemies). For psychoanalysis (which is to say, differently than for Foucault), all “phobias” are displaced symptoms of repressed unconscious desires. If it is possible to speak of “state-phobia” in neoliberalism, it is perhaps because there is a deep desire within neoliberal theory to retain the very state it also desires to repress (by minimizing). If this “state-phobia” is connected to secularization, it is perhaps because neoliberalism is brought to its affirmation of its opposite in the state by a commitment to a science and a politics in which the untouchable sacred cannot and must not touch the impure world of earthly material craving.

And to what exactly must the state apply its coercion? Western civilization does not face threats from without; only inner enemies can destroy Western civilization. “Without the application of compulsion and coercion against the enemies of society, there could not be any life in society.” The enemies of society Mises defines as those who refuse “provisional sacrifices.” “Antiliberal policy is a policy of capital consumption. It recommends that the present be more abundantly provided for at the expense of the future.” And these are in turn defined as the antiliberal leftists who ask

\begin{itemize}
  \item Mises, Liberalism, 2.10
  \item Mises, Liberalism, 5.
  \item Mises, Liberalism, 2.7
  \item Mises, Liberalism, I.4
\end{itemize}
no sacrifices of their constituents, who deny the necessity of sacrifice, and who even criticize neoleliberals for asking for sacrifice. The desire to make “provisional sacrifices” cannot be underestimated for Mises’s text. “Provisional sacrifices” are distinct not only from those who from the the “complete asceticism” that Mises regards as the basis for the anti-capitalism of “the followers of many Asiatic and medieval Christian sects.” They involve “the renunciation of an immediate and relatively minor advantage in exchange for a much greater ultimate benefit.” And understood thusly the constitute the central difference between reasonable and unreasonable action. “Antisocial” individuals include but are not limited to lawbreakers and criminals, but extends to include those psychologically pathological persons “who are not willing or able to make the temporary sacrifices that society demands of them” and who, as such, threaten to make “all society impossible.” Socialists and Marxists are welcome in liberal societies, so long as they limit their influence to the “weapons of the intellect.” But beyond that, the implication is clear: at the moment that they begin to govern, government by definition become pathological, and at that point reason demands that government cease to be socialist or communist—by any means necessary, up to and including by means of “the fascist argument.” What then is the state for Mises? It is that secularized entity that must apply its force to adjust and regulate the degree to which sacrifices, delayed gratifications, are—understandably—resisted by the populations who want out of biopolitics nothing more than increased standards of living.

And with this we encounter the central aporia of Mises’s text. It is an aporia whose shape and structure point directly to the question that is left open at the close of Weber’s 1904-5 Protestant Work Ethic. There Weber very much appears to leave the reader in the clutches of an unresolved problem. How can the self-sacrifice that allowed for the genesis of capitalism (and in particular, for the genesis of a certain self-relation of the laborer to his or her labor and his or her time) be sustained under conditions

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â†’ Mises, Liberalism, 4.4
â†’ Mises, Liberalism, I.2
â†’ Mises, Liberalism, 2.6
â†’ Mises, Liberalism, I.4
â†’ Mises, Liberalism, 2.13
â†’ Mises, Liberalism, 2.7
â†’ Mises, Liberalism, I

â‡” Max Weber, The Protestant Work Ethic and the Spirit of Capitalism, Trans. Talcott Parsons (New York: Routledge, 2006), 122-5. Weber’s famous answer to this question is of course that the cloak has become an iron cage, and that ascetism is now presupposed by the very machinery of capitalism. “[V]ictorious capitalism, since it rests on mechanical foundations, needs its support no longer” (124).
where capitalism’s own emphasis on rationality (understood as calculability) has exhausted the irrational sources (the ascetic spirit, the notion of work as calling and path to salvation) that inspired self-sacrifice, and in so doing enabled the emergence of capitalism itself? How can capitalism survive under conditions where capitalism itself eliminates the spirit that called it into being?

Mises’s 1927 text responds to this question without also answering it. On the one hand, Mises’s economic theory depends for its felicity upon populations’ desire for “provisional sacrifice.” Absent this desire, the market’s failure to provide in concreto the living standards that alone justify it, would undercut the desire to strive for higher living standards, and thus too would undercut the “subject” of neoliberal economics. On the other hand, however, Mises’s political theory forecloses upon any reference whatsoever to the religious lexicon from whence “sacrifice” derives its meaning and force. As we have seen, to introduce a religious lexicon into the study of politics and economics not only would violate the practice of “value-free” social science; it also would violate the axiom of tolerance that is central to Mises’s conception of politics. As a result, Mises’s text is structured by an impasse: his economic theory requires a concept that his political theory prohibits.

To this one might object: but doesn’t sacrifice obey a logic in Mises’s text that is entirely secular, that indeed is the logic of capital itself, according to Marx (M-C-M)? Isn’t Mises speaking in a secular register when he defines “sacrifice” as a “renunciation of immediately attainable advantages...quickly pay for themselves in greater and more lasting gains”? Yes and no. “Yes” if by “secular” we mean the absence of any explicit reference to God. But “no” if by “secular” we mean a discourse that acquires its validity from reason and not revelation, knowledge and not faith. What’s so interesting about the “exchange” that Mises proposes between present and future advantages is that even as it forgoes expressly religious references, it nevertheless remains structured according the form of faith. The “exchange” in question is not only that I should give up a little now for a lot more later. And this only deepens the impasse of the text. On the one hand, neoliberalism is justified only and precisely by the potential for higher living standards. On the other hand, neoliberalism calls for sacrifices that would seem to suspend the actualization of those living standards. The neoliberal subject, after all, is the one who says, “I lose my living standards in order to achieve them.” As with sacrifice, whose maxim is that “I throw myself away in order to preserve myself,” life here does not coincide with itself. As a result, Mises’s entire text is completely arranged around biopolitics (in the sense that either neoliberalism is justified by rising living standards, or it is not justified by anything at all) even as, on the terms of the text itself, the full living present of biopolitics by definition never arrives. Far from biopolitics ever becoming self-present to itself, biopolitics is in this text its own ceaseless negation, its own perpetual deferral, its own permanently incomplete realization. The perishable person is here still, despite or perhaps because of Mises’s strenuous commitment to secularization, the bearer of a divine substance; the sacrifice of the individual is still justified with reference to a venerable collective whose worth is incomparably greater than my own. As a neoliberal subject, I am deified as a representative of humanity,

\[\text{Mises, Liberalism, 4.4}\]
since my sacrifices are the path by which the living standards of all gradually will approximate the luxury of the few; but I am also not yet representative of that same humanity, because with my sacrifice I exclude myself from the living standards that alone justify political economic order. In order to do away with sacrifice—in order to abolish the medieval order in which blood was pointlessly spilled, and lives meaninglessly wasted—sacrifice remains necessary. A non-Weberian response to a Weberian question, Mises’s “new liberalism” ends up demanding the perpetual negation of the very life it proposes to perpetually preserve.

4.

This negation reappears in Mises’s 1949 text Human Action. In this text, Mises would draw a distinction between the way that “Caucasian peoples,” on the one hand, and African and Asian populations, on the other, responded to declining death rates brought about by capitalism’s increased living standards. Whereas “Caucasian peoples,” eager to preserve their high standard of living, decreased their birth rates in proportion to declining death rates, African and Asian populations did not.104 As such, Mises argued, African and Asian populations exposed themselves to a Malthusian crisis in their relation to their own means of sustenance. (A “Malthusian crisis” is what happens when populations grow exponentially, but where agricultural production grows only arithmetically, and where populations therefore destroy their own means of subsistence.)

This was particularly true, Mises thought, for African and Asian populations who were influenced by Marxism and socialism or who were the recipients of high levels of development aid from Western donors. For these populations, Mises argued, better health and medicine would be a curse, not a blessing. If advanced medical and health technologies were simply given or donated to postcolonial populations, African and Asian populations could not be trusted to decrease their birthrates relative to the declining death rates that would result from these new technologies. As such, better health and medical care would risk not only decreasing the quality of life and the standard of living within these populations; worse, those very improvements risked producing a Malthusian crisis that would undermine those populations’ ability to sustain any life whatsoever (generating famine, destitution, scarcity, and war). To save these populations from the fate prepared for them by their own high birthrates, Mises therefore would reason, it was imperative that the market economy be introduced into their midst “without reservation,” so that increased disincentives on reproduction could begin to create the conditions for voluntary birth control, so that birth rates could be purposively adjusted to death rates, and so that “backward peoples” could be saved from a Malthusian crisis of their own making.105

One finds similar concerns in other neoliberal thinkers during this period; for the sake of time, I won’t recount them here. Instead, I want to say a word about how the

104 Mises, Human Action, 665 .

neoliberals’ discourse on development does seem to constitute something like a “thanatopolitics”—only one that’s subtly nonidentical with the thanatopolitics Foucault began to theorize in 1976. For the neoliberals, after all, the purpose of introducing the market economy to postcolonial populations was not to “to let die” or “disallow to the point of death.” It was “to make live,” and as such—as a means to the end of life, but only as a means to this end—“to prevent birth.” To bring Foucault’s concept of “thanatopolitics” to bear on neoliberal development policy, it would thus seem necessary to rethink the concept of “thanatopolitics” itself. One would need, in particular, to be able to conceive of a thanatopolitical apparatus directed not against actual lives, which is what Foucault’s 1976 implies; but instead against potential lives—lives that don’t yet exist. It would be an apparatus that provided for the well-being of certain populations not only by administering new techniques of health within those populations, but also by preventing certain quotients of those same populations from coming into being in the first place. And although it may be tempting to assimilate this exercise of power to the paradigms of eugenics that at that time were still regarded without horror—because eugenics centers on birth, any exercise of power that centers on birth must be eugenical—any such assimilation ultimately remains doubly mistaken. Not only would this interpretation introduce criteria into Mises’s thought that are in fact absent from it (such as “degeneration” and “racial hygiene,” which were central to eugenics but that are not central to Mises’s claims), but it also actually would underestimate the extent to which Mises’s claims remain continuous with the National Socialists he bitterly opposed (for let us not forget that the Nazis’ first legislative act was aimed at an “anticipatory suppression of birth”). That there is a trace of eugenics in Mises’s thought cannot be doubted; but this trace must be interpreted within the horizon of the logic immanent to Mises’s text, and that logic ultimately remains irreducible to eugenics. Instead of a biopolitical power “to make live” opposed to a thanatopolitical power “to let die,” we are here confronted with an exercise of power aimed at pre-empting life in the same populations whose quality of life this power claimed thereby—by virtue of that prevention—to improve.

To more fully understand the thanatopolitics of this exercise of power, it’s useful to recall that in the very same years that Rüstow, Mises, Röpke and other thinkers were gathering to theorize development policies, the United Nations General Assembly was at work drafting the Convention on the Prevention and Punishment of the Crime of Genocide, Article 2, Section (d) of which defined the act of genocide as “[i]mposing measures intended to prevent births within [a national, ethnical, racial or religious group].”

Now, on the one hand, nothing could be clearer than the fact that neoliberal

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106 Foucault, History of Sexuality, Volume 1, 138; Michel Foucault, “Society Must be Defended”, 247, 254.

107 On these points, see Esposito, Bios, 127-135, 143-4.

thinkers theorized the imposition of the market economy expressly as a measure to prevent births within certain ethnically and racially marked populations. On the other hand, however, the specific antinatalist measure in question—the market economy—cannot be said to rise to the level of the other examples of antinatalism that Ralph Lemkin and others had in mind (such as forced sterilization, compulsory abortion, and segregation of the sexes). All the neoliberals proposed to impose were governmental conditions under which individual self-interest alone would dictate, as a matter of rational choice, the decision to use birth control to prevent unwanted births (since, on the terms of the price mechanism, birth is understood as a consumer choice that entails excess expenses for each family unit, and a decreased quality of life within each family unit). And these neoliberals’ clearly stated intention was not to destroy African and Asian populations; it was, to the contrary, to create the conditions for those populations’ long-term survival and improved quality of life.

We thus encounter an interpretive aporia. On the one hand, the language of Article 2, Section (d) of the Genocide Convention seems to apply directly to neoliberal development policies, not least because Ralph Lemkin himself understood Section (d) to be framed broadly so as to include the sometimes “devious means” by which genocide had been committed under colonial rule. On the other hand, the Convention was framed as a traditional instrument of criminal law, and as such required evidence of “intent to destroy” as the prior condition for the application of any of its clauses. This requirement, in turn, provided clear grounds for neoliberal development policy to remain exempt from the Convention’s force, above all because the entire point of the market mechanism (according at least to Hayek) is to exceed the “conscious control” of any single socialist planner or the mind of any single individual (“there is no economic sovereign”). As a result, we might say, the Genocide Convention criminalized all measures intended to prevent births within certain racially marked populations—with the small exception of the very economic measures that were at that time emerging as the norm for the governance of postcolonial populations, and which clearly stated their intention to prevent births within those same populations.

Although it may at first strike us as odd, this strange relation of exception to norm, this normalized exception or exceptional normality, is not at all unprecedented in the genealogy of governmentality and sovereignty that Foucault proposed to study in the late 1970s, and that Agamben has attempted to resume in his recent inquiry into oikonomia. In the rigorous non-relation that opens up between the Genocide

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110 Hayek, Road to Serfdom, 95

Convention, on the one hand, and neoliberal development policies, on the other, one finds a disjunctive synthesis between *homo juridicus*, the subject of rights (in this case, human rights), and *homo œconomicus*, the subject of interest (in this case, the self-interest entailed in the voluntary use of birth control). One finds an instrument of sovereign power (a legal convention ratified by the member states of the U.N. in 1951, and eventually even by the United States, in 1988) that is at once separate from and functionally related to a biopolitical apparatus, which it reigns over without also governing. One finally sees an emphasis on the *right to life* that necessarily entails subjection to a power to *pre-empt* life—a power that, more to the point, prevents potential lives as a means to the end of ensuring the quality of the lives that are then actually vested with rights.

The corollary of this aporia, it seems to me, is an immanent critique that cuts both against the Genocide Convention and against Foucault’s theorization of thanatopolitics. On the one hand, if Foucault was unable to think the “birth of biopolitics” in the neoliberalism that emerged in the political space of the postwar West, it was because he did not think the biopolitics of birth in the neoliberalism that emerged in the political space of the postwar colony. This swerve, in turn, seems to have foreclosed upon Foucault’s ability to think the possibility of a thanatopolitics that would have been both *continuous with* and *discontinuous with* his 1976 theorization of state racism. *Continuous* because in each case, in Nazi state racism as in neoliberal thanatopolitics, we are dealing with a modality of power that proposes to save life, to protect and defend life, by means of a spiral in which power negates life itself. *Discontinuous* first because in the case of the neoliberals, the aim of imposing the market in the postcolony was not to kill existing populations or to let existing populations die, but instead to prevent not-yet existing populations from living. *Discontinuous* as well because, at the risk of stating the obvious, the institutional site of thanatopolitics for the neoliberals is not the state but the market—the free market.

For this reason, in fact, it may be that the most unsteady term in Foucault’s lectures on biopolitics is not “biopolitics,” but “thanatopolitics,” a term that for too long has been treated by readers of Foucault as a mere synonym for “genocide.” This would seem to be especially so if the “thanatopolitics” in question were not even strictly speaking a thanatopolitics at all, but only and precisely a racially targeted anti-natalist economics, an actualization of the potential for life to not-be that would seem to be both explicitly proscribed by the Genocide Convention and also, at the same time, rigorously exempt from it as well.

To read over Foucault’s shoulder as he gives his strange lectures of the late 1970s would then be to arrive at a somewhat surprising destination. Instead of the birth of biopolitics, or even the biopolitics of birth, Foucault’s lectures would bring us to encounter a discourse on birth in which the theory of thanatopolitics becomes nonidentical with itself, and in which genocide jurisprudence also becomes nonidentical with itself. This discourse would be a juridical problem, to be sure; but beyond that, it would be a problem for thought, most particularly for that mode of thought that Foucault called “the ontology of the present,” in which the point of critique is to ask, with Kant, what are we, and who we have become today.