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MAGNUS HÖRNQVIST

# RISK, POWER AND THE STATE

AFTER FOUCAULT

ROUTLEDGE



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After Foucault

Magnus Hörnqvist



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# Risk, Power and the State

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*Risk, Power and the State: After Foucault* addresses how power is exercised in and by contemporary state organizations. Through a detailed analysis of programmatic attempts to shape behaviour linked to considerations of risk, this book pursues the argument that, whilst Foucault is useful for understanding power, the Foucauldian tradition – whether with its strands of discourse analysis, of governmentality studies, or of radical Deleuzian critique – suffers from a lack of clarification on key conceptual issues.

Oriented around four case studies, the architecture of the book devolves upon the distinction between productive power and repressive power. The first two studies focus on productive power: the management of long-term unemployment in the public employment service and cognitive-behavioural interventions in the prison service. Two further studies concern repressive interventions: the conditions of incarceration in the prison service and the activity of the customs service. These studies reveal that power, as conceptualized within the Foucauldian tradition, must be modified. A more complex notion of productive power is needed: one which covers interventions that appeal to desires, and which would govern both at a distance and at close range. Additionally, the simplistic paradigm of repressive power is called into question by the need to consider the organizing role of norms and techniques that circumvent agency. Finally, it is argued, Foucault's concept of *strategies* – which accounts for the thick web of administrative directives, organizational routines, and techniques that simultaneously shape the behaviour of targeted individuals and members of the organization – requires an organizational dimension that is often neglected in the Foucauldian tradition.

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# Introduction

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What follows is an empirical study of power in some contemporary organizations. By choosing *power* as the point of departure, I want to reawaken a number of insights elaborated by Michel Foucault in the course of a few brief but brilliant years in the 1970s. The ambition in this introductory chapter is to present an understanding of power which has for a long time been hidden beneath a thick layer of governmentality studies and discourse analysis. The presentation is structured around three distinctions. The distinctions provide the cornerstones for this study, as well as, arguably, any study of power. Although firmly rooted in Foucault's work, they have received far too little attention in the Foucauldian literature. The first distinction is that between power as a relation and power as an activity. The concept of power is ambiguous as it can refer to both. Foucault exclusively studied power as an activity, which was not always kept separate from the notion of power as a relation. The second focuses on the way in which power as an activity exists in two forms, productive power and repressive power. The distinction between productive and repressive power is primary in relation to all other concepts employed by Foucault to make sense of the business of regulating human behaviour. Discussions of 'sovereignty', 'governmentality', 'discipline', 'mechanisms of security', 'pastoral power', 'technologies of the self' and 'bio-power' presuppose – or would benefit greatly from – the distinction between productive and repressive power, which cuts across all historical manifestations of government. The third distinction is that between programmatic and non-programmatic acts of power. In this book, as in the Foucauldian tradition generally, it is the programmatic – rather than the singular and spontaneous – attempts to shape conduct that are of interest. Yet the distinction, in so far as it accounted for, tends to ignore the organized nature of power in favour of an exclusive focus on the element of thought and deliberation. By redrawing all three distinctions a new light can be cast on power and the process of social reproduction.

## The ambiguity of power

Foucault's conceptual comments on power are shot through with a basic ambiguity. There is a tension between power as a relation and power as an activity. In *Discipline and Punish*, we are encouraged to view power as 'a network of relations, constantly in tension' (Foucault 1979a: 26). Power, in this sense, refers to *relations* between individuals. It is not confined to a specific domain. There is no such thing as a political domain, where power would be exercised, as distinct from other spheres of life that are economic, personal, and so forth. Every social relation is at the same time a power relation. For this reason, one must disentangle the relations of power that run 'between every point of the social body, between a man and a woman, between the members of a family, between a master and his pupil, between every one who knows and every one who does not' (Foucault 1980: 187).

This view is not uncontested however, even in Foucault's own writings. Alongside the relational conceptualization runs a rather different view of power. In one interview, Foucault says that 'power is nothing other than a certain modification, or the form, differing from time to time, of a series of clashes which constitute the social body, clashes of the political, economic type, etc.' (Foucault 1989: 188). On this view, power is an activity. If power is nothing else than a historically variable form of 'clashes of the political, economic type, etc.' it is essentially tied to a certain kind of activity – namely, the acts performed in these clashes. There is no longer room for power as a relation which in some sense underlies the clash. Power is *not* the balance of forces that predates the clash: it may change during the course of events, and in part it determines the outcome. Power is only what happens when two or more people clash; the concept does not capture the fact that a confrontation may take place under historically given and unequal conditions. At times, when the metaphysics of Friedrich Nietzsche make their presence felt, Foucault stresses the active nature of power to the extent that power *becomes* an activity and, as such, it is temporary and fluid. It is never stable and always exercised: 'Everywhere that power exists, it is being exercised' (Foucault 1977: 213). On this reading, there is no power (relation) behind the exercise of power. The concept is de-contextualized and reduced to particular cases of power in action.

After abandoning conflict and war as a matrix for understanding power (Lemke 1997: 144–45), Foucault would not so much conflate the two meanings of the term as downplay one of them. The notion of power as a relation disappears from the analysis. It has also been neglected in the secondary literature on Foucault. In the long dominant approach, inspired by the later work of Foucault from 1978, when the lecture series on governmentality was delivered, 'the conduct of conduct' is the preferred definition of power (Foucault 1982: 220–21; Gordon 1991: 2; Burchell 1996: 19; Dean 1999: 10–11; Rose 1999: 3). The expression refers to attempts at

directing the conduct of others – or oneself. The formulation ‘the conduct of conduct’ is associated with straightforward attempts to delineate specific courses of action. Yet power could also be exercised by shaping the options at hand. To include this possibility, the late Foucault could define power in terms of structuring the field of possible action (Foucault 1982: 222). However, whether the emphasis is on direct procedures or indirect means, the underlying conception is that of power as an activity. Unless this conception is supplemented with a notion of power as a relation, the entire undertaking – the analysis of power – is bound to founder. More specifically, it will not be possible to separate power from what is not power. There are a tremendous number of actions that to some extent structure the field of possible actions. In a trivial sense, almost anything that people do at one moment may affect the options of others at the next moment. Similarly, a wide range of actions may immediately influence the conduct of others. Not least, Foucault has illustrated this in some detail. Quoting the French educational reformer Jean-Baptiste de La Salle, he enlarged the concept of punishment to include ‘a certain coldness, a certain indifference, a question, a humiliation, a removal from office’ (Foucault 1979a: 178). Inversely, a large number of acts could operate as rewards: a moment of confirmation, a nod, an extra benefit, or silent acceptance.

That somebody nods, however, or asks a question, does not necessarily mean that power is being exercised. If we want to restrict the courses of action that may be called power, how do we draw the line? There is no definitive answer. Conceptually, power as an activity presupposes power as a relation. Without inequality and relative positions of strength, there is no sense in talking about exercising power as opposed to exerting influence in more general terms. Consequently, since the late Foucault and the governmentality approach lack a notion of verticality – of the unequal nature of social relations – the term ‘power’ becomes superfluous. Peter Miller, one of the pioneers of the approach, saw these logical consequences and suggested that we should ‘dispense with the term power’ considering there to be ‘quite simply practices’ (Miller 1987: 17). We are left with a multitude of actors who are trying to influence one another in various directions. There is nothing qualitatively different about these attempts – they are ‘quite simply practices’.

The problem concerns not only the notion of power as the conduct of conduct, but also other conceptualizations of power as an activity, including the one presented here. The distinction between power and non-power is admittedly vague. To exercise power is to influence the conduct of other individuals. On the other hand: which acts do *not* influence the behaviour of other people? To exercise power is to reproduce the existing order. On the other hand: which acts do *not* to some extent reproduce an existing order? Acts of power are not readily distinguishable from other acts; there are no shared inherent qualities. What separates power from non-power, I would

suggest, is the context. If we want to retain the word ‘power’, as distinct from ‘practices’, it is necessary to look at the playing field of unequal social relations. Power is the activity that starts from *and* reproduces power relations. It comprises acts by a party superordinate in relation to another, to influence which acts are carried out by that second party, with the intention or the effect of reproducing the inequality between them. I am aware that the expression ‘the intention or the effect of reproducing the inequality between them’ is imprecise. The problem is that one cannot assume that those who exercise the power *always* share a specific intent; neither can one assume that *all* acts of power actually do reproduce such relations. Hence, to cover all acts of power, both the intention and the effect have to be included. In this way, the definition becomes wide enough – albeit at the risk of becoming somewhat too wide. Similar acts on the same playing field, performed by subordinate parties, may instead be called *resistance*. Resistance challenges the power relation. The difference is the relative position of strength.

To conclude: the term ‘power’ encompasses double meanings, which must be kept separate. This book deals primarily with power as an activity. For purposes of clarification, this will be called ‘the exercise of power’, or ‘to exercise power’. At the same time, it is vital to *retain* the notion of power as a relation, since without it power as an activity cannot be identified. The conditions for, as well as the results of, power as an activity will be referred to as ‘power relations’. Much of Foucault’s work was devoted to ‘the “how” of power’ (Foucault 2003a: 24) – how power was exercised in specific settings. Little attention was given to the question of what constituted power relations. When the matter was brought up, Foucault emphasized the multiplicity of power relations – that they exist everywhere and are different from one another (Foucault 1980: 187–88). Yet relations of power do have something in common, something that distinguishes power from that which is not power. The notion of power as a relation is not foreign to Foucault. It is embedded in the original conception, and simply needs to be disentangled from the notion of power as an activity.

Power comprises ‘unbalanced, heterogeneous, unstable, and tense force relations’ (Foucault 1998: 93). Three basic characteristics stand out: the relations are unequal, contentious and unstable. First and foremost, power relations are unequal. One party can direct the conduct of the other party, whereas the other party has less influence over the course of action of the first party. For this reason, the former may be called superordinate and the latter subordinate. The imbalance may be rooted in material resources, access to information, experience, physical strength, social class, a formal command structure or indeed anything that influences the capacity to affect the conduct of others. There are no sources that per definition are more important than others. This conception of power makes no assumption about the relative weight of violence, science or capital.

Second, power relations are contentious. The struggle is not contingent but endemic (Foucault 1979b: 60, 1980: 90). Power relations are produced and reproduced through struggle. The inequality presupposes a history of conflict – over the allocation of material resources, knowledge, work efforts, and so on – which it perpetuates. In one sense, power is nothing but the momentary status in an ongoing struggle. At the same time, the struggle transcends the individual power relation. What is at stake need not be confined to positions of strength in the relation at issue. Every power relation exists in a society and is thereby surrounded by, and potentially affected by, a range of other power relations and conflicts. In all, there are ‘innumerable points of confrontation, focuses of instability, each of which has its own risk of conflict’ (Foucault 1979a: 27).

Third, power is unstable. The inequality may be only temporary. This characteristic is related to the element of struggle. The outcome depends on the actions and tactics deployed. Consequently, an ‘at least temporary inversion of the power relations’ is always possible (Foucault 1979a: 27). In addition, the uncertain outcome is related to the very nature of the original relation. Power is not fully on one side; the imbalance is never total. The subordinate part retains its freedom to a certain extent. There is always an option to act otherwise, or to actively resist. If pursued, this may change the power balance. Moreover, a power relation may be transformed even if none of the parties directly involved take action. Other processes can undermine or reinforce the power relation. A context consisting of multiple layers of contradictions and ongoing conflicts means that change can come from more than one direction. The freedom of the parties immediately involved, in combination with the uncertain outcome of related conflicts, results in a basic fragility. Foucault speaks of ‘the moving substrate of force relations which, by virtue of their inequality, constantly engender states of power, but the latter are always local and unstable’ (Foucault 1998: 93).

This concept of power is modelled on the particular situation where individuals are opposed to each other, face to face, without intervening institutions. It does not rule out the possibility of power relations at the macro level, the presence of organizations that stabilize power relations, or considerations that conflicts take place under historically given conditions. But the ambition is to *reduce* rather than to account for the complexity of power relationships. Complex power phenomena are broken down into their smallest components: individual relations that are unequal, contentious and unstable. A Foucauldian analysis is an immediate critique on the fetishism of power, that is, the tendency to turn power relations into objects, cut loose from a social context. The point of departure is that power is something which occurs exclusively between human beings. It is a relation between actors and not a property of one actor. By extension, to speak of ‘the power of big corporations’, for example, constitutes a major linguistic simplification.

The expression could and should be broken down into relations between human beings. Equally, the seemingly overwhelming power of the state falls apart into a multitude of relations, each of which is 'unbalanced, heterogeneous, unstable, and tense'. Ordinary notions of class and gender must also be analysed as being composed of unequal, contentious and unstable relations that occur between individuals.

At the same time, power transcends the level of individuals. Foucault's conceptualization includes phenomena at the macro level, which are referred to as 'wide-ranging effects of cleavage that run through the social body as a whole' or 'major dominations' (Foucault 1998: 94). Although local and unstable, 'the multiplicity of force relations' is also articulated 'in the state apparatus, in the formulation of the law, in the various social hegemonies' (ibid.: 92–93). These phenomena are of a different kind. Power relations at the macro level are in some respects the very opposite of power at the micro level: not unstable and constantly questioned, but 'permanent, repetitious, inert, and self-reproducing' (ibid.: 93). Foucault would also speak of 'states of domination' where the power relations 'remain blocked, frozen' (Foucault 1997: 283). In other words, a Foucauldian analysis would acknowledge that power is also collective rather than individual, stable rather than fragile, and structural rather than situation-dependent.

However, if power relations are – by definition – unstable and contentious, one needs to understand the reproduction of phenomena that are stable and inert. Foucault has little to say about the transition. He merely states that 'power comes from below', and describes higher order phenomena as 'simply the overall effect' of relations and activities at the micro level.

'Power', insofar as it is permanent, repetitious, inert, and self-reproducing, is simply the overall effect that emerges from all these mobilities, the concatenation that rests on each of them and seeks in turn to arrest their movement.

(Foucault 1998: 93–94)

Yet the question remains: how is this 'simply the overall effect' brought about? What makes power structures stable when power relations are unstable? Through which mechanisms are the individual relations successively interconnected to form higher order phenomena such as 'the state apparatus', 'major dominations' and 'social hegemonies'? What can be said about the range of meso-level phenomena – organizations, discourses, strategies and technologies – that may account for this process? In what ways do they mediate between action and structure, between fragile individual relations and inert institutionalized relations?

This problematic is rarely acknowledged within the tradition. Instead, there is a tendency to reaffirm that 'power comes from below', combined

with an ambition to show that the reproduction of relatively stable relations of power – or the element of permanency, repetition, inertia and self-reproduction – is not guaranteed. Hubert Dreyfus and Paul Rabinow formulate both points concisely: 'There is no inherent logic of stability. Rather, at the level of the practices, there is a directionality produced from petty calculations, clashes of wills, [and] meshing of minor interests' (Dreyfus and Rabinow 1982: 188). Yet what needs to be explained with this approach is the actual reproduction of institutionalized power relations, rather than why the reproduction is *not guaranteed*. Why is social order reproduced when its reproduction is not guaranteed, and when all that we know about the nature of power indicates that it will not be reproduced?

The assumption that the behaviour of all individuals would spontaneously reproduce social order is untenable, unless society is conceived of as being in a state of harmonious equilibrium. Given that the latter is not the case, the behaviour of all individuals must be *made* consistent with a given configuration of power relations. The 'multiple relations of power' that 'traverse, characterize, and constitute the social body' are not self-generating (Foucault 2003a: 24). Social order presupposes exercise of power. It was Thomas Hobbes who initially formulated the problem. In a society where some individuals attempt to acquire advantages over others unrestrained by normative considerations, there is a permanent tendency towards social disintegration. Stable social structures cannot be taken for granted in the face of 'a perpetual and restless desire of Power after power, that ceaseth only in Death' (Hobbes 1985: 47). Hobbes saw the precariousness of social order, and simultaneously identified a countervailing force. The existence of society depended on the presence of a sovereign, who was considered both necessary and sufficient to secure social stability. In *Leviathan*, the seventeenth-century absolutist state was the historical incarnation of the sovereign. Its activities consisted of legislation, law enforcement, taxation and the waging of wars against other nations (ibid.: 91–92). Talcott Parsons would later find this answer unsatisfactory. To Parsons, repressive power could not account for the stability of modern societies. Something else was also required. He found that this 'something else' lay in the normative dimension; society was held together through shared values (Parsons 1937: 89–94). As Axel Honneth has observed, Foucault's analysis could be seen as a different response to the Hobbesian question, as modified by Parsons: 'What means for the exercise of power do modern orders of power employ when they do in fact show a lesser degree of instability than would be achieved through the instruments of violence and ideology alone?' (Honneth 1991: 164).

The twin concepts of violence and ideology are not by themselves sufficient to explain the relative stability of current Western societies, so what *other* means are used to make individual behaviour consistent with the dominant configuration of power relations? Foucault did not agree with the

answer given by Parsons, as normative, possibly stabilizing convictions were banished from the analysis. Relations of power are not kept in check by mutually shared values. But he accepted the question itself as a valid one. It is also the essential problematic for anyone who takes a Foucauldian concept of power as their point of departure. Conceptual tools other than the conventional must be employed to understand how it is possible that power relations, which are built up in local conflicts, extend into complex social institutions that display a high degree of stability. Foucault did not have an elaborate notion of social order itself; the references to institutionalized power relations never contain any characterizations (Hörnqvist 2007: 26–28). Yet the analysis of *what it is that does the reproducing* – that is, power as activity – is truly ground-breaking. The problem of social order was approached with an extended understanding of what it means to exercise power. Organizational discourses and technologies were brought to our attention as vehicles of power, which may account for the transition from fragile individual relations to inert institutionalized relations. The undertaking was built on the idea that power can be productive, as well as repressive.

## **Productive and repressive power**

Foucault contributed to the analysis of power both conceptually and historically. A new framework was developed, on the one hand, and phenomena were studied that were previously unknown or known under other descriptions, on the other. Yet the two aspects have not always been distinguished; on the contrary, within the tradition the confusion between the historical and the conceptual is endemic. Along with the inability to separate power as a relation from power as an activity, the failure to distinguish historical transitions from conceptual advances has made it unnecessarily difficult to appreciate the latter. In the governmentality literature, as well as in the Deleuzian readings of Foucault, we find frequent references to the triangle ‘sovereignty, discipline, and governmental management’ (Foucault 2007: 107), suggesting new concepts to understand power, with the aim of demonstrating that the way in which power is being exercised has undergone fundamental changes through the years. The same point has been made in conjunction with the thesis of a transition from ‘disciplinary societies’ to a ‘society of control’, proposed by Gilles Deleuze and repeated by, for instance, Nikolas Rose as well as Michael Hardt and Antonio Negri (Deleuze 1990; Rose 1999: 233–34; Hardt and Negri 2000: 22–27). The later stage is associated with notions of ‘bio-power’, ‘technologies of the self’ and ‘mechanisms of security’, which are contrasted with outright coercion and fixed institutions. The argument is that power, historically, has become more productive, embracing and diffuse. Such a shift, whether it took place or not, must however be distinguished from the conceptual discussion. Foucault’s primary contribution lies on the conceptual level, in the distinction between

productive and repressive power. No doubt it was developed through genealogical studies, but once formulated it cuts across all transformations of government. The distinction between productive and repressive power is not, as opposed to the technologies of power themselves, subject to constant change. It does not depend on a gradual evolution from repressivity to productivity, or on a correlation between a specific type of society and the dominant mode of power. The distinction should be defined in categorical rather than historical terms, and I will explore that possibility in relation to Foucault's work.

The extended understanding of power as an activity can be seen as the antithesis of four basic assumptions that have traditionally been made in the social science literature. These assumptions delineate one specific conception of power. Foucault criticized it as the conception of power *tout court*. I will reconstruct its four basic assumptions, as they were formulated by Foucault.

## **R1**

### ***The fundamental operation of power is to dictate laws***

'The pure form of power resides in the function of the legislator' (Foucault 1998: 83). On the most basic level, power is a speech-act. To enact a law is to say that 'thou shalt not!' (Foucault 1980: 140). This is the first act of power. It is the exercise of power that lays the platform for all further exercise of power. Enacting a law changes future conditions. It introduces a dichotomy, divides acts into two categories – those that are permitted and those that are prohibited. Individuals are confronted with 'a binary system' (Foucault 1998: 83); the sphere of possible action is circumscribed by a number of boundaries, each marking the difference between permitted and not permitted. The binary regime is not only made up of legal distinctions. The boundary may also be drawn between healthy and sick, between normal and abnormal, or between rational and irrational. Yet the principle is the same: to exercise power is to set enforceable boundaries.

## **R2**

### ***Power is mediated through conscious decisions***

It is a conscious decision to enact the law – and it is a conscious decision to follow the law. The subjects are first told what to do, and then think how to respond. Power is played out in the arena of deliberation. Those who exercise power must make decisions that are linked to the existing rules in terms of application and justification. Every individual who is exposed to power is at the same time confronted with the opportunity as well as the necessity to choose. The basic question is: should I stay on the 'right' side of the established border? It follows that resistance is a conscious decision as well. Power relations can only be challenged by consciously transgressing the set boundaries.

**R3****Power may be understood in strictly negative terms**

There are basically two forms of power: repression and ideology. Repression punishes law violations, crushes resistance and excludes people. Ideology forbids texts, distorts reality and prevents insight. The former targets the body, the latter manipulates the mind. In both cases, power is essentially destructive. The setting of boundaries is the sole positive act. Repression is negative in relation to the individual, who is rejected, beaten, sanctioned or excluded. As power is mediated through conscious decisions, the impact of repression may also be indirect, to deter others from transgressing the set boundaries. Ideology is negative in relation to the truth, which is repressed, distorted or concealed. The impact of ideology is vital as it directly targets the ability to make decisions. While repression is associated with the state, ideology is seen to reside in the individual. 'When we turn to individuals,' Foucault remarked, power is found 'nowhere except in the mind (under the form of representation, acceptance, or interiorization)' (Foucault 1988: 119).

**R4****The effect of power is either obedience or disobedience**

Foucault comments ironically on the power of repressive power:

it is a power that only has the force of the negative on its side, a power to say no; in no condition to produce, capable only of posting limits, it is basically anti-energy. This is the paradox of its effectiveness: it is incapable of doing anything, except to render what it dominates incapable of doing anything either, except for what this power allows it to do.

(Foucault 1998: 85)

Passive obedience marks the successful use of power. The subordinate individuals perceive which rules are in force, and keep their behaviour within those boundaries. Power relations are conceived of as being reproduced through the lack of transgressions. A transgression, on the other hand, is an immediate threat. If power is deployed unsuccessfully, transgressions are provoked. This amounts to disobedience – acts that cross the line of the permitted. But if power is deployed successfully, it does not produce specific acts. Instead, it makes individuals *refrain* from specific acts, namely those that would challenge the power relation.

This conception is not inaccurate *per se*. Power is exercised in a way that corresponds to the four assumptions. But it does not *always* follow the same, repressive pattern. Power can also be productive.

The distinction between productive and repressive power is analytically just as central as the distinction between the relations of power and the exercise of power. In many ways, the two forms of power are each other's