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“What about the box?” Some thoughts on the possibility of ‘corruption prevention’, and of ‘the disciplined and ethical subject’

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ABSTRACT

Accepting the call to treat the ‘toolbox’ and not the ‘tools’ as central to doing Foucauldian analysis (Paltrinieri, 2012), this paper draws on Foucault’s characterisation of his project as ‘a critical history of thought’ (Florence, 1994) where ‘thought is understood as the very form of action’ (Foucault, 1987a). Therewith the paper seeks to develop an analysis of corruption and corruption prevention among elites (Neu et al, 2015) in two ways. First it adopts Foucault’s analysis of ‘illegalism’ in *Discipline and Punish* (1977: 82ff), wherein corruption ceases to be a negative—the ‘unlawful’ counterposed to ‘law’ as positive—as law itself becomes destabilised, framed by different forms of illegalism: ‘illegalisms of property’ for the poor leading to imprisonment, ‘illegalisms of rights’ for the powerful which go unchallenged. It suggests that elite corruption now supplements its use of the latter illegalisms through recourse to expert discourses of ‘hyper-legalism’, increasingly entailing a ‘skilful accounting’ (Neu et al, 2015). Second, Neu et al propose that corruption’s prevention may be effected by a modern Foucauldian ‘ethical and disciplined subject’. However Foucault’s analysis of modern self-formation in *The Birth of Biopolitics* (2008: 219ff) suggests this may prove problematic. The Human Capitalist subject is there an ‘abilities machine’ and ‘entrepreneur of one’s self’. As ‘abilities machine’ it is ‘disciplined’, forming itself within the ‘truth games’ of today’s ‘double disciplinarity’, sc. involving self-engagement with both disciplinary conduct and disciplinary expertise. As ‘self-entrepreneur’ it may also, formally, be ‘ethical’ (cf. Dilts, 2011), based on Foucault’s own classification of the aspects of that relation (Foucault, 1987b). But substantively its ‘ethicality’ may entail ploys of hyper-legalism and skilful accounting, leading to corruption’s continuance as well.

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‘Delinquency, illegalism mastered, is an agent for the illegalism of the dominant groups. . . It is also an instrument for the illegalism which the very exercise of power summons around itself.’ (Foucault, *Discipline and Punish*, 1977: 279–280)

‘Singular forms of experience can well carry within themselves universal structures; they can well not be independent of the concrete determinations of social existence; nevertheless, neither those determinations nor those structures can give rise to experiences (that is to say to knowledges [*connaissances*] of a certain type, to rules of a certain form and to certain modes of consciousness of oneself and others) except through thought. There is no experience which is not a

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way of thinking and which cannot be analysed from the point of view of a history of thought.' (Foucault, *Preface to The History of Sexuality*, 1987a: 335)¹

1. Introduction: on linking 'corruption prevention' and 'subject construction'

As I first read, and then re-read, the provocative (in the best sense of thought-provoking) piece by Neu, Everett, and Rahaman (2015), and then reflected on—'Preventing corruption in government procurement: constructing the disciplined and ethical subject'—I found myself referring back to the two passages from Foucault above.

First I found the piece so very Foucauldian in its conjoining of such potentially discomfiting binaries: 'preventing' alongside 'constructing', but also 'preventing corruption', at the level of 'government', alongside 'constructing' the subject, at the level of ethicality. Second, I found it, through its choice of binaries, bringing into proximity two significant Foucauldian themes which are often kept apart: on the one side self-construction, as a form of 'care of the self', frequently seen as taking place at the 'level' of the individual: and on the other world-construction as a practice of governmentality, frequently seen as taking place at the 'level' of the social, the economic, the political, or some combination of these.

As a result, I found it putting into play two intriguing analytical possibilities which are key aspects of Foucault's agitating of our thought. The first is the possibility of taking up the kind of destabilising of the conventional 'levels' of explanation which Foucault's analyses constantly engaged in, as in the second passage above where the level of the 'individual' is dissolved as a basis for analysis of sexuality.

Here he begins analysis from the very different category of 'experience' which is not reducible to either an 'individual' or a 'supra-individual' level of explanation. He has introduced the category right at the start of the 'Preface', as he explains that across his series of researches into sexuality in different eras, his plan was to analyse sexuality as 'a historically specific form of experience' (1987a: 333); he has then explained (in a variation of what he says in the passage cited above), that this has required treating 'experience' as the correlation of a domain of knowledge [*savoir*], a type of normativity, and a mode of relation to the self (1987a: 333). But this destabilises the 'individual', which in its etymology is an 'un-dividable', as it is firstly rendered porous both to forms of knowledge and to sets of rules or norms from the outside, while it is secondly divided on the inside, as subject engaged in a mode of 'relation to self'. As a construct, and therefore as a 'level' of analysis, it becomes (literally) incoherent. But so equally do any forms of analysis which pass over the problematic status of the individual as an 'undividable': as is the case for forms of supra-individual analysis which leave that problematic status unaddressed insofar as such individuals are simply collectivised, whether etymologically into a 'band of allies' (*socii*), or into those forming a 'household' (*oikos*), or into those constituting a 'city' (*polis*).

But the piece also potentially puts into play a way of engaging with corruption which does not begin, as if from a positive conceptual ground for analysis, from the side of 'the law', and then seeks to discriminate what (just, or justly) falls outside the law from what (just or justly) falls within it. This form of agitation of our thought is what potentially follows if we begin analysis from the side of the concept that Foucault puts so intriguingly into play in *Discipline and Punish*: 'illegalism'. 'Illegalism', as noted in Footnote 1, is not the term familiar to readers of *Discipline and Punish*, where the term used is 'illegality'; nevertheless '*illégalisme*' is the term Foucault uses throughout the French original, *Surveiller et Punir*.

It is, I suggest, more of a conceptual term, where the term used in English, 'illegality', keeps a focus on illegal 'acts'. As such, it sets up a relation to a reciprocal which is not law but '*légalisme*'. 'Illegalism' plays off, works round, but also defines 'legalism'. It operates very precisely to construct that threshold and barrier of what falls just (and justly in legalism's terms, which are after all the only terms the law in practice can articulate) inside and outside the law. It also plays off and works round the convenient fact of law in practice, that there are multiple forms of the law, e.g. canon, civil, common, commercial, constitutional, criminal, and never forgetting that form familiar to those who have read Dickens' *Bleak House*, Chancery. Illegalism thrives on the opportunities for what one might call 'legal trumping', using one 'c-form' to block or envelop another. It thrives, in the context of corruption today, in the multiple uses today of commercial, tax, or international trade law to trump civil or even constitutional law 'rights'—something which, at the time of writing, critics have identified as being a consequence of the current Transatlantic Trade and Investment Partnership (TTIP) proposals.

Illegalism therefore has a claim to becoming a 'lodestar term' around which to gravitate in seeking to make sense of corruption's fashionable and emergent ruses: perhaps because starting from there may help us not to make law into a barrier with illegalities just on its far side. For once illegalism is seen as framing legalism one may see how its *principle* is to operate simultaneously on either side of the barrier. On one side it engenders what are named 'illegalities', but on the other it engenders what we might counter-name forms of '*hyper-legalism*'.

The tactics of such hyper-legalism embrace not only the use of the law to evade the law, albeit in slightly differing ways, but also the cloak of 'transparency'. Neu et al. (2015: 2) rightly note the presence in developed states of those 'luminous arrangements' which enact 'effective anti-corruption procurement practices', particularly through the use of 'written inscriptions to construct moments and spaces of visibility, the examination of these inscriptions by auditors, and the subsequent generation and circulation of inspection traces'. In the presence of such practices and such visibility, one almost

¹ The translation of both these passages is emended, following a practice of emendation of the published translations of Foucault which Stuart Elden has already begun, voicing what I see as a very real concern about how the published English translations do not always follow the surface of Foucault's French statements. In the first of the passages above, I have substituted for the English term 'illegality', the term long familiar from the text of *Discipline and Punish*, the term 'illegalism', since the term which Foucault uses in *Surveiller et Punir* is '*illégalisme*' (Foucault, 1975: 284–285). In the second, I have substituted the term 'knowledges' for the published version's 'understandings' since Foucault's French term is *connaissances*.

inevitable hyper-legal tactic becomes the production of inscriptions designed to pass both primary examination and any subsequent scrutiny of ‘inspection traces’; and many of these will turn out to be well-formed accounting inscriptions.

The operation of just such a hyper-legal cloak of transparency is well described in an earlier piece involving many of the same authors (Neu, Everett, Rahaman, & Martinez, 2013). This notes the weakness of any ‘functionalist view’ which frames accounting purely as what one might call a white-hat activity, and so ‘normatively positions accountants as virtuous actors in the anti-corruption fight’ (2013: 505). Instead they propose re-framing the situation as one where there is an interplay between ‘specific types of accounting-based anti-corruption barriers and characteristic games of influence politics’ (2013: 506). Their analysis of corruption incidents then indeed shows that encounters with such accounting-based barriers prove to be integral to the playing of an influence politics game, particularly within the institutional settings analysed by Johnston (2005) as typical of developed states—most importantly the ‘influence market’ and perhaps also the ‘elite cartel’ settings in his typology.

However, seen through a prism where this game is played under the principle of ‘illegalism’, these barriers can appear to be turning into accounting-based corruption thresholds, through what they describe as a ‘skilful use of accounting and accounting-implicated strategies’ (506).² Such thresholds are essential not only because they shroud the nature of corrupt transactions in the cloak of transparency, but because they make possible a progression across whole series of thresholds—which become what one protagonist refers to as the ‘normal channels’ (2013: 520) for hiding payments in plain sight, and which are also a vehicle for deniability and protestations of injured innocence.

Indeed, the paper brings home the significance and prudential value of such accounting-based corruption thresholds when it recounts what happens when a new intermediary, or political bagman, takes over the running of the corrupt payments scheme. He asks for \$100,000 cash, to which the business protagonist involved remarks ‘that’s \$200,000 through normal channels’: but the real problem is that payment cannot now be hidden in plain sight, nor does it have the quality of deniability that ensues from multiple re-inscription in series of accounts; instead as the paper notes, ‘the conversion of the repatriations into cash... becomes the responsibility of the business participant rather than the political bagman’ (2013: 520), with the outcome that the business protagonist ‘pleaded guilty to five counts of fraud, totaling just under \$2million’, and received a 30 month jail sentence (2013: Appendix, 522).

Summing up to this point: I see this as a paper raising a range of provocative and discomfiting insights which it brings into proximity along two linked lines of analysis. The first line raises the question of how we should analyse the interplays between accounting and a corruption which appears today fully embedded in what one might call ‘governmental/managerial’ complexes situated within ‘advanced’ or ‘developed’ states which conduct their business under what the paper calls ‘the practices and politics of visibility within government’ (2014: 2). Here I see Foucault’s observations on illegalism in *Discipline and Punish* as potentially opening up a form of analytics which may push this newly open door more open still, and particularly if accounting is seen as operating as a vehicle of ‘hyper-legalism’ and thus constructing not just barriers against but also thresholds for corruption. I shall therefore, in the section after next, return to consider more fully the range of what he has to say across that book, and particularly in Part Two ‘Punishment’, on illegalism and its relations to both law and to order.

However it is the second line of analysis—which concerns how differing forms of the subject are constituted in different historical eras—that I want to turn to first: for the fact that there may be a conjunction to be made between the discomfiting binaries, ‘preventing corruption’ at the level of ‘government’ and ‘constructing the subject’, at the level of ethicality, is particularly provocative, but also, I think, necessary. I therefore propose to dwell a little further on how this implicates us in beginning from ‘experience’, understood, as Foucault puts it in that second introductory passage I chose, as ‘a way of thinking’, and something to ‘be analysed from the point of view of a history of thought’. This is a direction in which Neu et al have already set off, remarking (2014: 4) how ‘just prior to his death, Foucault suggested that his entire opus of work was concerned with the ways that human beings were constructed as subjects at different moments in time and in different settings’, citing a piece on Foucault by Florence (1994), which is now recognised as mainly by Foucault with the first paragraphs by his then-research assistant, François Ewald.

It is this piece that I now turn to, although I shall consider it along with that *Preface* to the *History of Sexuality* project we met above, and also the Introduction to Volume II in that project, *The Uses of Pleasures*, since all three are written in the same general time period, and each takes up slightly different reflections on Foucault’s *oeuvre*. Together, they relay an insistent and consistent message concerning the ‘subject’ and how to approach its analysis: first, as already hinted at, that, as a methodological choice, it should not be treated as ‘constitutive’ (Florence, 1994: 317); and second that it should be approached from the side of ‘thought’, and of ‘thought’ understood as historically given and situated.³ So I turn here to these pieces: and in the process will perhaps bring into relief the question I posed in my own title: ‘What about the box?’

2. ‘What about the box?’

Concerning Foucault’s project, Florence/Foucault says simply: ‘his undertaking could be called *A Critical History of Thought*’ (1994: 314) before defining that more closely first by specifying ‘thought’ (*pensée*) as ‘the act which poses, in their

² They later refer (2013: 513–514) to the construction of such inscriptions as invoices leading to accounting entries for ‘design and consulting services’, and to a case (2013: 517) where an invoice was re-written to appear ‘as a normal business experience’ and, once re-written, could be used ‘for tax purposes’.

³ There are two other methodological choices specified by Foucault/Florence: the first is also negative, to maintain ‘a systematic scepticism with respect to all anthropological universals’; the third is positive, the procedure of ‘appealing to “practices” as a domain of analysis, of approaching one’s study from the side of what “one did” (ce qu’ “on faisait”)’ (Florence, 1994: 318). For an intriguing study which has drawn on Foucault’s analysis of the relations between thinking and acting to analyse ‘self-formation through the activity of organic farming in a self-managing community’, see Skinner (2013).

diverse possible relations, an object and a subject', so that its critical history becomes 'an analysis of the conditions under which certain relations between subject and object are formed or modified to the extent that these relations are constitutive of a possible knowledge (*savoir*)'. The double author then further modifies that by specifying that what has to be determined is the reciprocal 'mode of subjectivation' of the subject and 'mode of objectivation' of the object. Once these historically specific modes are determined, then this critical history may be able to consider how, through the 'mutual development and reciprocal bond' of subject and object, 'there are born what one could call the "games of truth"' (1994: 315).

This description of Foucault's project raises three implications for my observations here. First implication: it commits me systematically to seeking to work from 'the bottom up': i.e. from thought as act, articulating itself through statements and actions.

Second implication: it commits me, as integral feature of this 'bottom-up' approach, to keeping constantly in mind how 'experience' as Foucault describes it has always a triple constitution: first out of the *historically specific knowledges or knowledge* one is born into (and in his relational form of analysis, he is referring both to the surface knowledges or '*connaissances*' of a given era, and to the particular mode of *savoir* within which those historically specific *connaissance* forms get constituted): second out of the *historically specific forms of regular or rule-based practices* one undergoes; and then only *third*, out of the consequent type of '*relation to self*' one may have, a relation which is simultaneously self-dividing and self-constructing, as the relation as *subject* one has to oneself as *object*.

Third implication: working from the bottom up has to apply equally when seeking to consider categories beyond the subject and object relation, such as 'the state' or 'the economy', but also such metaphysical categories as the 'illegalism' that we have put in play here on the basis of his observations in *Discipline and Punish*, along with its implied corollary term, 'legalism', and their dispersion today into acts both of illegality and of hyper-legality. In this context, the bottom-up approach will apply also to a second corollary term which Foucault brings into play, 'order': 'order' as that which goes of course with 'law' as its partner in (or against) crime, but an order which Foucault also opposes to law, as what short-circuits the eighteenth-century juridical discourse on the relation between crime and appropriate forms of punishment leading instead to the utterly unheralded new solution of 'prison'. So 'order' perhaps has its own dispersion of terms or outcomes, on the side of or alongside illegality, 'disorder', and on the side of or alongside hyper-legality, 'hyper-order', as encountered in today's forms of governmentality in the obsessive norms and targets of management via accounting.

This is again simply to follow in Foucault's wake, particularly concerning governmentality. For as he puts it at the end of the lecture series in which he introduces the term 'governmentality'—*Security, Territory, Population* (Foucault, 2007)—the appropriate method that he suggests for its study is to start 'from the relatively local and microscopic analysis of those typical forms of power of the pastorate' and then pass to consider the state, not as 'a transcendent reality' but 'on the basis of men's actual practice, on the basis of what they do and how they think'. Thus he concludes that we should start 'analyzing the state as a way of doing things, [the state as a way of thinking]' (2007: 358).⁴

So this suggests to me that both the supposedly 'socio-political-economic-level' issue of 'corruption prevention' and the supposedly individual-level one of 'the disciplined and ethical subject' should be considered as ways of doing things and ways of thinking. But that then leads to a necessarily historical posing of a further question: assuming that 'corruption prevention' and the construction of a subject combining both 'discipline' and 'ethicality' are in principle possible, then in what historically specific forms are they possible today? What does it take to actualise them? Or to put that question in another resonant Foucauldian variant, with a particular import where corruption and ethicality are in play: what does it 'cost'?⁵

The more I have circled around these questions the more my answers have begun to situate themselves at a level of 'framing' each of the two titular terms, and then seeking to think their possible relations to each other on that basis. And in that framing, I have become particularly aware that accounting may have some significant analytical purchase in articulating what those interrelations may be. And these are not necessarily roles which one attempts to specify through 'reading into' Foucault some form or practice of accounting which may be claimed to 'haunt' his work, but roles where accounting is a technology or tool already put into play by Foucault as an integral aspect of his analytics: whence (if accounting can indeed legitimately be read as such a tool for him) I am led to my own main title: 'What about the box?'

Here credit where credit is due: I had been concerned for some time about the ease whereby Foucault's terms or ideas can be expropriated from their place within his own way of thinking: as for instance with the widespread understanding of his work as progressing from 'archaeology' to the undertaking of 'pure' genealogical analysis, when this is not a claim that he ever makes himself.⁶ However the thought that this might be an appropriate title would not have come to me without my

⁴ As with Footnote 1, this is not the place for a long disquisition on the perils of translation errors or omissions. However it does need noting that here the usually excellent Graham Burchell suffers what is technically known as a case of 'haplography' at the point where I have inserted the square brackets in the main text. In the French Foucault proposes that we might analyse '*L'État comme manière de faire, L'État comme manière de penser*' (Foucault, 2004: 366). In the English the phrase form '*L'État comme manière de...*' is rendered only once.

⁵ I owe the insight into how frequently Foucault inserts a question of 'cost' into his statements to Jeffrey Nealon's *Foucault Beyond Foucault* (2008: 17–23) which has a whole section on 'Foucauldian Economics: what does it cost?'

⁶ One should bear in mind that Arnold Davidson was warning back in 1986, noting late passages where Foucault continues to describe his work as combining both approaches: 'It would be a mistake to think that Foucault ever abandoned his archaeological method' (1986: 227). I find it accordingly significant that in the third of his late reflections on his work, the Introduction to *The Use of Pleasures*, Foucault describes his analysis of 'the man of desires' as locating itself 'at the crossing point of an archaeology of the problematisations of, and a genealogy of the practices of, the self' (1986: 13). In which case the widespread belief in his move from archaeology falls foul of the paradox of 'commentary' described in 'The Order of Discourse' (Foucault, 1972: 221): that commentary 'must—and the paradox is ever-changing but inescapable—say for the first time what has always been said and repeat tirelessly what was, nevertheless, never said'.

recent reading of Luca Paltrinieri's, *L'Expérience du Concept* (2012), which is one of a range of 'new-generation' analyses of Foucault's oeuvre (e.g. Elden, 2013; Webb, 2013) that do not seek to undertake the two age-old functions of commentary but instead stay at the surface of what Foucault says, and attempt to think what is there 'as it is written': in this instance, what Paltrinieri challenges is the also-widespread notion that what Foucault offers is 'tools' from a 'tool box'.

The challenge comes in the second part of a critique of the two major types of work on or using Foucault over the decades since his death (2012: 7–10). First there are the 'commentators' (2012: 7–8), where the danger identified is precisely that captured by Foucault: that the tireless repetition of the unsaid renders it into what must have been said, while good commentary's knack of memorable first-time (re)statements of things already said works to render things said in a secondary way primary. So what is most palatable to hear and/or easiest to work with becomes what is internalised and appropriated as 'holy writ'.

Then there are the 'users' ('*usagers*'), among whom Paltrinieri numbers those who have picked up what he calls 'the unfortunate Foucauldian-Deleuzian metaphor of the "*tool box*"' (2012: 8, his emphasis): unfortunate insofar as it leads to *transposing* (again his emphasis) Foucauldian tools into alien epistemological frames, from the social-scientific/sociological/political to the literary to that of science history. Not all users do this, he emphasizes—and certainly the Neu et al. paper, for me, does not. But the point he then makes (2012: 10) is that we should strive 'not to forget the specific form of the Foucauldian work', and in particular:

'Put differently, the fact of appropriating the *tools* in the box should not lead to under-valuing the *box*, and even more the work of continual reconstruction and transformation of that box' (2012: 10).

Hence: 'What about the box?' What 'framing' of the two titular constructs of this paper, with what roles for accounting (and to a lesser extent management), might emerge by beginning from the two passages of Foucault that preface these comments of mine? What I can say here can only be preliminary, and I remain wholly uncertain as to whether this may presage a work of (in Paltrinieri's terms) reconstruction or transformation: or no more than a re-illumination of a frame already there.

However, that said, I want to offer some schematic observations in my next section on how 'corruption prevention' may be framed beginning from Foucault's suggestions concerning the significance of 'illegality' or as I now would say 'illegalism', as a kind of covering term for approaching the analysis of issues of 'law', but also, as I have just indicated, 'order'. Then I shall seek, again schematically, to suggest how 'experience' may need to be seen as intervening in the construction of the 'disciplined and ethical subject' and how that suggests, at the least, that any subject that may emerge would prove to be more 'disciplinary' than 'disciplined' if it is to have any kind of interrelation with 'the ethical'. For the 'disciplinary' subject has a necessary relation to our historically specific '*connaissances*', sc. 'the disciplines', alongside a necessary relation to disciplinary modes of rule and regularity constituting the dominant modern mode of the 'conduct of conduct'.

3. Illegalism as framing (and undermining?) 'corruption prevention'

So how might we understand the interplay between illegalism or illegalisms and the law, in seeking to get a purchase on the possibilities of corruption prevention? The Foucault passage I cited on this comes quite late in *Discipline and Punish*, in Part Four, Section 2, entitled 'Illegalities and Delinquency'. But it is the follow-up to an earlier and extended discussion of illegalism and illegalisms, in Part Two, Section One, 'Generalized Punishment' (82–89). And in that opening discussion, the status of 'law' as 'ground' or 'launch point' for discussions of corruption or any other form of criminality is already, I think, destabilised. For by starting in this instance from a population of 'illegalisms', Foucault can suggest, based on his historical observations, that illegalism is endemic, both in specifiable pasts as well as our specific present.

He begins by observing that in mediaeval Europe and perhaps up to the eighteenth century there appears to have been a settled 'accommodation' or '*modus vivendi*' where 'each of the different social strata had its margin of tolerated illegalism' and where there was toleration, generally speaking, for 'non-application of the rule' or 'non-observance of the innumerable edicts or ordinances' (1977: 82). For each stratum 'this illegalism... had in a sense its own coherence and economy' (82); furthermore 'the different illegalisms proper to each group... maintained relations with each other that involved not only rivalry, competition and conflicts of interests but also mutual help and complicity' (83–84). All of this he characterises as a dispersed play of an '*illegalism of rights*' (85).

But what then emerges is the rise of a bourgeoisie who 'found it difficult to accept illegalism when it was a question of its own *property rights*' (85, emphasis added). In consequence, 'the economy of illegalisms was restructured with the development of capitalist society. The illegalism of property was separated from the illegalism of rights' (87). And while the poor became the principal targets of laws designed to punish attacks on property, 'the bourgeoisie reserved to itself the fruitful domain of the illegalism of rights'. That domain Foucault then specifies as that of 'fraud, tax evasion, irregular commercial operations' and also as one which had its own 'special legal institutions applied with transactions, accommodation, reduced fines, etc' (87).

To which, having read the article here, one might respond, looking forward to today: '*plus ça change...*'

However, at the same time, there is one significant subsequent bottom-up historical change to factor in, I would suggest, if we are to transpose the exercise of the illegalism of rights to today—and to a world of developed states where the major emergent forms of playing corruption games become, using Johnston's typology, the 'elite cartel' and 'influence market' forms. This is the transformation in business enterprises ensuing from the invention of managerialism, which is still best summarised by Chandler in the Introduction to *The Visible Hand* (1977: 1–11)

Chandler identifies two reciprocal developments: the setting up of a staff function with a presence at every node of every management 'line', and the introduction of a constant process of tracking and shaping activity, plus its costs and revenues, through a process of constant recording and circulation from bottom to top and back of accounting and statistical information. Perhaps most importantly this mode of accounting (as the first 'management' accounting) integrates the recording and analysis of *human* performance into a traditional accounting for the consumption and use of physical and monetary resources. This initially is what makes possible the growth of businesses that dominate their sectors, forming the first cartels of large oligopolistic firms. Such firms are now able to undertake those 'conspiracies against the public' noted by Adam Smith, on a scale and with a scope that Smith could never have dreamed of. They can establish new kinds of mutually advantageous interplay with governments, which when they take the form of mutually advantageous corruption games, will initially be played under the 'elite cartel' format. But with the increasingly global spread of managerially-run firms, all of which have to operate the hyper-order of a management via accounting regime, tracking human as well as material and monetary performance, then the possibility of wider 'influence markets' made up of accounting-permeated entities takes serious hold. We enter a world replete with entities where managers manage other managers, and where nearly all major economic sectors operate oligopolistically, in markets predicated, as Chandler puts it, on 'imperfect competition and misallocation of resources' (1977: 4).

At this earlier eighteenth century point that Foucault discusses this form of imperfection and misallocation is not yet in play. Instead, it remains the case that most businesses, even large businesses, are relatively small with relatively low capitalisation, except in the case of state-sponsored entities such as the Dutch and British East India Companies. Even in the field of finance which is already highly lucrative (when it is not a field of disaster), even large firms such as Barings and the Rothschilds are still relatively small, and they depend on principal-agent relations where the agent at a distance has considerable discretion over how business is conducted, whether that ends up in corrupt conduct or not.⁷

But with the bottom-up invention of managing via administrative coordination, combining the line-and-staff structure with constant accounting and statistical information as the means of such coordination, then a new way of thinking and acting can take hold, enabling both the building of huge managerially run corporate enterprises, which can have a new relation to 'the state', not least as the latter's ways of thinking and acting also become increasingly managerialist and accounting-saturated. At that point the domain of the illegalism of rights can become fruitful like never before. Across all sectors from manufacturing to services to finance, entities larger than many states, and with greater resources than theirs (in terms of financial as well as material assets), can begin to renegotiate the terms of trade with such states, employing coordinative and connective strategies in a dazzling array. Once one has co-opted state servants in host states, then it is a small step to doing so in home ones as well. Even better why not own your own state, as in effect Du Pont was to do in Delaware. The more the corporate enterprise becomes indistinguishable from the state, the more possible that the state may re-write its corporate tax code (particularly of course in a bottom-up constitutional system where corporation tax is primarily a state rather than a federal matter).

But such an analysis is perhaps too misleadingly straightforward, in the light of what Foucault has to say in *Discipline and Punish* about illegalism's implication not only with 'law' but with its uneasy partner, 'order'. There is a twist in his story, which concerns the fact that it was the prison which would triumph as means of punishment and correction, or which concerns rather the 'problem', as he puts it (1977: 131), that this triumph of the prison represents.

The term 'problem' is introduced in the final paragraph of Part Two of the book, 'The Gentle Way in Punishment'. Up till then this Part consists mainly of a classic 'archaeological' analysis of the range of things said by those 18th-century jurists and penal reformers who look to develop a form of justice beyond the extreme punishment on the body of sovereign power; and what they say, Foucault concludes, is almost always some variation on a legalistic theme which seeks to promote the improvement of the criminal or a recognition of the importance of righting a wrong done. Prison simply falls outside the discursive range of legalistic things said.⁸

[Incidentally, if for other readers, as was the case for me until recently, this was a discourse of whose presence, let alone significance, in the book you were not really aware, then Schwan and Shapiro's refreshing *How to Read Foucault's Discipline*

⁷ One work which brings home the differences from modern management is Jacob Soll's *The Information Master* (2009) on the staggering sophistication of Colbert's mode of government by 'inquiry' (*enquête*). Colbert deployed a cadre of officials and informants to do his will (always in the best interests of Louis XIV, as Colbert understood them) across France and to report back to him continuously submitting detailed reports, including minutiae of cost and accounting information, and forwarding original documents wherever possible. The scope and scale of Colbert's information gathering is phenomenal, yet he has no line and staff structure either within the world of Louis's court or dispersed across the vast expanses he controls. Chandlerian 'administrative coordination' is simply an absence. And as Soll points out, Colbert's magnificent administrative apparatus dies with him, precisely because there is no such structure populated by cadres of accountants and record-keepers.

⁸ So they offer proposals such as deprivation of civil rights or the use of fines, in a sort of 'reasonable aesthetic of punishment' (106). These should help 'reduce the desire that makes the crime attractive', and enable the criminal to see the error of her or his ways. In other words: 'punishments must be a school rather than a festival' (111). Foucault also notes that prison perhaps had negative connotations for such reformers since, as a major vehicle of royal justice, it 'was, in practice, directly bound up with arbitrary royal decision and the excesses of the sovereign power' (1977: 119). One possible reason now widely recognised (e.g. Given, 1997) is that the use of prison as 'reformatory' was first practised by the Catholic Inquisition in the thirteenth century. Here prison 'reformed' since it was mainly either for suspects who had not yet confessed or those who had confessed and repented. Given, 1997: argues that the system therefore had threefold aspects: 'therapeutic, reintegrating potential heretics... , a system of social control, putting people into a...stigmatised social outgroup... (and) a semiotic system... (teaching) salutary lessons' (1977: 67).

and Punish (2011) may strike home. For as they observe at the start their exegesis of Part Two: 'Perhaps no other chapter of Discipline and Punish has received as little care in its reading as the second part' (2011: 65.)]

In any event, the question Foucault then poses, as Part Two closes, is why prison of all things triumphs over the 'Gentle Way'. His one-word answer is given in the heading to Part Three: 'Discipline'. The more extensive *historical* answer, pitched at the level of defining and differentiating disciplinary practices, extends across that whole part. First he sets out the technologies and strategies for producing 'docile bodies' (135–169).⁹ Then he extends his analysis to consider 'the means of correct training' (170–194) – hierarchical observation, normalizing judgement and the examination – at which point emerges a recognition of a point that Deleuze makes, that there is always a 'diagram' within which technologies operate, articulated most memorably in the final chapter of Part Three, 'Panopticism' (195–228).¹⁰

So why prison? The answer that Part Three gives is indeed 'genealogical': a systematically new set of practices were developed, with a particular importance, in my view, for that doubly disciplinary technology in which (1977: 185) 'the superimposition of the power relations and knowledge relations assumes... all its visible brilliance': the examination. It is my own view that this is necessarily 'doubly disciplinary' since it embodies relations that are disciplinary in both knowledge and power respects.¹¹ Regardless of that, Foucault's point is that this set of practices disrupts and silences the old legalistic discourse of punishment and correction as identified and discussed in his archaeological analysis in Part Two. A new and systematically different discourse becomes articulated in which the voices of jurists and reformers are joined, if not drowned out, by a whole range of new voices; many of them indeed belong to those trained to examine objects and subjects in systematically new ways, such as those of the human sciences.

It is this new range of voices which, alongside the new punishments for those guilty of 'illegalisms of property', construct that new object, 'delinquency'. But that object is not a product of 'law', so much as 'order'. And 'order', specifically the 'order of discipline', as articulated in the new panoptic diagram of power, can issue in the 'complete and austere institutions' where the practices of disciplinary correction extend across the whole of institutional space and time.

In Part Four, 'Prison', he discusses first those 'complete and austere institutions', and then returns to the issue of 'illegalities and delinquency' as in my opening quotation. But it is only when he turns finally to consider what has ensued as the dissemination, as a generalised principle, of 'the carceral', that he closes the analysis begun in Part Two. As he does so he gives us, it seems to me, the second reason why, for modernity, the 'law' constitutes such an impossible ground for framing illegalisms. It is because the triumph of 'discipline' has nothing to do with the law but everything to do with 'order'.

So he concludes (1977: 301) that 'the carceral system' succeeds by 'its extension well beyond legal punishment' something that it manages 'by playing the two registers in which it is deployed – the legal register of justice and the extra-legal register of discipline'. These are distinct powers, named as 'the legal power to punish' and 'the technical power to discipline' (1977: 303), which have been brought together in a new way in this distinctive regime for the exercise of power. It is the carceral which '(i)n thus homogenizing them, effacing what may be violent in one and arbitrary in the other, ... circulating the same calculated, mechanical and discreet methods from one to the other, makes it possible to carry out the great "economy" of power whose formula the eighteenth century had sought, when the problem of the accumulation and useful administration of men first emerged' (1977: 303).

4. Possible ways forward: or towards different questions: preventing corruption through the construction of the 'disciplinary and ethical' subject?

So, firstly, what is possible as a path to 'preventing corruption', taking the box or frame as 'the play of illegalisms'? In a sense all of the above has been a negative exercise in that it has sought to signal ways in which corruption is not to be prevented, insofar as one believes that Foucault's analysis of the interplay of power relations and knowledge relations has purchase.

⁹ These include the 'art of distributions' (141–149), the 'control of activity' (149–156), and the fascinatingly named 'organization of geneses' (156–162) where his analysis considers how individuals become 'developmental' subjects as they are inserted into practices that engender in them multiple 'geneses' in just the way that societies discover multiple modes of 'progress' (see especially 160); and finally there is the 'composition of forces' which sets up a form of 'diagram' operating across the space and time that the bodies occupy, so that they can so far as possible be guaranteed to become docile, since it renders them constantly teachable (and of course the adjective 'docilis' in Latin initially means 'teachable').

¹⁰ The significance of the 'diagram' as the 'set-up' or perhaps *dispositif* for the arranging of thinking and acting in a given era is a point concerning Foucault's form of analysis which is made memorably by Deleuze in his book *Foucault* (1988: 30–35, 70ff). Different eras, different cultures, will have different diagrams, Deleuze suggests, but the diagram is as essential to the shaping of our thinking and acting in any given era as are the practices which Foucault often claims are his 'domain of analysis'. Indeed Foucault invokes it even before the section on Panopticism, when he first begins to discuss 'correct training', as he observes of the military camp (as established by the 17th century) that it is 'a diagram of a power that acts by means of a general visibility' (1977: 171).

¹¹ The specific form of this new examining is important: oral examination has a long tradition in the west, and is formalised as the means to taking a step (a Latin *gradus*) up and graduating in the mediaeval universities, so long as you demonstrate competence in 'inquisitio' as the critical reading of texts, in a 'truth game' committed to erasing their contradictions and so establish the non-contradictable truth. Written examining is much older in China. Only in late 18th century Europe, in various patterns in English, French and German university settings, do written examinations allotting numerical grades or marks become established, in fields which arguably pursue truth for the first time via these practices, and so constituting the first modern 'knowledge disciplines' (Hoskin, 1993).

First, starting from the law as foundational means for corruption's prevention or improvement appears empirically to be a non-starter. The illegalism of rights exercised by those descendants of the old bourgeoisie who now populate large corporate entities, big government, and the professional service firms operating across the accounting, financial and legal arenas appears as inoculated and impervious to law's attacks now as then. On the contrary, we increasingly witness how such recourse, thoughtfully strategised, can operate in a directly contrary direction: just select the appropriate specific form of law (usually of the contract or commercial type) and you can incarnate an illegalism of rights which, with the appropriate admixture of disciplinary experts and expertise, can decisively trump old sovereign state law.

So what, second, if we start instead from some mix of 'law and order'? The historical precedents of the transformations of the past two centuries are again not good. Law has tended to call on order as its partner to promote a purportedly general 'anti-illegalism' only in two areas. The first is the area of the modern 'illegalisms of property', where the 'law 'n order' outcome is generally 'more policing' and 'more law', as has increasingly become endemic in the so-called advanced democracies and republics.

The second is indeed in the area of 'illegalisms of rights', but restrictedly defined as concerning the exercise of old-style sovereign state or perhaps now constitutional law, i.e. guarding the rights of the state: and this is typically only in situations where the viability or survival of the state is 'under threat', as designated by those who currently govern: which might explain why the discourse of 'law and order' has remained mute throughout the fallout from the Great Financial Crisis.

Danger to the state is deemed to arise instead only where a *direct challenge* is mounted to the sovereign power and its right to rule: should that happen, then 'law and order' engages in the same response as law: more policing once again (but usually including more secret policing too) plus, depending on the nature of the danger to the state, some level of military intervention or presence (temporary in liberal states, more permanent elsewhere): and, once again, 'more law'. So the negative conclusion that follows is that corruption prevention should not, at least in current circumstances, look either to 'law' or to 'law and order' for any form of deliverance, whether in government procurement or beyond.

Which leaves the other 'framing' possibility the paper raises: whether corruption prevention may perhaps be thinkable via a more 'bottom up' form of analysis, taking an initial focus on the interplay of subject and object relations and the possible construction of the 'disciplined and ethical', or perhaps as I suggested earlier '*disciplinary* and ethical' subject. In either case, the challenge, I suggest, at the level of the 'box', is to specify what constitutes the relevant 'experience' for such a historically specific form of subject to become possible at all.

Here my reading of Foucault is as follows: both at the historically specific level of our *connaissances* (or even our mode of *savoir*), and at the historically specific form of our rules and regularities, 'disciplinarity' has become our 'experience'. This may have been an interplay first discovered and 'experienced' by a few in the late 18th century (see above, Footnote 11), but it is now dispersed globally. At the same time, we increasingly inhabit diagrams embodying versions of panopticism—as Foucault might have put it, from schools to prisons to hospitals and now perhaps most fatefully to managerial places of work. [In this regard Richard Macve and I have suggested that the most effective of panopticism's forms is a 'grammatocentric panopticism' which overcomes the weakness of 3-D space panopticism where objects (and subjects) always have a side facing away and so spaces of invisibility. Instead under this version of the modern diagram, thinking and acting are subject to a constant naming and counting, which modern examining and modern accounting both constantly apply to the human subject at both 'individual' and 'whole population' levels, although as a *pan*-opticism with multiple viewers, it can be turned against the panopticon: witness Chelsea Manning and Edward Snowden.]

Insofar as this does plausibly characterise the framing and the practices of our thinking and acting, then there is, I feel, clear sanction for imagining a '*rapport à soi*' resulting in a 'consciousness of oneself and others' which can be both 'disciplinary and ethical'. Indeed such subjects, I suspect, may already be increasingly widely dispersed. Across states, multinational firms, governments and professions, human subjects, now of both genders, are experiencing, and experienced in, learning under pedagogic and work regimes where we must write, be constantly examined, and then be numerically evaluated in ever more dizzying but nevertheless expanding ways.

In this respect I believe that the paper does open a path through which it may be possible to think the issue of corruption prevention in a positive way. However there is then the issue of how to move from the plane of 'experience' and 'the subject' to the plane where effective prevention may become generally operative; and even if after [Callon and Latour's acrobatics in 'Unscrewing the Big Leviathan' \(1981\)](#) we know that it is possible to think this as a movement of 'scaling up' and 'scaling down', and even if, in consequence, we may avoid retranslating the state, the corporation and the bought-and-paid-for think-tank into so many 'cold monsters', this remains an issue for thought.¹²

I will close with just one suggestion, which is to dwell a little longer at the plane of 'experience' and consider what other form or forms of 'the subject' might be already operative and claiming to be 'disciplinary and ethical'. I suggest this since,

¹² There is an observation by AE Housman, in his capacity as vituperative scholar rather than pastoral poet, concerning an academic rival whose work he scorned (albeit an observation that I believe he did not ultimately publish). Concerning one particularly egregious (in his estimation) error, he wrote to the effect that two minutes' thought would have shown him his error: 'but thought is hard work...and two minutes is a long time'.

once again, Foucault has already delineated the outlines of an answer. Here I refer to the ‘subject’ whose lineaments he analyses so memorably in his 1978–1979 lectures at the Collège de France, *The Birth of Biopolitics*: namely that new form of the ‘*homo oeconomicus*’ articulated as the subject of Chicago School Human Capital theory.¹³

Just as much as the ‘disciplinary and ethical subject’, this ‘*homo oeconomicus*’ is ‘doubly disciplinary’, given its characterisation as an ‘abilities-machine’ whose human capital is ‘made up of innate elements and other, acquired elements’ (Foucault, 2008: 227). First the innate includes both the hereditary endowments from one’s parents and the biologically innate endowments of the species ‘*sapiens sapiens*’. Here disciplinary expertise may intervene even before conception to constitute the future abilities machine appropriately; as Foucault notes at some length (227–229), such interventions already in the late 1970s included ways of checking for and if necessary improving genetic make-up, decisions (implicit or explicit) over assortative breeding or mating choices, ideally with some other ‘who has significant human capital themselves’ (228). Thirty-five years on, it is fair to say that both types of intervention have become, where required, ‘no-brainer’ decisions for already-successful human capitalists seeking to optimise the return on their abilities-machine investments within ‘developed states’.

Then there are the ‘acquired elements’, where the disciplinarity only intensifies, since what their acquisition entails is ‘making what are called educational investments’ (229). And these refer not just the investments to be made in the highest available quality formal educational institutions and so in the disciplinary knowledges they embody and provide (from nursery to graduate school); there are also all the investments required beyond formal education, equally embodying the findings of disciplinary expertise. Foucault cites (229–230) parental (i.e. mainly maternal) time spent with children: the level of ‘cultural stimuli’ provided by high-human-capital (i.e. ‘more educated’) parents: the level and types of specialist medical care invested in (and where now gynaecological, paediatric, and dental investments are all de rigueur); and finally there is ‘mobility’, defined as the ‘ability to move around’ including migration (though of course with the status of ‘welcomed and legal immigrant’).

The product of all this investment therefore very much undergoes, and/or forms her or his self within, a doubly disciplinary frame. Indeed an adequate return on the investment (which is now the ‘income stream’ from one’s ‘capital’, not a ‘wage’ provided as remuneration for ‘one’s work’) is possible only if three conditions are fulfilled. Firstly the fruits of disciplinary expertise must be made to flourish in the body from embryo or before to adulthood; second the knowledge resources of disciplinary expertise must be successfully transformed into the contents of a ‘well-stocked’ mind; and finally an appropriately remunerated form of disciplinary expertise must be successfully obtained as *passe-partout* to the mobile, legally and institutionally migratory life.

Thus this new *homo oeconomicus* is not (2008: 226) the old ‘partner in exchange’: she or he is ‘an entrepreneur, an entrepreneur of her/himself’ (the French is the gender-neutral *lui-même*). And incidentally as Foucault then observes (2008: 231), human capital theory can then explain why the old predictions concerning ‘the tendency of the rate of profit to fall actually turned out to be continuously corrected’. The aggregation of self-entrepreneurs (which is almost the opposite of the aggregation of small-business entrepreneurs, 90% plus of whom are destined to fail) generates the ‘innovation’ that Schumpeter first identified as the counter-force to that tendency—arguably because they are in aggregate not just, in Foucault’s terminology, ‘manageable’ and ‘eminently governable’ (see above Footnote 13), but self-managing and governing as environments change. So both social and economic policy become increasingly framed in terms of optimal human capital investment—with the ‘hard choices’ that necessarily follow in all times of economic downturn.

Now the analysis may be brilliant: but there are two things that I would add about it. First that it ought to give us pause—and this may particularly apply to us who are now so much further into a ‘neoliberal ascendancy’—if we have any tendency to see this neoliberal form of the subject as ‘other’ or ‘different’: or worse, as in some respects as fatally ethically flawed or even anti-ethical. For it is, at the level of ‘experience’ as defined by Foucault, just one alternative version of who we become as subjects, and how we become such via ‘experience’.

Second, the analysis is, in one particular respect, genuinely positive and even laudatory towards Chicago School economics: and recognising this is perhaps particularly imperative now that Gary Becker is on record as having acknowledged how positive the analysis was, including in the area where it is specifically laudatory, its recognition of the innovative treatment of labour initially by Theodore Schultz and Becker, as the basis for Human Capital theory in the first place.¹⁴

Something, I think, has to be said about this, since it makes a crucial genealogical connection between this doubly disciplinary form of the subject and the ‘disciplinary and ethical’ subject as articulated by Neu et al.; and it is then also the

¹³ While the publication of *The Birth of Biopolitics* has led to extensive analysis of Foucault’s reading of the Chicago School, there is one particular piece by Andrew Dilts which pursues the idea of this new *homo oeconomicus* as potentially ethical in a way similar to that suggested here: see Dilts (2011: esp 134–139: see also his summary of earlier analyses, p. 131, n. 5). Dilts identifies Foucault as seeing this modern subject form as a product of ‘a fundamental shift... (in) the governing of rational actors’ (2011: 131). As Foucault puts it: ‘in (Gary) Becker’s definition... *homo oeconomicus*, that is to say, the person who accepts reality or who responds systematically to modifications in the environment, appears precisely as someone manageable... someone who is eminently governable’ (2008: 270). Hence for Dilts there is a profound ‘affinity between aspects of Foucault’s late account of subjectivity and the neo-liberal account of subjectivity’ (Dilts, 2011: 132).

¹⁴ Becker’s observations, which repeat several times how little he finds to disagree with in Foucault’s analysis, will be found in ‘Becker on Ewald on Harcourt on Becker’ (Roundtable Discussion, 2012), pp. 10–15. I would like to thank Fredrik Weibull for drawing the transcription of this roundtable discussion to my attention.

ground on which the ‘entrepreneur of oneself’ may stake her or his own distinct claim to ‘ethicality’. For the innovation in the School’s treatment of ‘labour’, its point of decisive *conceptual* break with all prior economic theory from the time of classical economics on, is that it investigates labour *specifically*, rather than leaving it as an essentially passive and residual third element in the classic trinity of factors making up the production of goods: sc. land, capital and labour.

Foucault, in a passage that introduces his whole analysis of the Chicago School, puts it this way. Previously ‘labour’ had been left as ‘in a way, a blank sheet on which the economists have written nothing’ (Foucault, 2008: 219) because it was reduced to ‘labour power’. This he suggests is ‘to neutralise (labour), and to do this by reducing it exclusively to the factor of time’ (2008: 220).¹⁵

But with Schultz and Becker this changes. Finally the analysis of labour is conducted ‘in its concrete specification and qualitative modulations’ (221). The individual worker comes into view as a subject actively differentiable at the level of individual performance and contribution (and in terms of past, present and future contribution too). Economics can set out on a radically new plane of analysis (although as soon as Human Capital theory is framed in that way, it also becomes possible to see how there are many other possible forms of economic analysis starting from the differentiated subject, which do not require the narrowness of horizon, let alone the convolutions involved, in positing the analysis of differentiated labour exclusively in terms of capital and income).

However, leaving that aside, Human Capital theory will always have the accolade of pioneer of this conceptual break with the past of economics discourse, and Becker both sees this and recognises Foucault’s acuity in seeing it too. As he puts it: ‘What I like to say is: Human capital puts people at the centre of an economy. Traditional economics put machinery, physical capital, land and, somehow, some undistinguished labor (and Foucault mentions that) at the center. But Human capital says: “No. . . .(T)he really important form of capital is people. It’s people. And not simply what they are born with, but what they, or the government, or the parents do to them—what we call “invest in them”’ (Roundtable Discussion, 2012: 11, emphasis added).

So a pioneering discursive break indeed: but as with the birth of the prison, there is a discomfiting conceptual question: in this instance, why did it take economics so long? For the genesis of the calculable/calculating (or in my alternative formulation, the accountable/self-accounting) self goes back to the 18th century. The genesis of such a self in workplace settings can be shown to go back (for instance in work I have undertaken with Richard Macve) at least to 1831/2, at the US Armory at Springfield, MA. There Daniel Tyler, as US Army Inspector of Contract Arms, examines with watch in hand how long it takes each worker to manufacture each component in a standard issue musket, and then *extrapolates* from that a norm of how long it *should* take excluding ‘slack’, and thus sets a target (differing for each component) of the number of acceptable quality units to be produced *per worker per day*, plus a piece rate per unit which will produce a standard daily wage (differentiated by ‘class of labour’ as defined by level of skill) so long as the daily target of quality units is hit (Hoskin & Macve, 1994).

Hence it seems to me that, *genealogically*, the ‘entrepreneur of one’s self’ is the disciplinary and ethical subject’s twin—Pollux to its Castor perhaps (with all the connotations of that twinly agonistic)—since both equally are historically specific embodiments of double disciplinarity. But then how, if it has a shared connection to the *connaissances* and *savoir* of knowledge disciplinarity, and to the rules and norms of conduct disciplinarity, can it be disqualified from constructing, through its own *particular* relation to self/‘*rapport à soi*’, its own ethicality?

I suggest that it cannot, as perhaps may become clear if we consider what the ethics of the ‘self-entrepreneur’ might be, drawing upon Foucault’s four-fold classification of the aspects of this relation. Here I draw on what he says concerning ‘a historical ontology of ourselves in relation to ethics’ in the interview ‘On the Genealogy of Ethics’ (Foucault, 1987b: 351),

The four aspects he specifies are: (i) ethical substance, i.e. what within me I make the object ‘concerned with moral conduct’ (1987b: 352), (ii) mode of subjection/*mode d’assujettissement*, i.e. how am I as subject ‘invited or incited to recognise (my) moral obligations’ (1987b: 353), (iii) self-practice/*pratique de soi* (1987b: 355), i.e. the ‘asceticism’ or repetitive practice/*askesis* of regular self-construction) and (iv) the goal or end, i.e. ‘what I call the telos (*téléologie*)’ (1987b: 355).

While there must be a dispersion of possible answers under each classification, the regularities of human capital discourse may suggest something like the following, drawing on Foucault’s suggestions concerning each category. So firstly he suggests that ‘in our society. . . the part of our morality which is most relevant for morality is our feelings’ (1987b: 352), which would perhaps translate here as ‘self-gratification’, although Richard Macve has suggested to me that it may more generally translate as some form of felicity or *eudaimonia* (in the form of a felicitic calculus perhaps now that economists have discovered ‘happiness’, for others at least). Second, the ways one may recognise one’s obligations may, he suggests, be through following divine or natural law, or ‘a rational rule’ (1987b: 353), which one might have translated once as ‘rational utility maximisation’ but now perhaps in these chastened times translates as ‘utility optimisation under conditions of bounded rationality’: the self-practices of *askesis* are ‘the self-forming activity (*pratique de soi*)’ (1987b: 355) which may include a whole array of regular disciplinary practices, such as exercising the body, following dietary and health regimes,

¹⁵ Thus for Ricardo, labour power can be increased only by there being ‘an additional number of workers on the market. . . of employing more hours of labor thus made available to capital’. For Keynes ‘labor. . . is a productive factor but which in itself is passive and only finds employment, activity and actuality thanks to a certain rate of investment’ (2008:220). And Marx? Foucault observes that neoliberals ‘practically never argue with Marx’ but suggests that if they did they would observe that while Marx ‘makes labor the linchpin, one of the essential linchpins of his analysis’, when he analyzes labour it is in terms of labour power. ‘What is it that he shows the worker sells? Not his labor but his labor power’ (2008:221).

maintaining and upgrading one's professional expertise, ensuring quality 'cultural stimuli' for self, spouse and family, along with setting and tracking of personal targets where appropriate: finally the end or *telos*—the answer to the question 'Which is the kind of being to which we aspire when we behave in a moral way?' (1987b: 355)—will presumably be to optimise one's own level of human capital and its returns (through managing and monitoring both income streams and accretions to capital), but also those of one's assorted mate and the optimally managed number of offspring.

There is, I suggest, at least potentially, a consistent and self-reinforcing dynamic of ethicality here: (i) as ethical substance felicity, perhaps as self-gratification, pursued under (ii) a mode of subjection operating rational utility maximisation, engaging in (iii) a regular *askesis* consisting of disciplinary knowledge and conduct practices, culminating in (iv) a system-consistent *telos* of human capital optimisation. In short this subject operates in a technically virtuous circle, which can even come with obligatory feedback and feedforward mechanisms to enable strategic reevaluation of the human capital life project under conditions of uncertainty.

At the same time, if successful as a life project (at the level of Ivy League or Oxbridge or other equivalent elite university graduation) it puts one directly in line for what Lewis (2014, September 24) has recently described as the 'Occupational Hazards of Working on Wall Street' (but which apply equally to other equivalent elite financial, political or corporate 'powerhouses'): here the paradox painfully unfolds, where all that ethicality is likely to result, as Lewis observes, in the evisceration of conventional 'character', as the interplay of object, subject, practices and *telos* of one's ethicality leads the self-entrepreneurial subject all too easily towards the kind of activities which will, if made visible in and to the non-powerhouse world, be identified as 'corrupt'.

Ironic outcome? Or predictable hazard of the way we live ethically now? This final observation is not, in this instance, made as part of a negative exercise. Neu et al's 'bottom-up' engagement with the constitution of the subject is substantive and important. My only point is to suggest that it may be timely to pose the question, 'What about the box?': and in doing so to consider, for our historically specific era, what *range* of 'subjects' may fall under the aegis of being both doubly disciplinary and conforming, however paradoxically, to a form of ethicality.

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