

Martin Kanoushev

BIOPOLITICS AND SOVEREIGNTY: TOWARD THE QUESTION OF THE LIMITS OF JURIDICAL RATIONALITY

This text has a minimal stake; its logic is constructed around three critical points. First, to problematize the key preconditions on which the juridical theory of sovereignty rests. Second, to analyze the central elements that constitute biopolitics as a type of power functioning parallel with disciplinary practices. And third, to make a sociological attempt to delineate the limits of validity of juridical rationality in contemporary societies by examining the relationship between biopolitics and sovereignty.

First, which are the key preconditions on which the juridical model of sovereignty rests and functions? We must start by noting that there is a general condition of possibility: the social contract. Classic juridical theory views power as a right which can be possessed in the way one possesses a commodity, and which can therefore be transferred or alienated. Of course, this is done through a juridical act or an act that founds a right based on a contract. Power is the concrete, 'empirical' power that any individual can possess, and which he or she can surrender, either wholly or partly, so as to constitute a political sovereignty. The constitution of political power is modeled on a juridical operation similar to the 'delegation of rights'. There is an obvious, and constitutive for juridical rationality, analogy between power and commodities, between power and wealth. That is why we have a political power which finds its formal model in the process of constant exchange, in the economy of the circulation of goods. This is a system which is articulated around power as a primal right that is surrendered, and which constitutes sovereignty, with the contract as the matrix of political power. When the thus constituted power transgresses itself, that is to say, when it oversteps the limits of the social contract, it can become nothing but oppression. Contractual power and actual oppression as the limit or the transgression of the limit. Juridical rationality is built around the contract-oppression schema, in which the pertinent opposition is that between the legitimate and the illegitimate in the exercise of power, which is and can be solely a right.

Second, there is no doubt that from the Middle Ages onward, the essential role of the theory of right has been to establish the legitimacy of power:

the major problem around which the entire theory of right is organized is the problem of sovereignty. To say that the problem of sovereignty is the central problem of law in modern societies practically means that the essential function of the legal discourse is to mask or eliminate the fact of domination within the system of power. At that, in order to replace that entirely covert but real domination with two juridical elements: the legitimate rights of the sovereignty on the one hand, and the legal obligation to obey on the other. Ultimately, the legal system is an elimination of the social fact of domination and its non-juridical consequences in the exercise of power. In reality, however, law is a key instrument of domination: it activates and implements relations that are not relations of sovereignty, but relations of domination. Hence, we are not speaking of the significant fact of the global domination of one over the others or of one group over another, but of the multiple forms of domination that can be exercised in society: so not sovereignty in its one edifice, but the multiple subjugations that take place and function within the social body. In fact, the legal system and the juridical field are permanent vehicles for relations of domination and, as Michel Foucault (2003, p.27) puts it, for 'polymorphous techniques of subjugation'. In this perspective, law must be viewed not in terms of a legitimacy that has to be established, but in terms of the procedures of subjugation it implements. What is important here is to get around this central problem of sovereignty and the obedience of individuals, and to reveal instead the problem of domination and subjugation. We should not orient our analysis of power toward the juridical system of sovereignty, state apparatuses, grand ideologies, but toward domination, forms of subjugation, practical dominations. This means studying power relations outside the field delineated by juridical sovereignty and analyzing them on the basis of the techniques of domination.

Third, at the same time there is an irrevocable historical fact: the juridical theory of sovereignty which dates from the Middle Ages and from the reactivation of Roman law; it is constituted around the problem of the monarch and the monarchy. As Michel Foucault notes, in historical terms the juridical theory of sovereignty played four important roles. First, it referred to an actual power mechanism, that of the feudal monarchy. Next, it was used as an instrument to constitute and justify the great administrative monarchies. Then from the sixteenth and seventeenth centuries onward, the juridical theory of sovereignty became a weapon that was in circulation on both sides, and it was used both to restrict and to strengthen royal power; it was the main instrument of the political and theoretical struggles that took place around power systems in those two centuries. Finally, in the eighteenth century we find the juridical theory of sovereignty playing a fourth role; at this point in time, its role was to construct an alternative model in contrast to administrative, authoritarian or absolute monarchies: the model of parliamentary democracies. If we trace these four roles historically, we will find that as long as feudal-type societies survived, the problems dealt with by the juridical theory of sovereignty were actually coex-

tensive with the general mechanics of power, or the way power was exercised from the highest to the lowest levels. In other words, the relationship of sovereignty, understood in both the broad and the narrow sense of the notion, was actually coextensive with the entire social body. And the way in which power was exercised could indeed be articulated in terms of the juridical relationship between sovereign and subject.

Fourth, an important phenomenon emerged gradually in the seventeenth and eighteenth centuries: the appearance of a new mechanism of power which had very specific procedures, completely new instruments, and very different equipment, and which was incompatible with relations of sovereignty. This new mechanism of power applies to bodies and what they do, and not to the land and what it produces. It was a mechanism of power that made it possible to extract time and labour rather than commodities and wealth. It was a type of power that was exercised through constant surveillance and not in discontinuous fashion through a chronic system of obligations. It presupposed a closely meshed grid of material coercions rather than the physical existence of a sovereign. And it therefore defined a new structure of power based upon the principle that there had to be an increase both in the subjugated forces and in the force and efficacy of that which subjugated them. This type of power, then, is the exact, point-for-point opposite of the power mechanics that the juridical theory of sovereignty describes and explains. For this theory is bound up with a form of power that is exercised much more over the land and the produce of the land than over bodies and what they do. This theory concerns power's appropriation not of time and labour, but of goods and wealth. This makes it possible to transcribe, into juridical terms, discontinuous and chronic obligations, but not to code continuous surveillance; it is a theory that makes it possible to found power around and on the basis of the physical existence of the sovereign, but not permanent systems of surveillance. The juridical theory of sovereignty is that central element which can found absolute power on the absolute expenditure of power, but which cannot calculate power with minimum expenditure and maximum efficiency. This new type of power, which can therefore no longer be articulated in terms of sovereignty, is, according to Michel Foucault, one of bourgeois society's great inventions. It was one of the basic tools for the establishment of industrial capitalism and the corresponding type of social organization. Of course, this non-sovereign power, which is absolutely foreign to the form of sovereignty and subjugation, is disciplinary power. This power cannot be described or justified in terms of the juridical theory of sovereignty, it is radically heterogeneous and, according to the rules of history and society, it should have led to the disappearance of the juridical theory of sovereignty itself.

Fifth, the pertinent sociological question here is: why has the theory of sovereignty not only continued to exist as an ideology of modern law in the last two hundred centuries, but has also continued to organize the juridical codes created in Europe in the nineteenth and twentieth centuries? Why has the theory

of sovereignty lived on precisely as an ideology of modern law and as the organizing principle behind and in the juridical codes of, ultimately, all contemporary (constitutional) legislation? There are at least two reasons for that. On the one hand, the theory of sovereignty was, in the eighteenth and nineteenth centuries, a permanent instrument of critique against the monarchy and against all the obstacles that stood in the way of the development of disciplinary practices. Yet on the other hand, this theory, and the organization of a juridical code centred upon it, made it possible to superimpose on the mechanisms of discipline a legal system that concealed its techniques of domination and guaranteed that everyone could exercise their sovereign rights thanks to the sovereignty of the State. In other words, juridical systems, be they theories or codes, allowed the democratization of sovereignty and the establishment of modern law articulated with collective sovereignty, at the very time when, to the extent that, and because the democratization of sovereignty proved to be heavily burdened by the mechanisms of disciplinary coercion. It must be noted that once disciplinary constraints had to both function as mechanisms of domination and be concealed to the extent that they were the mode in which power was actually exercised, the theory of sovereignty indeed had to find expression in the juridical apparatus and had to be reactivated by judicial codes.

Thus, from the nineteenth century onward we have a codified legislation, a public discourse and institutional organization of modern law articulated around the principle of the sovereignty of the social body and the delegation of individual sovereignty to the State; at the same time, however, we also have a tight grid of disciplinary coercions that guarantees the cohesion of that social body. But that grid cannot in any way be transcribed in law, even though the two necessarily go together. 'A right of sovereignty and a mechanics of discipline,' says Michel Foucault (2003, p.37): it is between those two limits that power is actually exercised. These two limits are, however, so exact and so heterogeneous that we can never reduce one to the other. In modern societies, power is exercised through, on the basis of, and in the very play of the heterogeneity between a public right of sovereignty and a polymorphous mechanics of discipline. But according to Foucault (*ibid.*, p.38), this is not to say that we have, 'on the one hand, a garrulous and explicit system of right as is the system of sovereignty, and on the other hand, silent disciplines that operate down below and constitute the mechanics of power'. As we know, disciplines have their own discourse that cannot be and is not a juridical discourse. The discourse of disciplines is alien to the discourse of law; it is alien in principle to the discourse of rules as a legitimate result of the will of the sovereign. 'The discourse of disciplines is about a rule: not a juridical rule derived from sovereignty, but a discourse about a natural rule, or in other words a norm', says Foucault (*ibid.*). Sovereignty and discipline, the right of sovereignty and disciplinary practices are in fact the two things that constitute the mechanisms of power in modern societies.

At the same time, however, it must be noted that the juridical model of

sovereignty is unable to provide a concrete analysis of the practical multiplicity of power relations. First, because the theory of sovereignty necessarily tries to constitute what may be called a closed cycle, a subject-to-subject cycle, and to show how a subject – understood as meaning an individual who is endowed by nature with rights and capabilities – can and must become a subject, this time in the sense of an element that is subjectified in a power relationship. Sovereignty is the theory that of necessity goes from subject to subject, that establishes the political relationship between two subjects. Thus, the cycle is in fact a closed system: it begins and ends with the juridical subject.

Second, the theory of sovereignty assumes from the outset the existence of a multiplicity of powers that are not powers in the political sense of the term; they are capacities, possibilities, and potentials. And it can constitute them as political powers only if it has in the meantime established a moment of fundamental and foundational unity between possibilities and powers – namely, the unity of power. It is irrelevant whether this unity of power will take on the face of the Monarch or the form of the State; the various institutions of power will be derived precisely from this unitary power. The multiplicity of powers, in the sense of political powers, can be established and can function only on the basis of the unity of power constructed by the theory of sovereignty.

Third, the theory of sovereignty shows how a power can be constituted not exactly in accordance with the law, but in accordance with a certain basic legitimacy that is more basic than any law, that is something like a universal law of all laws, and that allows the different laws to function as such. In other words, the theory of sovereignty is the subject-to-subject cycle, the cycle of power and powers, the cycle of legitimacy and law. It implicitly presupposes a constituted subject and a relationship to the subject; it strives to establish the essential unity of power and it is always deployed within the pre-existing element of the law. It therefore assumes, as Michel Foucault shows, the existence of three ‘primitive’ elements: a subject who has to be subjectified; the unity of power that has to be founded; and the legitimacy that has to be respected. Subject, unity, and law: it is among these elements that the juridical theory of sovereignty comes into play, and it both takes them as given and founds them in the social body.

However, these three prerequisites constituted by the theory of sovereignty – of subject, unity, and law – substitute the actual relations of domination. That is why we should change the point of view and, rather than starting with the subject (or subjects) and the elements of the subject that are a condition of possibility of the relationship of sovereignty, begin with the actual power relationship itself, and see how that relationship itself determines the elements to which it is applied. We should not be asking subjects how, why, and by what right they agree to being subjugated, but showing how actual relations of subjugation manufacture subjects. We should be analyzing the relations of domination in their multiplicity, in their differences, their specificity, and their reversibility; we should not be looking for a sort of sovereignty that is the source of all pow-

ers, but showing how the various relations of domination support one another, relate to one other, at how they reinforce one another, converging or negating and striving to annul one another. Studying the actual relations of domination rather than the source of sovereignty means that we should not try to examine them in terms of their basic legitimacy; we should try to identify the technical instruments that allow them to exist. In short, rather than accepting the three prerequisites of law, unity, and subject – which make sovereignty the source of power and the basis of institutions – we should adopt the threefold point of view of the techniques of domination, their heterogeneity, and their effects that make them the basis of power relations; that is to say, we should analyze the manufacture of subjects rather than the genesis of the sovereign.

Now let us change the perspective and problematize the juridical theory of sovereignty through the lens not of disciplinary practice but of biopolitical technology. As we know, Michel Foucault defines sovereign power above all in terms of the right to decide life and death. In the Classical Age, however, this sovereign right existed in a considerably diminished form: it could not be exercised by the sovereign over his subjects in an absolute and unconditional way, but only in cases where the sovereign's very existence was in jeopardy. Understood in this way, the right to decide life and death was not an absolute privilege: it was conditioned by the defence of the sovereign, and his own life. Notwithstanding the historical differences, the sovereign right over life and death – both in this relative and limited form, and its ancient and absolute form – is a dissymmetrical right. The sovereign exercised his right over life only by exercising his right to kill, or by refraining from killing; he demonstrated his sovereign power over life only through the death he was capable of causing. The right which was formulated as the 'power over life and death' was in reality the right to take life or let live.

Hence, the right over life and death is a basic attribute in the classical juridical theory of sovereignty. But the right over life and death is a strange right, even at the theoretical level; indeed, what does having the right over life and death actually mean? In one sense, to say that the sovereign has a right over life and death means that he can, basically, either have people put to death or let them live, or in any case that life and death are not natural or immediate phenomena which are primal or radical, and which fall outside the field of political power. If we take the argument to the point where it becomes paradoxical, it means that in terms of his or her relationship with the sovereign, the subject is, by rights, neither dead nor alive. From the point of view of life and death, the subject is neutral, and it is thanks to the sovereign that the subject has the right to be alive or, possibly, the right to be dead. In any case, one fact is absolutely certain: the lives and deaths of subjects become rights only as a result of the will of the sovereign. That is the theoretical paradox that must have as its corollary a sort of practical disequilibrium. What does the right over life and death actually mean? Obviously not that the sovereign can grant life in the same way

that he can inflict death. The right over life and death is always exercised in an unbalanced way and the balance is always tipped in favour of death. Sovereign power's effect on life is exercised only when the sovereign can kill. The very essence of the right over life and death is actually the right to kill: it is at the moment when the sovereign can kill that he exercises his right over life. Thus, there is no real symmetry in the right over life and death. It is not the right to put people to death or to grant them life. Nor is it the right to allow people to live or to leave them to die. It is the right to take life or let live. And this introduces an obvious dissymmetry between life and death.

Michel Foucault shows that one of the greatest transformations political law underwent in the nineteenth century was that this ancient sovereign right – to take life or let live – was, if not exactly replaced, then at least complemented by a new law which does not erase the old right but which does penetrate it, permeate it, modify it, being precisely the opposite right or, rather, power: the power to make live and let die. The right of sovereignty was, then, the right to take life or let live. But this new law which was established is the right to make live and to let die. Of course, this transformation did not occur all at once, but gradually and with efforts; juridical rationality logically reached an epistemological threshold that we can trace historically in the theory of law. In it this question about the right of life and death was already being asked in the seventeenth and especially in the eighteenth century. The jurists now ask: when an agreement is concluded at the level of the social contract, that is, when individuals come together to constitute a sovereign, to delegate absolute power over them to a sovereign, why do they do that? The answer: they do it because they are forced to by some threat or by need. They therefore constitute a sovereign in order to live. To the extent that this is the case, can life actually become one of the rights of the sovereign? Isn't life the foundation of the sovereign's right, and can the sovereign actually demand that his subjects grant him the right to exercise the power of life and death over them, or in other words, simply the power to kill them? Mustn't life remain outside the social contract to the extent that it was the first, initial, and foundational reason for the contract itself? All this is a debate within political philosophy that demonstrates how the problem of life began to be problematized in the field of political thought and of the analysis of political power.

Thus, since the Classical Age there has been a gradual reversal of the effect of the mechanisms of power: it is from that moment on that there has been a gradual shift in the right over death or at least a tendency to align itself with the exigencies of a life-governing power. Death, which in the Classical Age was based on the right of the sovereign to defend himself or to demand that he be defended, is now manifested as the reverse of the right of modern society to ensure, maintain, or develop its life. As a result of that, power over death now presents itself as a corollary to a new power that is positively exercised over life that governs life by subjecting it to precise controls and comprehensive

regulations.

The history of penal systems in the world in the last two and a half centuries attests to the accelerated development of this social process. Can we explain the abolition of the death penalty in most 'civilized' countries not as an effect of new philosophical reflections, political theories or juridical doctrines, but solely as the result of the transformations in the power technologies? Why did the death penalty become more and more difficult to apply and require ever more scientific and civic arguments once power gave itself the function of governing life? How is it possible for a power to be exercised, to become most visible, when it inflicts death, if its main role is to ensure life by maintaining order in it? Obviously for such a power, the death penalty has now become socially impossible, as every time you sentence someone to death means causing a public scandal; the death penalty is now 'beyond' the lawful right to punish, it is both its limit and its contradiction. Hence the fact, sometimes so difficult to understand, that in the second half of the twentieth century life imprisonment became the only possible penal alternative; with this important substitution even juridical rationality has shown that it is addressed at the life, not at the death, of the criminal. As for the preservation of the death penalty in a number of 'progressive' countries, this has happened only by a shift in the legal argumentations. This change is significant because jurists are ever more often invoking as proof of guilt not the enormity of the crime itself but the potential danger of the criminal, the possibility of a repeat offence, and the need to safeguard society.

The more general process that is manifested by the abolition of the death penalty is that of the gradual disqualification of death, which anthropologists and historians discuss so often. Everyone knows that the great public ritualization of death has disappeared, or has at least been fading away, since the late eighteenth century. So much so that death – which has ceased to be one of those spectacular ceremonies in which individuals, the family, the group, and practically the whole of society took part – has become, in contrast, something to be hidden away; it has become the most private thing of all. The reason why death has become something to be hidden away is not that fear has somehow been displaced or that repression has been modified; the reason lies in the transformation of the mechanisms of power. What once (and until the end of the eighteenth century) made death so spectacular and ritualized it so much was the fact that it was a manifestation of a transition from one power to another power. Death was the moment when we made the transition from one power, that of the sovereign of this world, to another power – that of the sovereign of the next world. We went from one court of law to another, from a right over life and death, to a right to either eternal life or eternal damnation. Death also meant the transmission of the power of the dying, and that power was transmitted to those who survived him or her: last words, last recommendations, last wills and testaments.

But now that power is decreasingly the power of the right to take life, and increasingly the right to intervene to make live as well as to influence the way and conditions of life, or once power begins to intervene mainly at this level in order to improve life by eliminating accidents, the random element, and deficiencies, death becomes, insofar as it is the end of life, the end, the limit of power. Death is outside the power relationship: death is beyond the reach of power, and power has a grip on it only in general, overall, or statistical terms. Power has no control over death, but it can control mortality. In this sense, it is only natural that death would gradually become one of the most private and intimate things of all. Whereas in the right of sovereignty, death was the moment of the most obvious manifestation of the absolute power of the sovereign, death now becomes, in contrast, the moment when the individual escapes all power, falls back on him- or herself and retreats into his or her own privacy. Power no longer has power over death; power is not interested in death.

'One might say that the ancient right to *take* life or *let* live was replaced by a power to *foster* life or *disallow* it to the point of death' (Foucault, 1978, p.138). Hence, the process of social disqualification of death has as its starting point on the historical threshold of modernity the constant aspiration of the technologies of power to expel death from their field of operation. This process is not linked in any way to some internal shift or overall transformation of social consciousness of death, even less so to the emergence of some fundamental anxiety at the level of mass attitudes that would make death unbearable to contemporary societies. Since the new form of power seeks to establish its domination over life, throughout its unfolding, it is only natural that death should gradually become the external limit of this power, and therefore the most private moment of human existence.

At this point I want to cite Emile Durkheim in order to prove that it was no coincidence that suicide became, in the course of the nineteenth century, one of the first conducts to enter into the sphere of sociological analysis. As we know, before this historical period suicide was considered a crime, since it was a way to usurp the power of death which the sovereign alone had the right to exercise. From that moment on, it testified to the individual and personal right to die, at the borders and in the interstices of power that was exercised over life. As Durkheim shows, suicide is both an evolutionary and a statistical phenomenon: the social facts that would be considered pathological in a society are those that diverge from the average type, marking past stages of a previous evolution or heralding coming phases of a future development.

If we designate as 'average type' that hypothetical being that is constructed by assembling in the same individual, the most frequent forms, one may say that the normal type merges with the average type, and that every deviation from this standard of health is a morbid phenomenon. (Durkheim, 1964, pp.55-56)

And he complements this statistical point of view with an evolutionary perspective: 'A social fact can, then, be called normal for a given social species only in relation to a given phase of its development' (*ibid.*, 1964, p.57). Hence, suicide as a social fact has a dual mode of existence: a negative and a probable aspect. Negative, because suicide is defined in relation to a particular norm and because the whole essence of the pathological consists in the degree of deviation from this norm: suicide is marginal in nature and deviant vis-à-vis a culture to the extent that it is a form of behaviour that is not integrated into this culture. A probable aspect, because the social content of suicide is defined through the, in themselves, opposite possibilities that are manifested in it: this is the statistical probability of a gradual divergence from the average. Hence, in this functional sociological analysis suicide has a key place among the probabilities that serve as an external limit of the cultural reality of a social group or of a type of society. The wish to die, so incomprehensible and yet so persistent and constant in its manifestations, and therefore almost impossible to explain as being due to individual peculiarities or particular circumstances, was one of the first fissures in modern society in which political power had assigned itself the task of governing life.

To sum up: in the late eighteenth century, the second pole of the power over life was formed, a pole

focused on the species body, the body imbued with the mechanics of life and serving as the basis of the biological processes: propagation, births and mortality, the level of health, life expectancy and longevity, with all the conditions that can cause these to vary. Their supervision was effected through an entire series of interventions and regulatory controls: a biopolitics of the population. (Foucault, 1978, p.139)

The concept 'biopolitics', then, refers to human life as integrated by the technologies of power whose mechanisms of knowledge are aimed at transforming life. But this regulatory power is directed not at man-as-body – an object and instrument of the normalizing practices of disciplines – but at the living man, at man-as-living-being, at man-as-species. What does this non-sovereign power actually involve, which are the key spheres of biopolitical intervention, which are the main instruments used by bio-power?

Above all, biopolitics aims at regulating the processes related to the way of reproduction of a population: the ratio of births to deaths, the rate of reproduction, the birth and mortality rates of this population. At the end of the eighteenth century it was these processes – the birth rate, the mortality rate, longevity, and so on – that became the first objects of biopolitical knowledge and the first targets of regulatory controls. It is no coincidence that it was in this period that such global phenomena began to be measured in statistical terms in the first demographic surveys. On the other hand, there was already also constant

observation of the more or less spontaneous or coordinated techniques used by the population to control the birth rate; in a word, there was a power attempt to identify the phenomena of birth-control practices. This also marked the beginnings of a natalist policy, or in any case, a series of government schemes of intervening in global phenomena relating to the birth rate. But this regulation control also dealt with the problem of mortality, but in a new social dimension; not simply at the level of the epidemics, the threat of which had haunted political powers ever since the early Middle Ages. What was at issue was not the epidemics that struck from the outside and subjugated a mass of people, but what Michel Foucault calls 'endemics', or in other words, the form, nature, extension, duration and intensity of the illnesses prevalent in a population. What was at issue was illness as phenomena affecting a population: 'Death was no longer something that suddenly swooped down on life – as in an epidemic. Death was now something permanent, something that slips into life, perpetually gnaws at it, diminishes it and weakens it' (Foucault, 2003, p.244). This led to the social reorganization of medicine. From now on the main function of medicine would be public hygiene: institutions would gradually be established to coordinate medical care, and public campaigns would be conducted to teach hygiene and to medicalise the population. So, biopolitics' first field is regulatory intervention in the problems of reproduction, the birth rate, and the mortality rate.

The second field of biopolitical intervention can be defined as that of 'life-incapacity'. What is at issue here is a set of phenomena, some of which are universal and others accidental, but which, despite their different origins and causes, have similar effects in that they incapacitate individuals, put them out of the circuit or neutralize them with respect to the active way of life. From the early nineteenth century onwards, this would be primarily the very important problem of old age, of individuals who, because of their age, fall out of the field of capacity, of activity, of labour. On the other hand, this field of intervention would include also accidents, infirmaries, and various anomalies. And it was in order to deal with those partially universal and partially accidental phenomena that the organization of biopolitics would establish not only social welfare institutions but also much more efficient mechanisms of regulatory controls. This would also be simultaneous with the introduction of more rational mechanisms for social insurance and assistance, individual and collective savings, and overall safety and security of a population.

The third, and last, field which biopolitics began to regulate in the late eighteenth century is the relations between human beings as a species, and hence as living beings, and the environment in which they live. This applies above all to the direct consequences and long-term effects of the geographical, climatic or hydrographic environment on the way of life. As well as to the problem of the environment to the extent that it is not a natural environment and to the extent that it has counter-effects on the population; this is an artificial environment created by the human race itself. This would be essentially, the

urban problem, that of urban planning, infrastructure and communications, but also the problems of the urban way of life, of the potential dangers in the urban environment, of the essence of and threats to urban people.

To sum up: it is from the problems of reproduction, of the birth rate, of the mortality rate, of the various biological disabilities and life incapacities, of the direct consequences and long-term effects of the environment that biopolitics would derive its knowledge and define its power's field of intervention. But the said fields of biopolitical intervention were contingent on the emergence of several important preconditions which are in fact conditions of possibility of this regulatory control.

The first one is the appearance of a radically new element which until this historical period was unknown both to the theory of sovereignty and to disciplinary practice. For whatever we may claim, the theory of sovereignty basically knows only the individual and society: the contracting individual and the social body constituted by the voluntary or implicit contract among autonomous citizens. Disciplines, for their part, dealt with individuals and with increasing the useful capacities of their bodies in practical terms. This object of intervention of this technology of power is not society or the social body, as defined by the jurists; nor is it the individual-as-body, dealt with by disciplines. It is something different, a multiple body which is defined by the concept 'population' and which quickly became a research object of statistics and demography. Thus, biopolitics deals with the population as a political and scientific problem, as a biological problem and as power's problem; an analytical object which exists in its own specific reality and which is governed by its own laws; or in other words, an analytical object which is in principle irreducible to the individual and the society and impossible to explain through the theory of sovereignty.

The second key precondition is not related to the actual historical appearance of the 'population' element itself. It concerns the very essence, the very nature of the social phenomena that constitute the corpus of biopolitical knowledge. For they are above all collective phenomena which have their economic and political effects and which become permanent only at the mass level of human beings. On the other hand, they are phenomena that are indeed aleatory and unpredictable when taken individually, but which, at the collective level, display common characteristics, constant quantities, isomorphous patterns that are possible to establish. They are, finally, phenomena that occur primarily over time and which have to be studied over a certain period of time; in sum, they are serial phenomena. Hence, biopolitics is directed precisely at aleatory events that occur within a population that exists over a period of time. Although these events are aleatory, they recur over time and form tendencies that can be predicted.

The third precondition is related to the specificity of the means and techniques of biopolitical intervention. The instruments of this technology of power have a certain number of functions that are very different from, even opposite

to, the functions of disciplinary practices. The mechanisms created by biopolitics include, in the first place, comprehensive forecasts, statistical estimates, and overall measures; their purpose is not just to modify a specific problem concerning the health or hygiene of a population, but to intervene at the level at which these general phenomena are determined, at the level of their generality:

The mortality rate has to be modified or lowered; life expectancy has to be increased; the birth rate has to be stimulated. And most important of all, regulatory mechanisms must be established to establish an equilibrium, maintain an average, establish a sort of homeostasis, and compensate for variations within this general population and its aleatory field. In a word, security mechanisms have to be installed around the random element inherent in a population of living beings so as to optimize a state of life. (Foucault, 2003, p.246)

Unlike disciplinary practices, these are overall mechanisms designed to achieve states of equilibrium, of balanced existence, of proportionality and regularity; in a word, to take control of the biological processes of man-as-species and to ensure that they are not disciplined, but regularized. This technology is centred not upon the body but upon life; it is a technology which brings together the mass effects characteristic of a population; which tries to control the series of random events that can occur in a living mass of human beings; a technology which tries to control and, possibly, to modify the probability of those events, or at least to compensate for their effects. This is a technology which aims to establish a homeostasis of the population by achieving an overall equilibrium, any deviations from which must be minimized; it aims to ensure the total security of the whole mass of human beings from internal dangers. In sum, it is a technology of drilling that is different from a technology of security; a disciplinary technology that is different from a regulatory technology; both technologies are technologies of the body, but one is a technology in which the body is individualized as an organism endowed with capacities, while the other is a technology in which bodies are replaced by general biological processes. Given these conditions, it becomes clear why and how a technical knowledge such as medicine would become a key element of enormous importance because of the link it establishes between scientific knowledge of biological and organic processes, that is, of the population and the body. On the other hand, we can see even in the late eighteenth century the first manifestations, the first efforts to transform medicine into a political technique for intervention with specific power effects; it is indisputable that within biopolitics, within its fields of social control, contemporary medicine is one of main regulatory technologies. Medicine is a power-knowledge that can be applied to both the body and the population, to both the functions of the organism and biological processes;

it therefore has both disciplinary effects and biopolitical effects.

But which is the one element that is the link between disciplinary and biopolitical power? The answer is almost self-evident: this is the Norm, understood in three dimensions: as a minimal threshold, as an average, or as an optimum; the norm which carries in itself a potential for possible deviations. The discourse of biopolitics is therefore alien to that of the law; it is incompatible with the discourse that makes rules a legitimate product of the will of the sovereign. The discourse of biopolitics and disciplines is a discourse about a rule: not a juridical rule derived from sovereignty, but a discourse about a natural rule, as is the norm. The norm is the element that constantly circulates between the disciplinary and the regulatory, and that can be applied in the same way to a body and to a population, irrespective of whether in the first case the issue is rules of behaviour and social adaptivity, and in the second – statistical and demographic indicators of the birth rate or the mortality rate. On the one hand, the norm is the element that makes it possible to control both the disciplinary order of the useful capacities of the body and the political order of the aleatory events that occur in the biological multiplicity. On the other hand, it makes it possible to identify all deviations; to distinguish minimal thresholds and regressions in development; to determine an average of equilibrium and of conformity; to postulate an optimum to be approximated; and, finally, to delineate the biggest difference of all, the external frontier from where starts the field of ‘pathological existence’. It is here that the technologies of discipline and the technologies of regulation intersect in the form of a coordinate system that covers the whole spectrum of the ‘deviant’, from the organic to the biological, from the body to the population. And that is why the most important political question of contemporary societies is not the question of the juridical existence of sovereignty, but that of the biological existence of the population.

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