

# From State to (Self)Government: Human Rights, Liberal Ontogenesis and Violence in the Era of Neoliberal Governmentality

---

*Paper prepared for Section 11: Global Ethics and the War on Terror  
European Consortium for Political Research, General Conference  
10-12 September 2009, Potsdam, Germany*

Abstract: Taking liberalism as a technology of government characterised by its signature impulse -- what Michel Foucault called 'the internal rule of maximum economy', the paper offers an account of Foucault's discussion of homo oeconomicus as the subject which, in its capacity to govern itself, makes possible the self-limitation of governmental practice. In the same vein, the paper interrogates the ways in which human rights similarly produce a different but related subjectivity, homo juridicus, which is a subject also amenable to self-government and as such acts as a partner to neoliberal governmentality. The paper calls human rights' relations of subjectification 'liberal ontogenesis' and argues that it takes four distinct but related forms: rhetorical, epistemic, performative and structural. Finally, the paper concludes with a discussion of the repercussions of such liberal ontogenesis in terms of violence, freedom and solidarity, examining recent examples, such as, inter alia, the war on terror.

Keywords: liberalism, governmentality, human rights, ontogenesis, homo juridicus, homo oeconomicus, violence, freedom, solidarity

Dr. Louiza Odysseos  
Senior Lecturer in International Relations  
Department of International Relations  
University of Sussex  
Falmer, Brighton  
East Sussex BN1 9SJ  
United Kingdom  
E [L.Odysseos@sussex.ac.uk](mailto:L.Odysseos@sussex.ac.uk)  
T +44 (0) 1273 67 8835 or 8892†  
F +44 (0) 1273 67 3563

† Currently on maternity leave; best contacted via email

\*\* First draft, please do not cite without permission \*\*

6 September 2009

## Introduction

Liberalism is usually thought of as either a theoretical/philosophical perspective espousing a set of agreed upon ontological premises and values centred on the free and sovereign individual or as a politics / political ideology encompassing, *inter alia*, efforts to establish and maintain ‘Western-style democracy and market-oriented capitalism’ (Richardson 1997: 5). A split and incoherent view emerges as a result: liberalism’s advocates, who point to liberalism’s support for universal human rights, regard it as the philosophy of individual freedom and emancipation; while its detractors, who point to excessive economic liberalisation and the resulting social exclusion of the poor, castigate it as an ideology of oppression safeguarding the social and economic status quo. James Richardson (1997) has usefully shown that these divergent readings are the result of historically articulated contradictions *within* liberalism itself.<sup>1</sup> This paper argues that Michel Foucault’s examination of liberalism in his lectures at the Collège de France in the late 1970s allows us to avoid the split in perspective when examining liberalism and, at the same time, enables us to recast, in particular, the role and success of the liberal ethics of human rights that nowadays concretise liberalism’s commitment to freedom.

Foucault’s analyses interrogated the historical emergence of liberalism in the West by taking liberalism ‘not as a theory or ideology...but, rather, as a practice, which is to say, as a “way of doing things” oriented towards objectives and regulating itself by

---

<sup>1</sup> Richardson (1997) is correct, in my view, in advocating that tensions within liberalism are as important, and as responsible for redefinitions and rearticulations, as any challenge it has received from other external perspectives or ideologies.

means of a sustained reflection' (1997c: 73-74). Focusing on 'ways of doing things' provides a view of liberalism as a 'technology of government', whereby 'government' refers not to state institutions but to 'the activity that consists in governing human behaviour in the framework of, and by means of, state institutions' (Foucault 1997c: 74). As a technology of government, liberalism is characterised by its signature impulse, what Michel Foucault called, 'the internal rule of maximum economy' (1997c: 74), the introduction of cost/benefit considerations in government. Foucault usefully traced how government itself began to return repeatedly to the question 'what is within the competence of the state and what is not' (Foucault 2001a: 221) which presaged the introduction of political economy into government. Reflecting on the deeper concern that 'government cannot be its own end', led to the evolution of a new governmental reason around the principle that 'one always governs too much' (Foucault 1997c: 74; cf. Foucault 2008: 6). Beginning in the eighteenth century this governmental reason began to modify *raison d'état* and with it the apparatus of the administrative and mercantilist state – along 'governmental' lines (2008), which is to say that *raison d'état* becomes increasingly redefined according to the principle of self-limitation.

Liberalism as a particular art of government, in other words, involves the 'governmentalization of the state' (Foucault 2001a: 220) marked by the (desire for the) withdrawal or *retreat of the state* (cf. Strange 1996) Endeavouring to minimise state involvement, however, did not in any way indicate the retreat or absence of *government*. Rather, liberal governmental practice embodies the rule of maximum economy best when it can evolve away from a maximal endeavour requiring intensive and extensive social manipulation and state involvement towards the more minimalist

structuring of the ‘possible field of action of others’ (Foucault 1982: 221). For this liberal redirection of resources and emphasis, in which self-limitation was central, governmental practice harnessed and reshaped an older form of ‘pastoral’ power, resulting in the evolution of government towards ‘the conduct of conduct’ (Foucault 1982: 221).<sup>2</sup> Self-limitation by the state required the greatest promotion and encouragement of ‘self-government’ (Foucault 1997b: 68). This in turn required the subject amenable to self-government, a subject in other words, who was able to take up freedom in a radically new way and govern itself enabled by the structuring of the conditions of freedom which now became an integral part of governmental practice. Liberalism, then, must also be examined as a technology of government which requires to engender ‘relations of subjectivation’ to ‘manufacture’ (Foucault 1997a: 59) the self-governing subject.

Viewing liberalism as a technology of government, this paper argues, illustrates how the two perspectives of emancipation and oppression, of change and status quo, identified above are uniquely intertwined. Liberalism *does* have an intimate relationship with freedom but not because it is predicated upon the free and sovereign individual, which liberal thought takes as its core ontological premise, or better, its *ground* (Arblaster 1984: 15; on ‘ground’ see Heidegger 1998). Rather, liberal governmental practice requires, and indeed must produce, *and produce globally* through its politics and discourse, the free and sovereign (here understood as self-governing) subject, whose human behaviour can then be directed according to the ‘right’ (here understood as minimal) ‘disposition of things’ (Foucault 2001a: 208) .

---

<sup>2</sup> Foucault, engaging with the two meanings of ‘conduire’, to direct or lead and the reflexive verb to conduct or behave oneself ‘within a more or less free field of possibilities’ (1982: 221), indicates the complexity and interconnection of this form of government. He refers to ‘conduire la conduite’ in (1994: 237) but the actual phrase is not found in the English translation (1982).

This act of subjectification, which endeavours to produce the subject of self-government, in which human rights play an important role, the paper calls *liberal ontogenesis*, borrowing a term from developmental biology that signifies the development of organisms from embryonic origin to maturation. The ontogenesis of the liberal self-governing subject serves, it is argued furthermore, distinct and identifiable purposes: those of liberal and neoliberal governmentality as discussed specifically in Michel Foucault's 1978-9 lectures at the Collège de France on 'The Birth of Biopolitics' (2008; cf. Foucault 2001a; Lemke 2001). In this sense, liberalism is a 'consumer' of freedom, requires to produce freedoms, organise and maintain them (Foucault 2008: 63) through 'multiform tactics' to further the ends of neoliberal governmentality, the current status quo, whose critics align with the present history of oppression.

The argument is structured as follows: The first section outlines Foucault's discussion of *homo oeconomicus* as the kind of subjectivity that acts as a 'partner' to neoliberal governmentality and whose emergence or ontogenesis must be encouraged by 'pastoral power'. The second section takes this discussion of ontogenesis further and explores how it is that human rights usually regarded as evidence of liberalism's commitment to individual freedom produce another type of subjectivity that in many similar ways the needed partner to the 'governmentalisation' of the state (Foucault 2001a: 220). In particular, it shows how human rights help in 'producing' the self-governing subject, whose freedom liberal governmental practice will then manage. It examines four forms of ontogenesis which, taken together, show how the free and self-sufficient subject is far from the *a priori* predicate of liberalism but, rather, is brought into being and often also imposed, by processes of sentimental

education/‘maturation’ (rhetorical ontogenesis), knowledge production (epistemic ontogenesis), legalisation (performative ontogenesis) and the regulation of the conditions of freedom (structural ontogenesis). Ontogenesis, in its varied aspects, is the other side of the coin – and indeed assists in -- the governmentalisation of the state. The third and final section of the paper concludes by reflecting on the manifestation of violence and the meaning of freedom and solidarity within neoliberal governmentality’s ontogenesis of the self-governing subject.

### **Liberal Ontogenesis I: Foucault, Markets and *Homo Oeconomicus***

Foucault inverts liberalism’s self-image when he questions the traditional relationship posited between the liberal free subject and the state/government. He is keen to look beyond customary explanations that suggest that the free subject demands and achieves the state’s non-intrusion into certain areas of action and, hence its eventual minimisation. Looking specifically at neoliberalism’s use of the notion of homo oeconomicus, he argues that contrary to its own definitions, homo oeconomicus does not mark the boundaries of *governmental* action. ‘Does the definition of homo oeconomicus’, Foucault asks, ‘involve marking out the zone that is definitely inaccessible to any government action?’ (2008: 271). In other words, Foucault wants to know, ‘is homo oeconomicus an atom of freedom in the face of all the conditions, undertakings, legislation, and prohibitions of a possible government’ (2008: 271)? In answering these questions, Foucault does not examine only how liberalism brings about the limitation of the state for the ensuring of individual freedom. By extending his discussion beyond the delimitation of sovereign power emphasised by liberalism, he highlights instead the emergence and operation of a different type of power that

engenders the type of subjectivity, *homo oeconomicus*, which aids in the development of neoliberal governmental practice evolving around the rule of maximal economy.<sup>3</sup> For Foucault, this type of subject is the result of relations of subjectification that render it amenable to self-government, which Foucault regards to be the pinnacle of self-limitation or the ‘governmentalisation’ of the state. There are four ways in which *homo oeconomicus* relates to the new liberal and neoliberal governmental reason and practice, including the promotion of self-government.

First, *homo oeconomicus* is defined by his interests. He is ‘someone who pursues his own interest and whose interest is such that it converges spontaneously with the interest of others’ (Foucault 2008: 270). Because of this automatic awareness of his own interest and of the spontaneous convergence of the multiplicity of interests, *homo oeconomicus* is the type of subject that ‘must be let alone’ (Foucault 2008: 270). Second, defined as the subject of interest, *homo oeconomicus* ‘accepts reality’ and as such can become the object of economic analysis. Economics becomes infinitely expandable: that science which analyses ‘rational conduct’, which is ‘any conduct which is sensitive to modifications in the variables of the environment and which responds to this in a non-random way, in a systematic way’ (Foucault 2008: 269). *Homo oeconomicus*, then, allows economic analysis to traverse the space of the market into other social domains: the family, society, the state itself. The economic form of the market (Foucault 2008: 243) can then be generalised within a vast array of social domains, which can now be analysed according to the principles of the market.

---

<sup>3</sup> Foucault discusses at length how American neo-liberalism is distinguished from its German *ordoliberal* counterpart, outlining how the former tended towards an ‘absolute’ generalisation of the economic form of the market, in that it failed or was unwilling to recognise that there were ‘heightened needs for [social] integration’ in the communities of its application and thus it was not characterised by the defining ‘for the market’ and ‘against the market’ of German *ordoliberalism* (Foucault 2008: 242, brackets added). This comparison, however, is beyond the scope of this paper.

This leads to the ‘economy embrac[ing] the entirety of the human action’ (Lemke 2001: 197)

The generalisation of the economic presents an analytical principle with which to ‘investigate[s] non-economic areas and forms of action in terms of economic categories’ (Lemke 2001: 198). As a result, a whole range of social science disciplines such as demography, sociology or psychology, lose their particularity and begin to analyse their objects of knowledge through this type of ‘economic’ analysis of rational conduct and its responses to environmental variability. All kinds of social relationships such as family relations pertaining to the care and socialisation of children, marriage itself, but also criminality, are viewed through the generalisation of the economic form of the market. We might say that the market intrudes into other domains which are now judged by its criteria of ‘maximum economy’ and *laissez faire*.

Moreover, neo-liberal economic analysis develops a critical component in that it becomes the means with which to ‘test governmental action, gauge its validity’, constituting in this way a constant market ‘criticism of political and governmental action’ (Foucault 2008: 246). More specifically, maximum economy (not governing too much) and *laissez faire* become the criteria for judging governmental practice itself, becoming ‘a permanent economic tribunal...that claims to assess government action in strictly economic and market terms’ (Foucault 2008: 247). In this way, neo-liberalism ‘ties the rationality of the government to the rational action of individuals; however, its point of reference is no longer some pre-given human nature, but an artificially created form of behaviour’ (Lemke 2001: 200). It is not the individual’s innate freedom which ought to curtail the encroachment of the state/government in his

private life, as with more classical renditions of liberalism. Rather, neoliberalism requires homo oeconomicus as ‘a behaviouristically manipulable being and the correlative of a governmentality which systematically changes the variables of the “environment” and can count on the “rational choice” of the individuals’ (Lemke 2001: 200).

Third, and as a result of the above two points, homo oeconomicus, as the subject which accepts ‘reality’ and as the object of economic analysis encourages/demands the evolution of governmental practice itself. As Foucault put it, it ‘enabled an art of government to be determined according to the principle of economy’ (2008: 271). As such, homo oeconomicus as the subject of neoliberalism does not limit the space and scope of governmental practice in the classical liberal sense of claiming a space free from intervention. Or more plainly put, it claims a space free of *state* intervention while at the same time encouraging or calling for the ever increasing intrusion of *government*, i.e. the ‘structuring of the possible fields of action’ primarily by being amenable to being ‘directed’. This has three singular effects: firstly, that the retreat of the state is replaced by the presence of *government*: this is the governmentalization of the state. Secondly, that government itself cannot be understood as having a purely political meaning but becomes more ‘general’, meaning that it refers to a wider range of contexts (family, society, faith etc) and techniques. And, thirdly, in so far as individuals are homo oeconomicus, they ‘become governmentalizable’ (2008: 252), by which we mean not subjected to state action but ‘directed’, encouraged along certain actions and paths, towards certain ways of conducting themselves.

To be clear, this allows the *state* to delimit itself because homo oeconomicus marks the ‘surface of contact between the individual and the power exercised on him’

(Foucault 2008: 252-253). This is what Foucault means when he speaks of homo oeconomicus as the interface in this sense ‘of government and the individual’ (2008: 253). However, at the same time, it allows *government* which is no longer limited to state institutions or actions, to evolve into the ‘conduct of conduct’ (Foucault 1982: 221) and it is in this sense that this type of subjectivity is an essential ‘partner, the vis-à-vis and the basic element of the new governmental reason’ (Foucault 2008: 271).

Fourth, homo oeconomicus as a partner to the neoliberal governmental reason makes possible self-government, which includes a broad range of practices, though, as numerous studies have shown<sup>4</sup> self-governing subjects should be able primarily to ‘exercise economic and political choices as citizen-consumers’ (Bondi and Laurie 2005: 398-399). The exercise of freedom pertains in particular to consumption (of goods, services), lifestyle (cf. Barnett *et al.* 2008) and opportunity in the sense of remaining globally mobile as economic subjects (Ong 1993; cf. Ong 2006a, 2006b). It also invokes individual responsibility in the sense of ‘fending’ for oneself, i.e. being self-sufficient. Given that freedom, greater choice (of consumption, lifestyle, opportunity) and individual responsibility are near impossible to resist (Bondi and Laurie 2005: 399) ‘programmes of neo-liberal rule unfold by seeking to secure synergies between their objectives and the motivations and identifications of individuals’ (Barnett *et al.* 2008: 625). Freedom, responsibility and self-sufficiency are part of the ‘NewLiberalSpeak’ (Bourdieu and Wacquant 2001: 2) but appeal to classical liberal values that lend neoliberal self-governance in the centre and in its globalisation to the periphery both success in governmental terms and also legitimacy according to the older liberal lexicon.

---

<sup>4</sup> The most extensive of which is Lemke 2001.

Foucault's insights on the governmentalization of the state and the increased importance of self-government to assist in not governing too much cannot be understood, however, without some discussion of the type of power which Foucault identified as emerging alongside this new governmental reason and this is the second area in which Foucault's reflections on the governmentalisation of the state aid our present discussion.

According to Foucault, amongst the phenomena that emerge out of government's reflection on the issue of excessive government is a return, and reshaping, of an existing type of power associated with Christianity and the Church: pastoral power, whose older manifestations were concerned with individual salvation (Foucault 1982: 212). Foucault shows how in its modern reinvention pastoral power continues to individualise and to be concerned with conscience, in order to direct individuals towards appropriate actions and behaviours. But there are also several significant and note-worthy changes: the meaning of salvation changes and its aims become more profane or worldly so that it is now refocused on 'health, well-being ... security, protection against accidents' (Foucault 1982: 215); its agents multiply to include both officials and bodies in the state apparatus as well as private and societal organisations, benefactors and other private initiatives; it engenders the 'development of knowledge' both in globalising and quantitative terms (about the population) and analytical terms (about the individual). Most importantly, however, it is also chiefly concerned with subjectification, that is, the 'production' or *ontogenesis* of subjects.

The discussion of homo oeconomicus in the 1978 lectures, and of the governmentalisation of the state more generally, can lead us to an overwhelmingly negative view of this type of pastoral power involved in the new governmental reason and practice and in the ontogenesis of the self-governing subject. Yet, to immediately regard ontogenesis for the purposes of neoliberal governmentality as a pernicious endeavour ignores the integrative and 'ethical' (in the sense of the care of the self) aspects of pastoral power. Although its effects must be always met with a critical gaze, it should also be acknowledged that subjectification often broadly involves the integration of these subjects into the work of government, rather than the absolute imposition of subjectivity from above (Foucault 1982: 214). As Evelyn S. Ruppert (2008: ¶2.6) notes,

Subjectification recognises subjects as being capable of reflection and self-formation and objects of pastoral power where their subjection is also bound up with struggles against direct domination. Indeed, this is the key link connecting individualising techniques and totalising procedures.

To explore these aspects of pastoral power, the paper turns to the example of the liberal ethics of human rights, which are not directly addressed by Foucault himself but form such an integral part of liberalism's technology of government. The section below reads human rights as tactics of subjectification or and identifies four forms through which such ontogenesis produces a subject conducive to self-government.

## Liberal Ontogenesis II: Human Rights and *Homo Juridicus*<sup>5</sup>

This section examines human rights in terms of their ontogenetic effects, referring to the ways in which they ‘produce’ the subject of rights as another type of subjectivity which can act as a partner, much like *homo oeconomicus*, to neoliberal governmental practice which aimed at the delimitation of the maximal state. The subject of human rights has ethical and legal aspects; the former appears to be the *a priori* predicate of liberal ethics, whose claim for freedom and recognition marks a space of freedom as against the state, while the latter is construed as the product of juridical processes. In this understanding, both aspects are intimately connected to *sovereign* power. Yet, the subject of human rights can also be thought of as a result of varied processes of ontogenesis by *governmental* power, discussed below, which render this type of subjectivity amenable to self-government. This requires, however, that we do not restrict our consideration of human rights to the perspective of sovereign power but also view them from the perspective of government (cf. Foucault 2001a). Indeed, when viewed from the perspective of governmentality, they become a significant illustration of how the law becomes one the ‘multiform tactics’ of government, and more generally, how sovereignty itself becomes connected, some might say subordinated, to government (Elbe 2009).

In particular, the discussion below identifies four interconnected forms of liberal ontogenesis associated with human rights: ‘rhetorical’ which refers to practices of ‘human rights talk’ that in an act of ontogenetic ‘maturation’ transform the physical

---

<sup>5</sup> The term *homo juridicus* or *homo legalis* is employed by Foucault tentatively to capture the nuances of what he calls ‘the subject of right’ which is not the subject of human rights, but rather the subject of law as a result of the exercise of sovereign power. The example which Foucault uses in the ‘Birth of Biopolitics’ lectures (2008: 276) is the subject of legal contracts within a market setting.

and aesthetic material of 'human being' into the subject of human rights as moral rights and which then call for the proper recognition of this moral subject into a legal subject through appropriate acts of codification, legalisation and protection; 'epistemic' which refers to the knowledge and truth of this subject required to analyse the subject's features and how to best protect them domestically and internationally; 'performative', which refers to the calling into being of the *legal* subject of human rights – the rights holder -- through the juridical exercise of law by sovereign power; and, finally, 'structural', which involves the creation and regulation of the conditions of freedom that the rights holder requires and which at the same time ensure that politics and political claims become articulated through the language and framework of rights, allowing for the minimal management of claims for social change.

### ***Human rights between sovereignty and governmentality***

When invoking human rights we tend to not distinguish strictly between human rights as moral / natural rights on the one hand and legal rights on the other. According to liberal ethics, human rights as moral rights exist for all human beings -- regardless of their acknowledgement in politics and law by sovereign power and prior to any exercise of sovereign power -- because they capture the worth inherent in our free and equal humanity.<sup>6</sup> Their liberal origin means that they represent a claim against the state, demanding the limitation of, or prohibition on, sovereign power of those actions that impinge upon human freedom. Indeed, in this sense, human rights as moral rights mark a space of individual 'sovereignty', in which sovereign power ought not to intrude. However, at the same time, human rights as moral rights are also a claim of

---

<sup>6</sup> This is true even if theories of rights choose to focus on human nature, fundamental human interests or basic human needs.

recognition, demanding that sovereign power enshrines in positive law our worth and freedom as human beings and recognises the space and scope of that freedom by either remaining outside it or acting more actively to protect it. Discourses of human rights operate within the realm of recognition because they call for and make politically feasible through symbolic politics and lobbying the transformation of human rights from moral rights into legal rights (Ci 2005).

The juridical act of enshrining moral rights by codifying them as legally endowed rights (positive law), is an exercise in sovereign power. Therefore, at first glance human rights are implicated with sovereign power in two ways: first, as moral rights they map the space of individual sovereignty and, second, as legal rights they are a product of sovereign power. Yet, the perspective of sovereign power may not be enough to help us understand the political operations of human rights in global politics. Indeed, this paper argues that the powerful role of human rights in the liberal universe becomes far clearer if viewed from the perspective of a governmental, rather than a sovereign, economy of power.<sup>7</sup> Such a governmental perspective reveals the liberal ethics of human rights – which call for and sanction the extensive and intensive exercise of sovereign power, witnessed most clearly in the processes of legalisation/codification and broader constitutional change which they require, to be nevertheless imbued with liberalism’s signature impulse, what Michel Foucault called ‘the internal rule of maximum economy’, the stricture to not ‘govern too much’. (1997c: 74). Viewed from this perspective, human rights are opened up to assessment not only on the legitimate/illegitimate spectrum, which had characterised judgements of sovereign power but also on the success/failure spectrum, where success is judged

---

<sup>7</sup> Of course Foucault is careful not to suggest that sovereignty is replaced by (discipline which is then itself replaced by) government, but that instead ‘one has a triangle, sovereignty-discipline-government’ (2001a: 219).

according to cost-benefit analysis; in other words, what is important is not only the legitimacy of human rights but their success in achieving the maximum possible ends through minimum state action (Foucault 2008: 16-17). Put otherwise, human rights must contribute positively to the governmentalisation of the state.

What is the peak of the self-limitation of the state or governmentalisation of the state, where government is understood as the 'conduct of conduct' (Foucault 1982: 220-221)? With Foucault we might say that this peak is reached when governmental practice can make possible, actively encourage, and indeed maximise, the taking up of self-government. As discussed above through Foucault's analysis of neoliberal governmentality and *homo oeconomicus*, the condition of possibility of self-government is the subject that can govern itself (cf. Lemke 2001). Human rights, therefore, assist in bringing about a political and ethical subjectivity amenable to self-government, which then allows for the self-limitation of governmental practice. And this, as suggested above, can come into view only when human rights are understood neither as a claim upon sovereign power nor even as sovereign power's legal product but as a central part in what Foucault called the 'relations of subjectivation' (Foucault 1997a: 59), in creating the very subject which predicates liberalism as a 'technology of government' (1997c: 76). In the self-governing subject we discern the coming together of liberal ontogenesis / subjectification and the rule of maximum economy, such that we might say that human rights are an instrument of subjectification whose purpose is to produce or 'manufacture' (Foucault 1997a: 59) the self-governing that then allows for the achievement of maximum ends through minimum cost and involvement.

***Forms of ontogenesis: maximal economy and self-government***

How do human rights ontogenetically produce this subject whose freedom and sovereignty liberal governmentality ‘consumes’ (Foucault 2008: 63) and requires for its continuation and intensification -- in the sense that government is the ‘right disposition’ (2001a) of the conditions and requirements of these freedoms? Ontogenesis can take a number of forms, and here I wish to identify four as worthy of further reflection. First, ontogenesis is engendered by a broad range of discursive, justificatory, symbolic and sentimental discourses of human rights. Such *rhetorical* ontogenesis aims to bring about the understanding that all human beings in their diverse cultural and physical forms are subjects of human rights as moral rights; in other words to assist in the maturation of the physical/originary human being into an ethical subject of human rights. This rhetorical ontogenesis enables two subsequent and interconnected forms, which nevertheless also reinforce it: epistemic and performative ontogenesis. *Epistemic* ontogenesis seeks to analyse this ethical subject of rights and produce knowledge about its fundamental human interests. It furnishes the discourses of rights with valid knowledge about the subject’s freedom and universality and importantly about the most appropriate and (according to the rule of maximal economy) cost-effective means of protecting this. This might entail reflection on political change (such as regime change) and also domestic and international legal processes (constitutional change or international human rights conventions and their ratification). In other words, epistemic ontogenesis, allows for academic classification and the ‘right’ political disposition of human interests in a constitutional and political setting. *Performative* ontogenesis involves the juridical act of transforming this ethical subject into a rights holder by calling into being this new legal subject – whose needs, interests and characteristics have been promoted and

analysed by rhetorical and epistemic ontogeneses. Finally, all of the above ontogenetic functions of the discourses, knowledges and legalisation of human rights lead to a type of secondary but extremely significant form of ontogenesis which may be regarded as *structural*. Once in place, human rights as legal instruments become one more tactic of governmental power in that they assist in the organisation, regulation and management of ‘freedoms’ – the structural conditions or parameters -- which the new art of ‘frugal’ government requires. The language of rights, therefore, is at the same time both an articulatory and a regulatory device: it redescribes the subject to itself as a rights holder, it provides the legal and political frameworks and language through which to make claims about social and political issues and, furthermore, directs governmental practice itself to respond to such claims within the same rights language and frameworks. In other words, structural ontogenesis provides the setting and conditions in which the rights holder is ‘free to be free’ (Foucault 2008: 63). The paper briefly turns to each form below, examining in particular its relation to the rule of maximal economy and to the encouragement of self-government.

The first and necessary aspect of ontogenesis involves the rhetorical politics of human rights and has as its purpose the *maturation* of human beings. Human rights discourses are of course multiple, but a prior discourse on which many of them rely requires to take the diverse physical, cultural and aesthetic material of humanity and redescribe or articulate this as moral human beings. This is an act of identification of sameness in diversity, compounded by an act of definition of human beings as something universal, both of which amount and produce further acts socialisation and maturation. Human beings are, through these discourses, made aware of their

humanity, are sentimentally encouraged and educated to think of themselves and others as moral agents with innate freedoms and rights. Moreover, such rhetorical practices often work through the ‘passionate denunciation of the wounds of the present’ (Champetier 2000: 79) which invokes sentimental education and maturation (Rorty 1999). Such maturation calls forth epistemic processes which analyse human beings as the ethical subject of human rights and reflect on the structural (legal and political) conditions that enable such subjects to be free. Moreover, rhetorical ontogenesis also encourages human beings to call upon their states and other international actors to recognise the moral worth and freedom of human beings and furthermore legally acknowledge them as bearers of rights i.e. rights holders (cf. Ci 2005).

Rhetorical ontogenetic practice is situated firmly within the purview of pastoral power – first, it points to the expansion of the ‘agents’ of pastoral power to those of ‘global civil society’ (cf. Frost 2002); second, it also deals with the development of conscience of ourselves about the kinds of subjects that we are and, additionally, inappropriate actions or ‘wrongs’ which human rights are meant to eliminate or prevent (e.g. Owens 2003); and third, it seeks to integrate us into a broad category within which our conduct can be directed according to appropriate practices or tactics. Our ‘maturation’ from diverse subjectivities to *homo juridicus*, the subject of rights, occurs, moreover, both at the level of community and at the level of the individual; the two cohere and work together to encourage governments to recognise human rights universally, bringing about constitutional change, more codification and thus the integration of more of our diverse actions and conducts within the framework of rights.

Such rhetorical practices are neither minimal nor temporally bound: they expand their purview and add to their repertoire of rights that are appended on the essence of human beings. For example, the relatively recent discussions of group and people's rights (the so-called third generation of rights) was able to take groups' and peoples' concerns, which were potentially a challenge or exception to the minimalist and individualist civil and political rights and rearticulate them through rights language (cf. Speed 2002). Moreover, this expansionary tendency of rhetorical ontogenesis is evident in current discussions about whether women's rights ought to constitute a fourth generation of rights, again diffusing the challenge of feminists as against the masculinist history of rights (Charlesworth 1994a, 1994b), and articulate women's concerns and problems through rights language, transforming the diverse experiences of women as capable of being enclosed within the universe of rights.

As noted above, the rhetorical aspect of ontogenesis directly promotes epistemic and performative ontogenesis. Epistemic ontogenesis relies on authoritative agents, such as academics, to find the appropriate ways in which to analyse and corroborate the claims of the largely sentimental discourses of maturation. Such analysis encompasses the characteristics of human beings as subjects of rights, the 'right' conditions in which human beings might flourish, how rights are to be enshrined and upheld once codified, what dangers human rights face domestically and internationally and how might these dangers be ameliorated. Epistemic ontogenesis also reflects on the political and regime conditions appropriate for best rights observance (e.g. Englehart 2009) and makes judgements about fundamental challenges to the universality and validity of rights, as witnessed for example in the 1990s in the context of the co-called

‘Asian Values’ debate (e.g. Li 2003). Like rhetorical ontogenesis, epistemic ontogenesis also operates at the level of community and the individual simultaneously. It provides analysis and produces ‘truth’ (Ruppert 2008: ¶2.6) so that the individual can understand itself and so that the community can reflect on how it is constituted by moral subjects and how the provision and codification of rights can assist in the pragmatic and moral life of the community.

Called forth both by rhetorical practices and epistemic analysis, the performative aspect of ontogenesis is associated with sovereign power’s juridical act of ‘enshrining’ the moral rights of human beings into positive law. Influenced by speech act theory (Austin 1962; Searle 1965), the legal utterance of enshrining human rights into legal entitlements entails also an ontogenetic act.<sup>8</sup> Human rights as a product of sovereign power call into being and give legal personality to a new legal subject: *homo juridicus*, the rights holder. Much like J.L. Austin’s example of the utterance of the magistrate which creates the subjects of matrimony when pronouncing two people as husband and wife, i.e. legal married spouses, the juridical act of transforming the ethical subject of rights into the legal rights holder calls into being a new type of subject of law, whose assumed innate attributes of freedom and sovereignty are now also made concrete. Performative ontogenesis therefore, aims ‘to produce as its effect what it describes as existing’ (Meuret 1993: 50).

It is important to note however, that human rights entail a performative ontogenetic function even when sovereign power refuses to enshrine them into law. Because ‘the concept of human rights is poised between that of moral (or “natural”) rights and that

---

<sup>8</sup> A fuller discussion of Austin and Searle’s work on speech acts and Foucault’s thinking on discourses and subjectification is beyond the scope of this paper, but has been usefully begun by James D. Marshall (2001: 301-303).

of legal (or positive) rights' (Ci 2005: 248), they exist (as moral rights) even when they do not exist (as legal rights). Moreover, discourses of human worth and of rights as moral rights engender human self-understanding as 'rights holder in waiting'. Thus, the liberal ethics of human rights as moral rights both 'institutes and constitutes' (Marshall 2001: 299) its subject. The 'rights holder in waiting' acts as a powerful motivation for international pressures to persuade recalcitrant states to codify the moral rights of human beings in positive law. Naturally, such codification is also related to structural ontogenesis, discussed below, and the organisation of the conditions of freedom and their global exportation, either through diplomatic or military means, as the continuing example of the war on terror suggests.

At a basic level, such performative ontogenesis refutes the prior existence of the free subject which both liberal theory and the rhetorical practices noted above assume as an *a priori*. More importantly, however, this performative act of calling into being the legal subject of human rights enables us to discern the interrelation or subordination of sovereign power to governmental ends. The calling into being of the rights holder through the legalisation and codification of human rights shows how it is misleading to construe an opposition between governmentality and sovereignty (Foucault 2001a: 219). Rather, the governmental use of the law for the purposes of subjectification shows how the law becomes but one 'multiform tactic' of government and can no longer be understood as *distinct* from government (Foucault 2001a: 211).

This brings us to the final, structural, form of ontogenesis. The term 'structural' is used loosely here to point to the creation and management of the conditions of freedom and also acknowledges Foucault's insight that pastoral power, of which

human rights is an instrument, shapes individual subjects so that it can integrate us (cf. Ruppert 2008: ¶2.6) into governing structures and as a result govern us better in a *minimal* way. Structural ontogenesis, in making possible and managing freedoms, captures the important evolution of governmental reason and practice according to the rule of maximal economy. By creating the legal framework of rights to regulate individual freedom, it also channels social discontent and the general dealing of social ills through the language and framework of rights. This language and framework not only regulate freedoms but displace prior lexicons and frameworks -- such as revolution, wealth redistribution, and structural change as, for example, agrarian reform etc. – for the expression of discontent, claims for social transformation and political and social fervour more generally. By endowing subjects with rights, moreover, governmental action is limited to such feats of codification and the enforcement of rights within that framework.

The granting of rights also transfers responsibility for claims to individuals but always already has provided a pathway in which such claims can be expressed. An important example is the so-called indigenous rights. The ontogenesis of the indigenous rights holder creates the conditions in which indigenous groups can be free by providing the legal and political framework for activism and political action. These are, however, rearticulated in the language of rights which displaces earlier linguistic and action horizons: concern with the more socialist notion of agrarian reform and peasant liminality amongst indigenous peoples is increasingly becoming articulated as rights to ‘cultural heritage’ or ‘cultural self-determination’. With the endowment of indigenous rights, peoples fighting for ‘revolutionary ends’, such as redistribution of wealth, agrarian justice and radical reform – redefine their struggles into claims for

(more) rights, as can be seen clearly in the example of Mexican Indians who used to think of themselves as being ‘campesinos’ (roughly, agrarian workers) engaged in a struggle for agrarian reform but have increasingly begun to regard themselves as ‘indigenous people’ fighting for rights to cultural self-determination (Speed, 2002: 217).

The rule of maximal economy -- achieving the maximum ends with minimal action, which encompasses self-government to a large extent -- is fulfilled. Structural ontogenesis of homo juridicus provides and regulates freedom in the form of rights but also restricts freedom to this framework and gives freedom new meanings and contexts. If homo oeconomicus encourages freedom and connects it to choice about consumption and lifestyle, homo juridicus channels freedom as the endowment or possession of rights. To put it briefly, it says: let them eat rights!<sup>9</sup> This is the coming together of the rule of maximum economy and subjectification, where human rights can be shown to assist in our being governed minimally, by calling into being the self-governing subject amenable to the neoliberal art of government and the governmentalisation of the state. In the appropriate reorganisation and management of freedom for the purposes of neoliberal governmentality, rights provide the minimal conditions -- in the sense of legal conditions rather than structural and societal changes – in which subjects can exercise their freedom by first demanding and then exercising their human rights and individual responsibility for such claims. Homo juridicus then is a subject of freedom in the sense of having and exercising rights,

---

<sup>9</sup> The phrase ‘qu’ils mangent de la brioche’ is attributed to a ‘great princess’ by Jean-Jacques Rousseau in his *Confessions* (published in 1782) but is now associated with Marie Antoinette’s callous response to the demands of the working class and peasantry in times of famine. Given, however, that she arrived in France after the completion of the *Confessions* in 1769, this common attribution is likely mistaken.

forming a parallel to homo oeconomicus as a subject of freedom of choice in terms of opportunity, consumption and lifestyle (cf. Bondi and Laurie 2005).

This indicates how 'liberalism formulates simply the following: I am going to produce what you need to be free' (Foucault 2008: 63) requiring not 'so much the *imperative* of freedom as the management and organization of the conditions in which one can be free' (Foucault 2008: 63-64; emphasis added). The neoliberal 'art of government' becomes in this way a 'consumer of freedom' because 'it can only function insofar as a number of freedoms actually exist: freedom of the market, freedom to buy and sell, the free exercise of property rights, the possible freedom of expression...' (Foucault 2008: 63).

In sum, the ontogenesis of the self-governing subject coheres with Foucault's understanding of liberalism as a technology of government leading to the 'least' or 'frugal' state (2008: 28), i.e. the self-limiting of direct state involvement. This tendency towards self-limitation often requires the intensification and extension of *governmental* practice but for the purpose of enabling less *state* involvement. The 'retreat of the state', therefore, is not equivalent to the absence of government (Lemke 2001), but to the 'governmentalisation of the state'. Government, moreover, comes to increasingly rely on self-government and, as a result, has to produce a subject that is capable of governing itself. Human rights, the preceding section has shown, assists in the ontogenesis of the self-governing subject, which takes over the work of its own care and, for that matter, of its own freedom (cf. Lemke 2001: 200-202).

What are the repercussions of this neoliberal governmentalisation of the state and the concomitant rise of the self-governing subject, however? We examine the most important consequences of this dual process below, by way of conclusion.

## **Violence, Freedom, Solidarity**

This section concludes the above discussion on human rights and their role in liberal ontogenesis, as located within the broader context of the governmentalisation of the state, by examining their varied repercussions in the areas of violence, freedom and solidarity. It is argued below that such ontogenesis is often implicated in violent practices ranging from the ‘mortification’ of the cultural indigenous selves which are transformed into *homo juridicus* to the forced and, at times, violent replication of governmentalisation of the state (Foucault 2001a), which in the recent past has taken the form of the ‘liberation’ practices of the so-called war on terror (cf. Kochi 2006; Odysseos 2007a; Kuus 2009). Furthermore, it leads to the inevitable reinterpretation of the meaning of freedom itself and, finally, affects both our theorisation and the political possibilities for international solidarity.

### ***Ontogenesis, subjectification and global violence***

The concern with violence becomes immediately apparent when we examine the extension of the human rights regime, and its ontogenetic practices of *homo juridicus*, internationally. Such a globalisation of rights is championed by liberal world politics as an institutional expression of the centrality of the individual and an ethical expression of the universality of humanity. But, taking into account the discussion of

liberal ontogenesis above, this globalisation is effectively the dual exportation of the governmentalised state and its ‘partner’, the self-governing subject, around the globe. Specifically, this paper is concerned with at least three violent consequences of ontogenesis: first, the mortification of communal/cultural self, if one is able to recast Erving Goffman’s (1961) terminology here<sup>10</sup>; second, the problematic ‘correction’ and ‘disciplining’ of enemies of the globalised neoliberal order; and, third, the related military repercussions of such a globalisation of the governmentalisation of the state, as can be seen arguably in the example of the war on terror.

What does the ‘mortification of the self’ mean in the context of the liberal ontogenesis of homo juridicus? As critics of global liberalism have already suggested, the assertion of the rights holding subject allows for otherness only in as much as it is the ‘aesthetic material’ in a global culture (Brennan 2003). While human rights purports to protect human beings, the maturation of these diverse but ‘incomplete’ or ‘immature’ human beings into the ethical subject of rights and the rights holder, infantilises at best, denigrates at worst. Charles Champetier’s indictment appears pertinent to the rhetorical ontogenesis of human rights: the lip service paid by rights to diverse peoples and cultures is naught but the ‘diversity of minor details’ which does not respect different ‘value systems and [of] different ethno-historical experiences’, but subsumes them ‘within a faded vision of “culture” and “civilization” reduced to mere ornaments’ (2000: 80). William Rasch’s discussion of the geopolitics of human rights is even more scathing: The other, he argues, ‘is stripped of his otherness and made to conform to the universal ideal of what it means to be human’, meaning that

---

<sup>10</sup> This is usually used to refer to the need to debase and relinquish old identities and form new usually institutional identities in ‘total institutions’ (Bilton *et al.* 1996: 664; Goffman 1961). The term is utilised here however to denote the need to fashion out of diverse cultural traditions the subject of human rights.

‘the term “human” is not descriptive, but evaluative. To be truly human, one needs to be corrected’ (Rasch 2003: 140 and 137). Rasch’s invocation of ‘correction’ reminds us of Foucault’s earlier preoccupation with discipline (1991), but where discipline becomes aligned with governmentality, subordinated to governmental purposes and practice much like sovereignty has been shown to be above, in the triangle sovereignty-discipline-government (Foucault 2001a: 219). Similarly, academic analyses of ethical and legal subject human rights often claim to recognise the existence and importance of ‘evaluative diversity’ (Gaus 2007: 94). Yet, their alliance with academic discourses of ‘moral personhood’, which justify and legitimate the subsequent demands for performative ontogenesis of the legal subject of rights, overwrite this commitment to plurality of perspective.

What happens, however, when ontogenesis encounters resistance as for example when the previously existing subject positions, local or otherwise, refuse to be ‘matured’? Moreover, how does the globalised neoliberal order deal with resistance to the globalisation of the governmentalisation of the state? In particular, how does it globally impose the conditions of freedom, i.e. structural ontogenesis, required for the coming into being of the self-governing subject? If the globalised neoliberal order (cf. Jayasuriya 2005; Odysseos 2008) is an order for which the political object is ‘population’ (Foucault 1997b, 2001a), and for which the best form of government is the self-government of the population at the level of each individual, then it is important that the enemies of this order be identified and ‘corrected’.<sup>11</sup> It is this kind of constant vigilance against the enemy of governmental rationality which also allows Foucault to note that, whereas sovereign power had historically created systems of

---

<sup>11</sup> Foucault discusses how the governmentalisation of the state is what has allowed the state to survive (2008), and this lends weight to arguments re-evaluating Foucault’s own liberal leanings (cf. Paras 2006).

exclusion by differentiating between those who submit to its power and its enemies, which seek to violate it, governmental power differentiates between those who behave in accordance with the welfare of the population and ‘those who conduct themselves in relation to the management of the population...as if they were not part of the population...as if they put themselves out of it’ (Foucault 2007a: 43-44). The order must ensure, then, that it is able to distinguish between those ‘who resist the regulation of the population, who try to elude the apparatus by which the population exists, is preserved, subsists, and subsists at an optimal level’ and the population; as Foucault argues, this ‘opposition is very important’ (2007a: 44).

It is here where the ‘liberation’ practices of the war on terror, including invasion, counterinsurgency, and counter-terrorism campaigns as well as general economic and administrative reform, as seen in Iraq and Afghanistan, can be understood as serving the purpose of exporting a form of state (the governmentalised state), a specific art of government (as ‘conduct of conduct’) and its partner subjectivity (the self-governing subject taking both forms of homo oeconomicus and homo juridicus) across the globe (cf. Odysseos 2007a). The war on terror, then, is an ensemble of practices which cohere with neoliberal ends (cf. Kiely 2004; Odysseos 2007a): they discipline the recalcitrance and persistence of territorial administrative (maximal) states, which must be curtailed in order to promote in their place the new art of governing via conducting conduct, which requires, however, a greater extent of self-government. The championing of human rights in the periphery within the broader parameters of the war on terror, which Tarik Kochi calls ‘human rights in the name of terror’ (2006), is therefore not mere subterfuge: human rights are indeed extremely important because

they assist in the third pillar of the above observation: the calling into being of the self-governing subject as was shown above.

### ***The unbearable lightness of freedom***

The ‘affirmation of autonomy in the economic sphere’, which was the bedrock of classical liberalism, ‘was a necessary step for the emergence of the capitalist world’ (Champetier 2000: 83). The continued evolution of neoliberalism, however, required the reinterpretation of freedom into self-government and self-sufficiency. How are we to understand the meaning of freedom within the context of the new art of government and its production of the subject of self-government?

As noted above, the self-governing subject is one whose freedoms are incited, encouraged and regulated by neoliberal governmentality. Much like homo oeconomicus is the free (self-governing) subject of choice, consumption and lifestyle, homo juridicus is a free (self-governing) subject whose freedom is marked by the minimal (critics would say ‘empty’) gesture of endowment and possession of rights. Nevertheless, the appearance of (greater) individual freedom that comes with self-government, even if this is restricted to choices about consumption or the endowment of rights, ‘is one that is extremely difficult to resist’ (Bondi and Laurie 2005: 399). This difficulty is compounded, moreover, by the extraordinary capacity of neoliberalism to co-opt contestation by claiming that its incidence marks precisely the ascendancy of the subject of self-government, as Bondi and Laurie have shown: ‘neoliberalism “recognises” political resistance’ by subjects free to resist, complain, seek to change their own lives according to their *choices*, ‘as the performance of

neoliberal subjectivity' (Bondi and Laurie 2005: 399). Similarly, contestations of human rights often end up proving the self-governing subject in operation.

This leaves critical thought with a conundrum: how can freedom, even the 'empty' or restricted freedom of homo juridicus and homo oeconomicus, be contested given its attractiveness? This sort of dissatisfaction, however, still relies on the notion of a more substantive negative freedom (from intrusion, danger etc) or positive freedom (to be able to take particular positive actions, etc) (cf. Berlin 1969). Foucault reminds us of the delusional nostalgia<sup>12</sup> of this when he writes:

we should not think of freedom as a universal which is gradually realized over time, or which undergoes quantitative variations, greater or less drastic reductions, or more or less important periods of eclipse...Freedom is never anything other – *but that is already a great deal* – than the actual relation between governors and governed, a relation in which the measure of the “too little” existing freedom is given by the “even more” freedom demanded (Foucault 2008: 63; emphasis added)

Foucault's mention of the relation between governors and the governed reminds us also that the new art of government as the conduct of conduct also works by integrating the subject into government and that this involves helping to '*shape her, to help her know who she is*'. This requires exploring the soul, mind and conscience of and producing the truth about the individual both to herself and others' (Ruppert 2008: ¶2.6). This integration though is far from the unfettered freedom heralded by classical liberalism. In this type of integration, one must be vigilant against '*that which in the production of freedom risks limiting and destroying it*' (Foucault 2008: 64), which, in the words of Sergei Prozorov, makes freedom into a 'subjection' (2007: 30). In such an instance, 'freedom becomes a duty... a governmental injunction'; far from unencumbered, 'the subject's freedom becomes an obligation and, furthermore,

---

<sup>12</sup> Delusional because it refers to something that never was and nostalgia because it relies upon a historical account of old liberalism and proper freedom which is but a mythology.

an obligation to be *enjoyed* as a personal project of self-actualisation rather than simply a duty to be fulfilled' (Prozorov 2007: 30).

Prozorov is keen to suggest, however, that rather than allowing freedom to become an injunction of governmental rationality, we must pursue 'freedom of potentiality of being otherwise', of being able to 'to assert one's power as a living being against the power, whose paradigm consists in the "care of the living"' (2007: 210-211). This assumes, however, first, that resistance lies in the 'refusal of biopolitical care that affirms the sovereign power of bare life' (Prozorov 2007: 20) and, second, that there is a sort of 'radical freedom of the human being that precedes governmental care' (Prozorov 2007: 110). Is this thinking of freedom as resistance still not, despite all attempts, lured back to a thinking of an essence of that prior state of pre-governmental production of subjectivity, which in actuality does not exist? Perhaps, critical thought ought to accept that freedom can only exist whilst and as a result of being directed towards certain conducts: the possession and exercise of rights shows us how government channels freedom in particular pathways. Instead, we might wish to turn from freedom to obligation and analyse the possibilities of solidarity with others similarly governed.

### ***Solidarity of the governed?***

Given the preceding discussion about the dangers of violence and the recasting of freedom itself, what are the prospects for solidarity? This is a fundamental question for liberalism, whose conception of human rights grounds the possibility of solidarity. At first glance, it seems that older forms of solidarity emerging out of increased political consciousness become untenable: 'Are we witnessing the globalisation of the

economy? Certainly. A globalisation of political calculations? Without a doubt. But a universalization of political consciousness – certainly not’ (Foucault 2007b: 125). At the same time, however, Foucault’s analyses of neoliberal governmentality offer the possibility of considering solidarity on the basis of an obligation, rather than a freedom, which always already exists in our being governed in common.

Foucault’s brief intervention through the International Committee against Piracy points to ‘a radically interdependent relationship with practices of governmentality’ (Campbell 1998: 516) to which we are all *subjected*, in the proper Greek sense of our subjectivity being *predicated on* governmental practice (cf. Odysseos 2007b: 4). Such an obligation rests not on our moral commitment to human beings as moral agents, nor the universal recognition and acceptance of ourselves as human rights holders, as human rights talk would argue, but on our undisputed belonging to what Foucault calls the ‘community of the governed’:

‘We are all members of the community of the governed and thereby *obliged* to show mutual solidarity’, Foucault had argued, as against obligation understood within modern humanism (Foucault 2001b: 474; emphasis added).

For Foucault, solidarity is only possible when we understand ourselves as subjects produced through the varied forms of ontogenesis and subjected to governmental practice.

That individual freedom and obligation to others are both encouraged by a governmental practice which produces us as free, only illustrates the strength of liberal ontogenesis which has always already convinced us of bearing unfettered just as it enclosed this freedom in our capacity for being governed.

## References

- Arblaster, Anthony (1984) *The rise and decline of Western liberalism* (Oxford: Blackwell).
- Austin, J.L. (1962) *How to Do Things with Words* (Oxford: Oxford University Press).
- Barnett, Clive, Nick Clarke, Paul Cloke and Alice Malpass (2008) 'The Elusive Subjects of Neoliberalism', *Cultural Studies* 22, no. 5: 624-653.
- Berlin, Isaiah. (1969) 'Two Concepts of Liberty (1958)', In *Four Essays on Liberty* (Oxford: Oxford University Press).
- Bilton, Tony, Kevin Bonnett, Philip Jones, David Skinner, Michelle Stanworth, and Andrew Webster (1996) *Introductory Sociology*, 3rd ed. (London: Macmillan).
- Bourdieu, Pierre and Loic Wacquant (2001) 'NewLiberalSpeak: Notes on the new planetary vulgate', *Radical Philosophy* 105: 2-5.
- Brennan, Timothy (2003) 'Cosmopolitanism and Internationalism', in Daniele Archibugi (ed.) *Debating Cosmopolitics* (London: Verso).
- Campbell, David (1998) 'Why Fight: humanitarianism, principles, and post-structuralism', *Millennium* 27, no. 3: 497-522.
- Champetier, Charles (2000) 'Reflections on Human Rights', *Telos* 118: 77-86
- Charlesworth, Hilary (1994a) in Julie Stone Peters and Andrea Wolper (eds) *Women's rights, human rights: international feminist perspectives* (London: Routledge).
- (1994b) 'What are "Women's International Human Rights"?' in Rebecca J. Cook (ed.) *Human rights of women: national and international perspectives* (Philadelphia: University of Pennsylvania Press).
- Ci, Jiwei (2005) 'Taking the Reasons for Human Rights Seriously', *Political Theory* 33, no. 2: 243-265.
- Elbe, Stefan (2009) *Virus Alert: Security, Governmentality, and the AIDS Pandemic* (New York: Columbia University Press).
- Englehart, Neil A. (2009) 'State Capacity, State Failure, and Human Rights', *Journal of Peace Research* 46, no. 2, 163-180.
- Foucault, M. (1982) 'The Subject and Power', Hubert L. Dreyfus and Paul Rabinow (eds), *Michel Foucault: Beyond Structuralism and Hermeneutics* (New York: Harvester Wheatsheaf), 208-226.
- (1991) *Discipline and Punish: The Birth of the Prison*, New Ed. (London: Penguin).
- (1994) *Dits et écrits: 1954-1988*, Vol. 4 (Paris: Gallimard).
- (1997a) 'Society Must be Defended' in P. Rabinow (ed.), *The Essential Works of Foucault*, Vol. 1: Ethics (London: Allen Lane and Penguin Press), 59-65.
- (1997b) 'Security, Territory, and Population', in P. Rabinow (ed.), *The Essential Works of Foucault*, Vol. 1: Ethics (London: Allen Lane), 67-71.
- (1997c) 'The Birth of Biopolitics', in P. Rabinow (ed.), *The Essential Works of Foucault*, Vol. 1: Ethics (London: Allen Lane and Penguin Press), 73-79.
- (2001a) 'Governmentality', in J. Fabion (ed.), *The Essential Works of Foucault*, Vol. 3: Power (New York: New Press), 201- 222.
- (2001b) 'Confronting Governments: human rights' in J. Fabion (ed.), *The Essential Works of Foucault*, Vol. 3: Power (New York: New Press), 474-475.
- (2001c) in J. Fabion (ed.), *The Essential Works of Foucault*, Vol. 3: Power (New York: New Press), 126-144.
- (2003) *Society Must be Defended: lectures at the Collège de France, 1975-76*, trans. D. Macey (New York: Picador).

- (2007a) *Security, Territory, Population: lectures at the Collège de France, 1977-78*, trans. G. Burchell (Basingstoke: Palgrave Macmillan).
- (2007b) *The Politics of Truth*, trans. L. Holchroth and C. Porter (New York: Semiotext(e)).
- (2008) *The Birth of Biopolitics: Lectures at the Collège de France, 1978-1979* (Basingstoke: Palgrave Macmillan).
- Frost, Mervyn (2002) *Constituting Human Rights: Global Civil Society and the Society of Democratic States* (London: Routledge).
- Gaus, Gerald F. (2007) 'On justifying the moral rights of the moderns: a case of old wine in new bottles', in Ellen Frankel Paul, Fred Miller, Jr and Jeffrey Paul (eds) *Liberalism: Old and New* (New York: Cambridge University Press).
- Goffman, Erving (1961) *Asylums: Essays on the Social Situation of Mental Patients and Other Inmates* (New York: Doubleday).
- Heidegger, Martin (1998) 'On the Essence of Ground', trans. McNeill, in William McNeill (ed.) *Pathmarks* (Cambridge: Cambridge University Press), 97-135.
- Jayasuriya, Kanishka (2005) *Reconstituting the Global Liberal Order: Legitimacy and Regulation* (London: Routledge).
- Kiely, Ray (2004) 'What difference does difference make? Reflections on neo-conservatism as a cosmopolitan project', *Contemporary Politics* 10, nos. 3/4: 185-202.
- Kochi, Tarik (2006) 'Terror in the Name of Human Rights' *Melbourne Journal of International Law* 7, no. 1: 127-155.
- Kuus, Merje (2009) 'Cosmopolitan militarism? Spaces of NATO expansion', *Environment and Planning A* 41: 545 - 562
- Landman, Todd (2005) *Protecting Human Rights: A Comparative Study*, Washington DC: Georgetown University Press.
- Lemke, Thomas (2001) "'The Birth of Bio-Politics" – Michel Foucault's lecture at the Collège de France on neo-liberal governmentality," *Economy and Society* 30, no. 2: 190-207.
- Li, Xiaorong (2003) "'Asian Values" and the Universality of Human Rights' in Verna V. Gehring and William A. Galston (eds) *Philosophical Dimensions of Public Policy* (Edison, NJ: Transaction Books), 171-180.
- Marshall, James D. (2001) 'Varieties of Neo-liberalism: a Foucaultian Perspective', *Educational Philosophy and Theory* 33, Nos. 3 & 4: 293-304.
- Meuret, Denis (1993) 'A Political Genealogy of Political Economy', in Mike Gane and Terry Johnson (eds) *Foucault's New Domains* (London: Routledge), 49-74.
- Mourad, Roger (2003) 'After Foucault: A New form of Right', *Philosophy & Social Criticism* 29, no 4: 451-481.
- Neumann, Iver B. and Ole Sending (2007) "'The International' as Governmentality", *Millennium: Journal of International Studies* 35, no. 3: 677-701.
- Odyseos, Louiza (2007a) 'Crossing the Line? Carl Schmitt on the "spaceless universalism" of cosmopolitanism and the war on terror' in L. Odyseos and F. Petit (eds), *The International Political Thought of Carl Schmitt: terror, liberal war and the crisis of global order* (London: Routledge), 124-143.
- (2007b) *The Subject of Coexistence: otherness in international relations* (Minneapolis: University of Minnesota Press).
- (2008) 'Liberalism's War, Liberalism's Order: rethinking the global liberal order as a 'global civil war'', paper prepared for *Revising the Theoretical and*

- Political Status of Liberal Internationalism*, a pre-ISA Workshop, San Francisco, CA. 25 March. URL: <http://www.louizaodysseos.org.uk/>
- (2009) 'Humanité, hostilité et ouverture de l'ordre politique dans la pensée internationale de Carl Schmitt,' *Études Internationales* 40, No. 1: 73-93.
- Ong, Aihwa (2006a) *Neoliberalism as Exception: Mutations in Citizenship and Sovereignty* (Durham, NC: Duke University Press)
- (2006b) 'Experiments with Freedom: Milieus of the Human', *American Literary History* 18, no. 2: 229-244.
- (1993) 'On the Edge of Empires: Flexible Citizenship among Chinese in Diaspora', *Positions* 1: 745-778.
- Owens, Nicholas (2003) *Human Rights, Human Wrongs* (Oxford: Oxford University Press).
- Paras, Eric (2006) *Foucault 2.0: Beyond Power and Knowledge* (New York: Other Press).
- Prozorov, Sergei (2007) *Foucault, Freedom and Sovereignty* (Aldershot: Ashgate).
- Rasch, William (2003) 'Human rights as geopolitics: Carl Schmitt and the legal form of American supremacy', *Cultural Critique*, 54: 120-147.
- Richardson, James L. (1997) 'Contending Liberalisms: Past and Present', *European Journal of International Relations* 3: 5 - 33.
- Rorty, Richard (1999) 'Human rights, rationality, and sentimentality' in Belgrade Circle (eds), *The Politics of Human Rights* (London: Verso).
- Ruppert, Evelyn S. (2008) "'I Is; Therefore I Am": The Census as Practice of Double Identification', *Sociological Research Online* 13, no. 4.
- Searle, John (1965) 'What is a Speech Act?' in Max Black (ed.) *Philosophy in America* (London: George Allen and Unwin).
- Speed, Shannon (2002) 'Global Discourses on the Local Terrain: Human Rights and Indigenous Identity in Chiapas', *Cultural Dynamics* 14, no. 2: 205-228.
- Strange, Susan (1996) *The Retreat of the State: The Diffusion of Power in the World Economy* (Cambridge: Cambridge University Press).
- Wiesel, Elie (1999) 'The Perils of Indifference: Lessons Learned from a Violent Century', Millennium Evening at the White House, 12 April. Accessed 18 August 2009, URL: <http://www.pbs.org/eliewiesel/resources/millennium.html>