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Foucault, disciplinary power and the phenomenology of victimization and restorative justice

Part One

Nicholas Dungey

Doutor em ciências políticas, professor PHD de Filosofia Política na California State University, Northridge. Professor Visitante de Humanidades e Política na Anglo-American University, em Praga, República Tcheca.Fundador e CEO da Reluvotion.

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RESUMO

Os campos legais, políticos e sociocomportamentais da Vitimologia e da Justiça Restaurativa buscam abordagens alternativas para o reconhecimento dos Direitos da Vítima, para se lidar as consequências para as testemunhas do dano e para o trauma que as vítimas experimentam e encontrar novas maneiras de criar justiça restaurativa e curativa para ambas as vítimas de crimes. A maioria das teorias contemporâneas de Vitimologia e Justiça Restaurativa é moldada e informada pelo paradigma Moderno do Iluminismo, que é construído sobre três reivindicações mutuamente importantes e reforçadoras - filosóficas, científicas e políticas - sobre o significado e propósito da natureza humana, conhecimento científico e a arena legal e política. Embora o trabalho atualmente realizado nos campos da Vitimologia e Justiça Restaurativa seja crucial e transformador para as vítimas e para a busca por justiça, a questão de se as suposições filosóficas centrais do paradigma do Iluminismo são a maneira mais precisa de interpretar esses fenômenos pode ser levantada. É possível que as suposições filosóficas centrais do Iluminismo, por mais importantes e instrumentais para o progresso que tenham sido, impeçam de ver outras formas de interpretar essas ideias e questões? É possível conceber o sujeito/indivíduo, a vítima e a busca por justiça a partir de uma perspectiva foucaultiana e pós-moderna? Investigar esses temas e sua interseccionalidade a partir de uma perspectiva foucaultiana permite expandir o acontecimento do que significa ser uma vítima e redireciona a busca por justiça e seu significado.
Palavras-chave: Poder Disciplinar; Justiça Restaurativa; Direitos da Vítima; Perspectiva Foucaultiana; Interseccionalidade.

ABSTRACT

The legal, political, and socio-behavioral fields of Victimology and Restorative Justice seek alternative approaches to recognizing Victim's Rights, bearing witness to the harm and trauma victims experience, and to finding new ways of creating restorative healing and justice for both victims of crime. Most contemporary theories of Victimology and Restorative Justice are framed and informed by the Modern Enlightenment paradigm. The Enlightenment paradigm is built on three mutually important and reinforcing — philosophical, scientific, and political — claims about the meaning and purpose of human nature, scientific knowledge, and the legal and political arena. While the work currently being done in the fields of victimology and restorative justice are crucial and transformative to victims and the search

for justice, the question of whether the core philosophical assumptions of the Enlightenment paradigm are the most accurate way of interpreting these phenomena may be raised. Is it possible that the core philosophical assumptions of the Enlightenment, as important and instrumental to progress as they have been, keep us from seeing other ways of interpreting these ideas and issues? Is it possible to conceive of the subject/individual, victim, and the search for justice from a Foucaultian and postmodern perspective? Investigating these themes and their intersectionality from a Foucaultian perspective enables us to expand the happening of what it means to be a victim and redirects our search for justice and what it means.
Keywords: Disciplinary Power; Restorative Justice; Victim's Rights; Foucaultian Perspective; Intersectionality.

RESUMEN

Los campos legales, políticos y socio comportamentales de la Victimología y la Justicia Restaurativa buscan enfoques alternativos para el reconocimiento de los Derechos de la Víctima, para abordar las consecuencias para los testigos del daño y el trauma que experimentan las víctimas, y encontrar nuevas formas de crear justicia restaurativa y curativa para ambas víctimas de crímenes. La mayoría de las teorías contemporáneas de la Victimología y la Justicia Restaurativa están moldeadas e informadas por el paradigma Moderno de la Ilustración, que se construye sobre tres afirmaciones mutuamente importantes y reforzadoras, filosóficas, científicas y políticas, sobre el significado y propósito de la naturaleza humana, el conocimiento científico y la arena legal y política. Aunque el trabajo actualmente realizado en los campos de la Victimología y la Justicia Restaurativa es crucial y transformador para las víctimas y la búsqueda de justicia, puede plantearse la pregunta de si las suposiciones filosóficas centrales del paradigma de la Ilustración son la manera más precisa de interpretar estos fenómenos. ¿Es posible que las suposiciones filosóficas centrales de la Ilustración, por más importantes e instrumentales para el progreso que hayan sido, nos impidan ver otras formas de interpretar estas ideas y cuestiones? ¿Es posible concebir al sujeto/individuo, la víctima y la búsqueda de justicia desde una perspectiva foucaultiana y posmoderna? Investigar estos temas y su interseccionalidad desde una perspectiva foucaultiana permite expandir el acontecimiento de lo que significa ser una víctima y redirige la búsqueda de justicia y su significado.
Palabras clave: Poder Disciplinario; Justicia Restaurativa; Derechos de la Víctima; Perspectiva Foucaultiana; Interseccionalidad.

INTRODUCTION

The academic, legal, and socio-behavioral fields of Victimology and Restorative Justice seek alternative approaches to recognizing Victim Rights, bearing witness to the harm and trauma victims experience, and to finding new ways of creating restorative healing and justice. The work currently being done in Victimology and Restorative Justice is essential in recognizing the often-overlooked harm victims of crime experience and in expanding the domain of justice. Most contemporary theories of Victimology and Restorative Justice are framed in, and informed by, the Modern, Enlightenment paradigm. The Enlightenment paradigm is built on three mutually important and reinforcing — philosophical, scientific, and political — claims about the essence of human nature, scientific knowledge, and the legal and political arena. With the Enlightenment a new account of human nature, scientific and therapeutic knowledge, and legal and political processes emerges. Animated by the Enlightenment belief that the cause of crime can be rationally and scientifically known, and that such knowledge can be used to address the rights of victims, enact justice, and even rehabilitate the offender, a new set of theories and practices emerge.

While the work currently being done in the fields of Victimology and Restorative Justice are transformative for the victims and crucial to the search for justice, the question of whether the core philosophical, scientific, and legal assumptions of the Enlightenment paradigm are the most accurate way of interpreting and contextualizing Victimology and Restorative Justice may be raised. For example, is it possible that the core philosophical, scientific, and political assumptions of the Enlightenment, as important and instrumental to progress as they have been, keep us from seeing other ways of observing the *happening* of victimization and the search for Restorative Justice? Moreover, is it possible that the core assumptions of the Enlightenment may contribute to one's being *victimized* in a more primordial way? My goal in this essay is not to undermine the extraordinarily important work currently being done in Victimology and Restorative Justice, but only to investigate the core philosophical, scientific, and political assumptions of the Enlightenment paradigm from which these theories and practices emerge. My purpose is to investigate the core assumptions of the Enlightenment paradigm from a Foucaultian perspective, and to trace the way this investigation reveals an alternative phenomenology of the subject/individual, victim, and the search for Restorative Justice. Investigating these themes and their intersectionality from a Foucaultian perspectives enables us to deepen our understanding of the *phenomenology of victimization*. In Part II of the essay, I will investigate

how this *phenomenology of victimization* leads us to expand our search for and understanding of Restorative Justice.

I. A (VERY) BRIEF ACCOUNT OF THE ENLIGHTENMENT

Originating in the early Modern, Liberal philosophy of the English and French thinkers, exploding through the revolutionary politics of France and America, and culminating in the near global reach of the Normative Social and Behavioral Sciences, the Enlightenment fundamentally re-imagined reality and altered human history. Philosophically speaking, the Enlightenment claims that human beings are inherently and objectively free, morally equal, they possess a unique and idiosyncratic set of interests and desires that constitutes their individuality, and they possess natural rights. From the perspective of the Enlightenment Normative, Social and Behavioral Sciences, human beings are seen as rational and self-directing agents. Here, reason, is loosely interpreted as a special faculty unique to human beings that allows them to acquire objective knowledge about their nature — biological, neurological, physiological, genetic — and the world they inhabit. Modern science — physical, social, natural, medical, and psychiatric — is the dominant paradigm for the pursuit, investigation, and evaluation of all domains of life, the world, and the truth claims that emerge from these investigations. Politically speaking, the Enlightenment discourse is built on the idea that free and rational human beings consent to create and authorize the legal and political institutions that govern them. From the Enlightenment perspective, Liberal, Democratic states governed by constitutions, characterized by open institutions, transparent flows of public communication, and regular elections represent the near zenith of human legal and political progress.

Emerging alongside the core philosophical, scientific, and political ideas of the Enlightenment, are a set of conceptual and material practices that come to shape, define, and govern modern life. These strategies and practices are, first, the near total organization and routinization of space and time. Second, the creation of architectural and psychological mechanisms of hierarchical surveillance that produce modes of panoptic self-discipline. Third, the creation and deployment of ever more sophisticated systems of examinations designed to define, classify, and diagnose individuals. These strategies and practices are now so common and ubiquitous in our consciousness, systems of knowledge, and politics that they appear natural. Informed by the core philosophical, scientific, and political ideas of the

Enlightenment, and guided by the material strategies and practices that are associated with them, the modern disciplines of law, criminology, psychiatry, and social welfare emerge. To the inhabitants/citizens of the Enlightenment paradigm, the philosophical, social scientific, political claims are seen as objectively true and good for us individually and politically. Indeed, what sustains the entire Enlightenment project is our belief in the objective truth of these ideas and our commitment to their practices.

II. FOUCAULT, THE ENLIGHTENMENT AND DISCIPLINARY POWER

The key to understanding Foucault's analysis of the Enlightenment and his account of the happening of Disciplinary Power are found in his responses to the following questions: First, what happens if we apply a postmodern analysis to the Enlightenment? By which, Foucault means, we suspend our belief in the objective truth of the core elements of the Enlightenment paradigm and its practices. Second, what are the effects to our minds, bodies, and politics that derive from our belief in the moral and scientific truth of the Enlightenment and our commitment to its practices? According to Foucault, Disciplinary Power is what you see if you apply a postmodern analysis to the core ideas of the Enlightenment and the three strategies and practices that emerge from it.

In an attempt to answer these questions and gain insight into our historical context our commitment to the objective truth — Foucault takes up Kant's essay, *What is Enlightenment? When Kant asked "What is Enlightenment?" he meant, "what is going on just now?" What's happening to us? What is this World, this period, this precise moment we are living?* (2003, p.133). Foucault continues Kant's line of questioning, but he bends it in a new theoretical direction. Foucault asks: how does the Enlightenment fashion us into the subjects we are? What are the consequences of our commitment to Enlightenment ideas and practices? In responding to these questions, Foucault will come to interrogate the metaphysical assumptions underlying the Enlightenment accounts of power, subjectivity, and the nature of the socio-political space.

Foucault's critique of the objective foundations of the core Enlightenment ideas and practices begins in his understanding of language. Foucault is a nominalist. Following Nietzsche, he argues that language is not a medium connecting human beings to an objective reality or truth, nor is it a medium revealing something true about human beings. According to Foucault, while the beings, things, and processes in the world are real, they do not

possess an inherent or objective meaning. For Foucault, language is a human invention and simultaneously an assertion of power that operates as a tool of naming, defining, and valuing. In addition, all language — meaning, values and purposes — opens a space and process of agon and contestation. As we intuitively know, systems of meaning are spaces and processes of contestation as many forms of historical knowledge have given way to new systems of meaning, and we ourselves are always-already debating, and often fighting over, what things mean and who decides. These linguistic systems of meaning are not only agonistic, but they are also fragile and contingent. Throughout history we have witnessed systems of meaning that, while they appeared quite stable, fractured almost seemingly overnight. History, for Foucault, is nothing other than the on-going transformation of invented, agonistic, fragile, and contingent systems of meaning. Foucault uses the term, discourse, to describe the way any historical system of language, meanings and values come to be organized into a coherent system of thought and, for a time, define a cultural moment. For Foucault, the term discourse refers to both an historical network — philosophical, theological, moral, political, scientific — of concepts, and a set of material and physical strategies that help implement these ideas. Historically speaking, the most dominant discourses in Western history have been grounded in some assertion of objective truth. While all discourses operate to constitute and define the sphere of meaningful space, form subjectivity, and create regimes of truth, the language that opens and defines any particular historical discourse is always a human convention. *Truth, Foucault writes, is to be understood as a system of ordered procedures for the production, regulation, distribution, circulation and operation of statements* (1980, p.133). For Foucault, truth is something that is produced through discourse, but the discourses that produce regimes of truth are themselves neither true nor false (1980, p. 118). There are no objectively true discourses.

Given his interpretation of language and the way it constructs and opens domains of meaning, Foucault is suspicious of the claim that power is a metaphysical entity that can be objectively discovered and measured. Power is not reducible to a single, timeless, and changeless idea that serves as the conditions of possibility for all conceptual or material examples of power. There is no universally applicable principle of power that lies behind or unifies our conceptual and material examples of power. In addition, while it is accurate to say that individuals and social, scientific, and political institutions exercise power, for Foucault, power is not located in the objective capacities of human beings or institutions. For example, Foucault writes, power is not: *a certain strength we are endowed with [and] Power is not something that is [objectively] acquired, seized, or shared, something that one holds on to or*

allows to slip away (1990, p. 93-94).

And, power is not to be taken: *[as] a right, which one is able to possess like a commodity, and which one can transfer or alienate. [Power is not a] concrete [thing] which every individual holds* (1980, p. 88).

Likewise, Foucault insists that power is not simply the product or possession of social and political institutions. He writes, *the analysis of power must not assume that the sovereignty of the state, the form of law, or the overall unity of a domination are given at the outset Power is not an institution, and not a structure* (1990, p. 92-93).

Nor is power just the name for the relationship between the rulers and the ruled.

> By power, I do not mean a mode of subjugation which, in contrast to violence, has the form of rule. By power, I do not mean 'Power' as a group of institutions and mechanisms that ensure the subservience of the citizens of a given state. Power's condition of possibility must not be sought in the primary existence of a central point, in a unique source of sovereignty from which secondary and descendent forms would emanate (1990, p. 92-93).

For Foucault, what we typically identify as examples of the essence of power, or facts of power, are rather what he calls the historical, material, and situational expression of its operation in a discourse. Moreover, Foucault is leery of objective accounts of power because they seduce us into the belief that there are important dimensions of life — intellectual, rational, medical, legal, familial, and sexual — that are believed to be free of power relations.

> Relations of power are not in a position of exteriority with respect to other types of relationships (economic processes, knowledge relationships, sexual relations), but are immanent in the latter; they are the immediate effects of the divisions, inequalities, and disequilibriums which occur in the latter, and conversely they are the internal conditions of these differentiations (1990, p. 94).

Power names a webbing of linguistic and material relations constituted by words, moral and political values, and material capacities. This webbing of power is not a *thing* (Foucault, 1979, p. 177). *Power, Deleuze writes, has no essence, it is operational* (1988, p. 27). The key to Foucault's account of power is the realization that power is a field of linguistic and material relations that are exercised — it flows from one idea to another idea, from one person

to another, it flows through gender construction and scientific claims to mental and physical health, and it flows from the subject to the institutions, and back again from the institutions to subjects. *Power must be analyzed as something which circulates, or rather as something which only functions in the form of a chain* (Foucault, 1980, p. 98). As Foucault writes, *[o]ne doesn't have here a power which is wholly in the hands of one person [or institution] who can exercise it alone and totally over others. It is a machine in which everyone is caught, those who exercise power just as much as those over whom it is exercised* (1980, p. 156). Human beings always-already find themselves in a webbing of power relations that constitute the conditions of possibility of their subjectivity, meaning, and moral and political values. The exercise of power is a form of conducting, directing, and managing these human, moral, and political possibilities (Foucault, 2003, p. 138).

III. THE ENLIGHTENMENT AS DISCOURSE, DISCIPLINARY POWER, AND THE FORMATION OF SUBJECTIVITY

To make Foucault's account of power more tangible, we need to engage our own historical discourse — the Enlightenment. *We have to know*, Foucault argues, *the historical conditions that motivate our conceptualization. We need a historical awareness of our present circumstances* (2003, p. 127). Our investigation of power must begin with an analysis of the Enlightenment as a particular historical discourse. He writes,

> [I]n a society such as ours there are manifold relations of power which permeate, characterize and constitute the social body, and these relations of power cannot themselves be established, consolidated nor implemented without the production, accumulation, circulation and functioning of a discourse. There can be no exercise of power without a certain economy of discourses of truth (1980, 93).

Historians of ideas, Foucault writes,

> usually attribute the dream of a perfect society to the philosophers and jurists of the eighteenth century; but there was a [disciplinary] dream of society; its fundamental reference was not to the state of nature . . . not to the primal social contract, but to permanent coercions, not to fundamental rights, but to infinitely progressive forms of training, not to the general will but to automatic docility (1979, 169).

Foucault provides an alternative interpretation to the utopian narrative

of the Enlightenment.

According to Foucault's nominalist interpretation, the Enlightenment discourse represents a dense webbing of philosophical, scientific, and political ideas that slowly merge to form of a powerful narrative that produces subjects, forecloses the liberal account of freedom, and installs ever more effective mechanisms of domination. In addition, the Enlightenment discourse gives rise to a set of strategic, interdependent, and mutually reinforcing material and physical practices that are designed to act upon the body to produce an individual who is economically productive, obedient, and normalized. Most importantly, what makes the Enlightenment discourse such a powerful narrative, Foucault argues, is precisely our belief in the objective truth of its philosophical, scientific, and political claims and our commitment to their deeper realization. The philosophical, scientific, and political claims of the Enlightenment come together to create what he calls a particularly effective regime of Truth.

Foucault's account of the Enlightenment as a discourse brings us to his identification of Disciplinary Power and the fabrication of modern subjectivity. Like his view on power, Foucault is highly suspicious of the existence of a metaphysical essence or nature to human beings. He is suspicious of the claim that there exists an objective self that is separable from, and transcends, one's historical discourse, as well as the modern, Liberal claim that views individuals as objectively free, autonomous, and the bearers of natural rights. For Foucault, subjectivity is not biologically or metaphysically given (Digeser, 1992, p. 980). If subjectivity is not grounded in a metaphysical truth or essence, and if it is not biologically given, how does it emerge? In *Discipline and Punish*, Foucault identifies the way the Enlightenment's philosophical, scientific, and political ideas, and the material and physical techniques that derive from them, form (produce, fabricate) us into the subjects that we are. As mentioned above, according to Foucault, Disciplinary Power is what you see if you apply a Nietzschean, or nominalist, interpretation to the core philosophical, scientific, and political assumptions of the Enlightenment. Disciplinary Power is what you see when you interpret the Enlightenment as a discourse. For modern society to function, Foucault writes, *it was necessary to have this new distribution of power known as discipline, with its structures and hierarchies, its inspections, exercises and methods of training and conditioning* (1980, p. 158). As Foucault writes, the Enlightenment discourse, and the disciplinary power it gives rise to *categorizes the individual, marks him by his own individuality, attaches him to his own identity, imposes a law of truth on him that he must recognize and others have to recognize in him. It is a form of power that*

makes individuals subjects (2003, p. 130).

Subjectivity is not something that is discovered or revealed, it is something that is made and formed. As Judith Butler writes, *[w]here there is an 'I' who utters and speaks and thereby produces an effect in discourse, there is first a discourse which precedes and enables that 'I' and forms in language the constraining trajectory of its will* (1993, p. 225). How has the Enlightenment discourse, and the disciplinary power that emerges from it, formed us into the beings that we are?

To fabricate subjectivity a series of disciplinary strategies and techniques are developed for use in the modern prison and military. It is therefore critical to remember, Foucault argues, that the Enlightenment dream of a perfectly rationalized and functioning society does not begin in a utopian political vision, but in the cell and the barrack. It was the prison and the military that served as the laboratories for the creation and exercise of disciplinary power and practices. Foucault identifies three techniques and strategies that constitute disciplinary power: the extensive regulation of space and time; the creation of a permanent and internalized system of surveillance; and, the creation and deployment of scientifically sanctioned examinations to measure and diagnose one's aptitude and normalcy. Disciplinary power's purpose is to objectify and normalize the individual. By objectification, Foucault means the way disciplinary power holds the subject in a field of scientific examination and observation. By normalization, Foucault means the narrowing and homogenization of the subject's meaning and political possibilities.

1. The Strategic Organization of Space and Time

Disciplinary power has its origin in the organization of space and time. The first example of the control of space develops around what Foucault calls strategic enclosures — space that is specifically marked off from other spaces and closed in upon itself. (1979, p. 141). The creation of military barracks, modern prisons, hospitals, and boarding schools symbolize the first attempts to strategically define space for specific purposes. The purpose of enclosure is to organize as efficiently as possible the activity of a group of people — soldiers, factory workers, or school children. As Foucault notes, *[t]he aim is to derive the maximum advantages and to neutralize the inconveniences (thefts, interruptions of work, disturbances) associated with the presence of large numbers of individuals in close quarters* (1979, p. 142).

The second step in the organization of space is the strategic partitioning of the enclosure. Within the prison, military barrack, or school, *each individual has his own place; and each place its individual. Disciplinary space tends to be divided into as many sections as there are bodies or elements to be distributed* (1979, p. 143). Partitioning allows you to distribute individuals according to their specific activity or capability and to increase control and surveillance over them.

> Its aim was to establish presences and absences, to know where and how to locate individuals, to set up useful communications, to interrupt others, to be able at each moment to supervise the conduct of each individual, to assess it, judge it, to calculate its qualities or merits. Discipline organizes [a material and] an analytical space (Foucault, 1979, p. 143).

In addition to the organization of space, time also becomes more rigorously controlled. Around the turn of the eighteenth century, military units, factories, and schools adopt and perfect the monastic obsession with timetables. *Its three great methods — establish rhythms, impose particular occupations, regulate the cycles of repetition — were soon to be found in schools, workshops and hospitals* (Foucault, 1979, p. 149). Time is broken down into hours, minutes, and seconds. This control over time allows for time to be used ever more efficiently and to ensure the quality of time used. However, the timetable is not enough. What also occurs is the coordination of time with specific activities — what Foucault calls the temporal elaboration of the act (1979, p. 150). *The act is broken down into its elements to each movement [is] assigned a direction, an aptitude, a duration* (Foucault, 1979, p. 152). Every subdivision of time has a specific activity assigned to it, and every activity has its allotted time in which it must be performed. With the advent of the modern factory's assembly line, we witness the absolute coordination of gesture and time. *Time penetrates the body and with it all the meticulous controls of power* (Foucault, 1979, p. 152). The purpose of the meticulous fusion of time and action is to induce within individuals a flow of power in which behavior becomes automatic, predictable, and without reflection. The schedule becomes the archetype of a new form of economic, moral, and political order.

2. Hierarchical and Panoptic Surveillance

Intimately related to the organization of space and time is the emergence of a vast apparatus of architectural systems of surveillance. Indeed, one of the main reasons for the meticulous organization of space and time is

the desire to observe individuals more effectively. *The exercise of discipline, Foucault writes, presupposes a mechanism that coerces by means of observation; an apparatus in which the techniques that make it possible to see induce effects of power, and in which, conversely, the means of coercion make those on whom they are applied clearly visible* (1979, p. 170-171). During the Enlightenment buildings were architecturally designed and built with the specific purpose of maximizing the observation of those within them and to induce in those being observed the psychological awareness that they are always being watched. Prisons, army barracks, factories, and schools are designed to maximize the ability of those in charge to observe the behavior and activity of individuals.

> In the perfect camp, all power would be exercised solely through exact observation; each gaze would form a part of the overall functioning of power. The hospital building was gradually organized as an instrument of medical action: it was to allow a better observation of patients. Similarly, the school building was to be a mechanism for training. And an apparatus for observation. The perfect disciplinary apparatus would make it possible for a single gaze to see everything constantly (1979, p. 171- 173).

Architecture is pressed into the service of disciplinary power by permitting *an internal, articulated and detailed control — to render visible who are inside it; in more general terms, an architecture that would operate to transform individuals: to act on those it shelters, to provide a hold on their conduct, to carry the effects of power right to them, to make is possible to know them, to alter them* (Foucault, 1979, p. 172). The purpose of hierarchical surveillance is to achieve control over individuals and to coerce and alter their behavior by making them visible.

The most important and disciplinary purpose of perpetual, hierarchical observation is to induce in those who are observed the awareness that they are always being watched, even if they are not. To illustrate this Foucault uses the example of the Panopticon. The Panopticon represents the near perfection of the disciplinary fusion of the control of space and time and hierarchical observation. Foucault writes:

> at the periphery, an annular [or circular] building; at the center a tower; this tower is pierced with wide windows that open onto the inner side of the ring; the peripheric [outer] building is divided into cells. They have two windows, one on the inside, corresponding to the windows of the tower, the other, on the outside, allows the light to cross the cell from one end to another. All that is needed is to place a supervisor in a central tower and to shut up in a cell a madman, a patient, a condemned man, a worker or a school boy. By

> the effect of backlighting, one can observe from the tower the small captive shadows in the cells. Each actor is alone, perfectly individualized and visible. The panoptic mechanism makes it possible to see constantly and to recognize immediately (1979, p. 200).

While the prisoner, workman, or student can see the tower and knows there is a supervisor in the tower, the individual in the cell cannot see the supervisor. The goal of the panopticon is to arrange things so *surveillance is permanent in its effects, even if it is discontinuous in its action* (1979, p. 201). The purpose of the panopticon is to induce in the individual *a state of conscious and permanent visibility that insures the automatic functioning of power* (1979, p. 201). The panopticon creates a mechanism of power, and establishes relations of power, that operates independently of the person who exercises it.

The awareness of perpetual hierarchical and panoptic surveillance forces one to internalize the fact his or her actions may always be seen. The hyper-awareness of constant surveillance leads individuals to internalize the mechanisms of observation and creates a powerful psychological machine of self-discipline and regulation within individuals. What is essential to note is Foucault's claim that the panopticon is not simply a prison. Its techniques and strategies have been universalized throughout the economic, social, educational, and political institutions of Enlightenment society. Indeed, for Foucault, human consciousness, and subjectivity — what he calls the soul — are panoptic. Individuals are both prisoners and guard over their own thoughts, desires, and actions. This is what Foucault means when he famously asserts that the soul is the prison of the body.

3. The Examination

The total control of space and time and the hierarchical, panoptic mechanisms of observation lead to the third technique of disciplinary power: the examination. The creation and administration of a comprehensive, penetrating, and lifelong series of examinations deepens the phenomenon begun with the first two disciplinary strategies — it makes the subject visible. Prior to the Enlightenment, most human beings lived and died in obscurity. During the Enlightenment, however, there is a radical reversal in the directionality of observation and visibility. The reversal of visibility is driven by the Enlightenment's discovery of the bio-power — the material utility and economic value — of the individual. It is at this moment that the vast academic and professional machinery of the Normative Social and Behavioral

Sciences are born. The ethos of the Normative Social and Behavioral Sciences is that everything and everyone can and should be examined. The Normative Social and Behavioral Sciences seek to *know* the body and mind, *how they work*, and most importantly, how to train, shape, and direct them. It is in this way that the examination literally makes the subject *visible* by making it the object of examination. From the standard, metaphysical interpretation of the Normative Social and Behavioral Sciences, the goal of these examinations is the desire to discover true knowledge about the human mind and body, the natural and social sciences, and to use this knowledge to liberate individuals and improve the human condition.

Foucault is suspicious of the objective assumptions underlying the Normative Social and Behavioral Sciences. He argues that it is in and through the administration of examinations, and our willing compliance with them, that disciplinary power writes the Enlightenment discourse into our mind and onto our body. He writes:

> The examination combines the techniques of an observing hierarchy and those of a normalizing judgment. It is a normalizing gaze, surveillance that makes it possible to qualify, to classify and to punish. It establishes over individuals a visibility through which one differentiates them and judges them. That is why, in all the mechanisms of discipline, the examination is highly ritualized. In it are combined the ceremony of power and the form of experiment, the deployment of force and the establishment of truth (1979, p. 184).

By making the individual an object of scientific, medical, psychological, and intellectual examinations, disciplinary power inscribes the subject in an infinite field of *documentation. The examination, Foucault writes, introduces the individual into the field of documentation. The examination that places individuals in a field of surveillance also situates them in a network of writing, it engages them in a whole mass of documents that capture and fix them* (1979, p. 189). The knowledge produced by these examinations produces and captures subjects by categorizing and defining them according to the information that emerges from the new scientific disciplines. Enlightenment documentation represents the moment we are inscribed into the scientific, legal, and moral apparatus of disciplinary power and society. Moreover, this documentation continues throughout one's existence. Every aspect of one's life — one's health record, IQ scores, aptitude tests, driving record and infractions, work performance, income, credit score, and history of illnesses and disease — is recorded and *documented*. For the first time in human history, this form of *disciplinary writing* enables the total documentation of individuals and populations.

What are the results of the Normative Social and Behavioral machinery of examinations and *documentation? The examination, surrounded by all its documentary techniques, Foucault writes, makes each individual a "case". It is the individual as he may be described, judged, measured, compared with others, in his very individuality, and it is also the individual who has to be trained, corrected, classified, normalized* (1979, p. 191). Foucault calls the *turning of real lives into writing* a new mode of *describability* that not only produces subjects but holds them in a field of conceptual and material domination.

> [T]he child, madman, the prisoner, were to become, with increasing ease the object of individual descriptions and biographical accounts. The examination as the fixing of individual differences, as the pinning down of each individual in his own particularity clearly indicates the appearance of a new modality of power in which each individual receives as his status his own individuality (1979, p. 192).

The descriptions, characteristics, meanings, and values produced by this new form of disciplinary writing constitute the physical, psychological, and social identity of individuals. We are our IQ tests, our psychological exams, our credit score, our gendered formation, our income and tax bracket, and reasons for death. Subjectivity and self/panoptic consciousness are Foucault's way of describing how all this data becomes a legible text/body/soul. One becomes and is his or her case.

V. DISCIPLINARY POWER AND THE PHENOMENOLOGY OF VICTIMIZATION

Interpreting the Enlightenment as a discourse and identifying the way the Enlightenment discourse gives rise to disciplinary power reveals a deeper *phenomenology of victimization*. We can identify four moments in the *phenomenology of victimization*. First, viewing the Enlightenment as a discourse reveals that meaning and power are simultaneous, and that power is not reducible to an objective possession of individuals or institutions. Discipline may be identified neither with an institution nor with an apparatus; it is a type of power, a modality for its exercise, comprising a whole set of instruments, techniques, procedures (Foucault, 1979, p. 215). Disciplinary power names a network of relations constituted by the core ideas of the Enlightenment and reinforced by the control of space/time, the creation of panoptic consciousness and subjectivity, and the writing of one's body and identity. Phenomenologically speaking, disciplinary power is always-already being exercised. Interpreting the Enlightenment as a discourse of

power and practices alerts us to the happening of power and victimization in ways that we do not commonly recognize. Most importantly, the original *moment/happening* of the *phenomenology of victimization* is found in the very fabrication of subjectivity itself. Being the object and vehicle of disciplinary power is the ontological opening of *victimization*.

The second moment in the *phenomenology of victimization* is found in the particular types of subjects that disciplinary power creates. *Discipline "makes" individual; it is the specific technique of power that regards individuals both as the objects and as the instruments of its exercise. The individual is a reality fabricated by this specific technology of power I call discipline* (Foucault, 1979, p.170-194). The Enlightenment as discourse and the disciplinary power that flows through it fabricates subjects/individuals that are economically well trained, productive, efficient, and politically obedient and docile. From this perspective, the *phenomenology of victimization* is seen in the lives of individuals defined by, and ensnared within, a system of meaning and practices of exploitive capitalism, ever greater demands of economic productivity, and submission to corporate culture. This *phenomenology of victimization* also produces individuals who are docile and obedient to political institutions. Refining still further, the second moment of the *phenomenology of victimization* alerts us to the presence and operation within the Enlightenment discourse of patriarchal, misogynist, racial, and gender relations of power. Indeed, it is the growing awareness of this moment in the *phenomenology of victimization* that is leading to ever greater efforts to decolonize the Enlightenment discourse.

The third moment in the *phenomenology of victimization* occurs in and through a condition of perpetual visibility and the formation of panoptic consciousness. All three strategies of disciplinary power — the control of space and time, hierarchical and internalized observation, and creation and deployment of pervasive examinations — operate to constitute visible subjectivity and to render the individual permanently visible. There are no dimensions of the modern subject's physical, psychological, professional, sexual, moral, or political life that are not visible and accessible to the experts, corporations, and institutions of disciplinary society. Moreover, this pervasive visibility is the process by which Disciplinary Power increases and strengthens its hold or victimization over individuals. In Disciplinary society, while the common individual becomes highly visible, those who exercise power become invisible. Hiding in plain sight and operating under cover of the examination and normalizing judgment, those who operationalize Disciplinary Power produce knowledge, aptitude, name and

contain abnormality and deviance, and establish a vast regime of rewards for compliance. As Foucault writes,

> The judges of normality are everywhere. We are in the society of the teacher-judge, the doctor-judge, the educator-judge, the social-worker judge, it is on them that the universal reign of the normative is based; and each individual, wherever he may find himself, subjects to it his body, his gestures, his behavior, and his achievements (1979, p. 304).

Indeed, this being visible as the condition of possibility for one's subjectivity is an ontological dimension of one's Being.

Perhaps the most dramatic example of the *phenomenology of victimization* as ontological *visibility* is the creation of panoptic consciousness. As we have seen, the mechanisms and practices of panoptic observation operate to create a state of consciousness in which the subject is, as a form of consciousness, perpetually governing, regulating, and observing his or her own thoughts and actions. The very purpose of Disciplinary Power and perpetual visibility is to create panoptic mechanisms as a state of consciousness itself. As Foucault observes, the purpose of panoptic mechanisms and practices is make the exercise of power permanent even when the instruments of power are not operating. As the object and vehicles of Disciplinary power, we are panoptic consciousness in so far as we are simultaneously a prisoner in, and guard over, our own consciousness. Indeed, the goal of the third moment in the *phenomenology of victimization* is to create subjects who are, ontologically speaking, *disciplined*.

The fourth moment in the *phenomenology of victimization*, and the reason why Disciplinary Power works, is that Disciplinary Power creates subjects and holds them in a *regime of Truth. Power, Foucault writes, never ceases its interrogation [and] its registration of truth: it institutionalizes, professionalizes, and rewards its pursuit. We are also subjected to the truth in the sense that the truth makes the laws [and] produces true discourses* (1980, p. 93-94). What makes Disciplinary Power so effective is precisely the fact that we do not view the central ideas of the Enlightenment discourse and the material and physical techniques that reinforce them as *exercises of power*. We believe that the philosophical and scientific knowledge produced by the Enlightenment discourse discovers and reveals something true about our nature and the world we inhabit. In addition, we view our submission to this knowledge and the application of this knowledge to our lives as beneficial to our physical and mental health, the elevation of our consciousness, and as essential to creation of ever more

free, humane, and just economic, social, and political institutions. Because we believe in the objective truth of the Enlightenment discourse, we must always pursue, discover, and speak the Truth. As Foucault notes, *we are subjected to the production of truth through power and we cannot exercise power except through the production of truth* (1980, p. 93). This fourth moment in the *phenomenology of victimization* — one's subjectivity being formed by and held in a *regime of Truth* — perfects and closes the hermeneutic circle of the *phenomenology of victimization*.

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