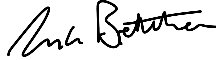


Consent Forms:  
A Biopolitical Theology  
by  
Matthew Elmore

Date: 06.20.23

Approved:



---

Luke Bretherton, Advisor



---

Wylin D. Wilson (Jul 11, 2023 15:51 EDT)

Wylin D. Wilson



---

Janet Soskice (Jul 18, 2023 06:55 PDT)

Janet Martin Soskice



---

Polly Ha



---

Brett McCarty

Dissertation submitted in partial fulfillment of  
the degree of Doctor of Theology  
at Duke University Divinity School

2023





## Abstract.

What is consent? What does it mean, what is its use, and what good does it do? My dissertation turns these questions over and over, looking at the answers given by three different eras of western history: the Information Age up to the present, the Enlightenment up to the birth of the United States, and the Middle Ages up to the Reformation. The structure of my thought reverses the chronology of history, because I imagine my project as an excavation. Starting with a survey of the present landscape, I work downward to the depth of the past, recovering a form of consent buried in a language we have lost. Always conscious of our present context, my technique is what some call “metamodern,” meaning I freely adopt a posture that is, at turns, postmodern and premodern.

After discussing the scope and method of my work in chapter one, I devote the second chapter to a study of our databased economy. Tech firms are extracting biometric and behavioral data, setting up asymmetrical power relations with a small but all-important choice architecture, the *Agree* button. I offer a survey of the logics behind its automation. The third chapter then picks up where the second leaves off. I draw from my own experience working in clinical research, where it was my job to “consent people.” The strange grammar of that phrase prompts a discussion about the history and practice of informed consent. This leads to the fourth chapter, where I turn to John Locke’s theory of the social contract. From Locke, we receive the basic principles regulating our use of consent today. But as I show in the next chapter, a very different paradigm lies beneath it, which is what I want to recover. Chapter five thus traces the evolutions of *consentire* from Aquinas to Luther, giving careful attention to language they received from Augustine. The sixth and final chapter then explores the Augustinian grammar in the visionary work of Dante and Catherine of Siena, whom I believe can teach us another way to be modern.

For Hannah and Francis

## Contents.

Acknowledgements	5
Chapter 1: Introduction	7
Chapter 2: Data Coronatus	56
Chapter 3: Informatic Consent	100
Chapter 4: Properties of the Known World	143
Chapter 5: The Place of Augustine's Grammar	184
Chapter 6: Mysticism as Counter-Conduct	229
Final Summary of the Grammar	266
Bibliography	269

## Acknowledgements.

I owe a debt to many who nurtured and supported this work. First, to Luke Bretherton, whose energy and guidance have been unflagging. His wisdom, savvy, and pursuit of diversity have opened up patterns of thought I never anticipated, and he has demonstrated immense hospitality to my interests. Thanks to his mentorship, my dissertation has set up a structure for various kinds of theoretical and practical work, a fact that testifies to his own range as a scholar and activist.

My committees, too, have given me wide-ranging insights into the heart of this project. When I first proposed my dissertation, Patrick Smith suggested I crystallize my fundamental challenge to the notion of informed consent. Norman Wirzba asked me to consider the habitat of human agency in the created order. Their thoughts helped me shape some of the most critical pieces of my argument. Wylin Wilson has been a friend and companion throughout my journey at Duke, inviting me to speak to her class and offering wisdom from a Womanist perspective. Janet Soskice, who also afforded me the privilege of speaking to her class, has strengthened my sensibilities as a Roman Catholic pursuing both tradition and change. Brett McCarty and Polly Ha were late additions to my dissertation committee, yet they approached the task with relish and care. I'm grateful to Brett for his collegiality in the space of medicine and theology at Duke. His careful reading of my work continues to prompt growth in my social vision of the good. Polly, whose acumen as a historian has strengthened my understanding of early modernity, gave feedback and resources for future consideration, and I'm grateful for her help.

At Duke, I have been surrounded by friends who have shown support in myriad ways. Wilco Devries blessed me with many rich conversations on Augustine, and Nathan Hershberger quietly provoked me to reconsider my settled opinions on many topics. Many other peers and faculty members have formed my heart and mind, but foremost among them are Warren Kinghorn and

Farr Curlin, who taught me a great deal about spiritual care for clinicians. In a similar way, I have profited from the folks at the Duke Catholic Center, especially Sister Marcia, who never rushes and always has time.

Beyond Duke, I want to thank Paul Scherz for taking time to mentor this Stoic disciple. I have also been nourished by the tireless efforts of Aaron Daniels, convener of the Dante Salon at the Psychology and the Other Conference. My thanks go out to him for offering me a place to experiment with thoughts that emerged in my final chapter. I also wish to thank the Michael Polanyi Society for providing me with a grant to speak on the unlikely connection of Polanyi and Aquinas. In these spaces, I found friends who gave me footing as I sought lines of travel between the postmodern and the premodern. Along the same lines, John and Allison Milbank have continued to influence my thinking long after my studies at the University of Nottingham. Their enchanted sense of things is a grace in my memory, remaining a point of return in my work. My spiritual director, Mike Somich, has helped me grow into that grace with the practice of contemplative prayer. He offered me gentle guidance during difficult times, and his labor for my good taught me a great deal about my own vocation, which is still taking shape under his care.

Finally, my family has shown unwavering support for a project that was sometimes impossible to explain. Without question, I could not have reached the finish line apart from them. My in-laws, Hope and Nate, moved to Durham for the sole purpose of being close and helpful. I cannot exhaust my thanks to them for their exquisite kindness. I owe a debt of equal measure to my mother-in-law, who has provided childcare on numerous occasions, allowing me to write. To my own parents, I owe many thanks for their continued care, provision, and conversation. And to my two dearest lights, Hannah and Francis, I want to express my profoundest thanks for enabling a task that was arduous for us all. I dedicate this work to them, glad for their love.



## Chapter 1.

### Introduction.

My dissertation is about consent – how it forms, what it forms, and for whom. The critical edge of my argument, sharpened to its most basic point, reveals that consent is a technology of power. Consent forms subjects. As a tool of modern governance, it shapes the architecture of our choices, following a blueprint drafted chiefly by John Locke. A physician by training, Locke rose to prominence in the late seventeenth century for his sweeping philosophy of human nature, the elements of which have set up two modern frames of mind: empiricism and liberalism. My assertion, which is anything but novel, is that these two frameworks articulate each other. To use the language of Michel Foucault, they form a governmentality, a mentality of governance that sees the human not only as a rights-bearing agent but as a data-furnishing patient. The liberal subject is a research subject, impossible to see without the gaze of epidemiology, economics, and other population sciences. We who live in liberal democracies are therefore studied and governed without our explicit permission (thus conforming to the Lockean requirement of *tacit* consent). But when research without permission proves unthinkable – whether for reasons of privacy, feasibility, or risk – researchers activate the mechanism of consent. It is a key feature of modern choice architectures, normally appearing as an Agree button or a document to sign.<sup>1</sup> Consent, then, is a managerial technology that verifies the subject as an object, making the human will legible as a binary *yes-or-no* bundled into a larger dataset.

---

<sup>1</sup> The concept of choice architecture was first introduced by Richard Thaler and Cass Sunstein. Spun from the behaviorism of B.F. Skinner, their book *Nudge* (New York: Penguin, 2008) puts forward a philosophy of “libertarian paternalism.” Thaler and Sunstein point out that choice architectures are inevitable and everywhere, moving our decisions below the level of conscious awareness. “Choice architects,” they write, “can make major improvements to the lives of others by designing user-friendly environments.” (p. 11) For example, the cafeteria designer can prominently feature the salad bar. Of course, the same principle holds for those who are not so publicly minded: the grocery store can feature candy at the checkout.

In the discourse of modern bioethics, there have always been concerns about the meaning of “informed” consent.<sup>2</sup> No one disputes the ethical simplicity of the premise: subjects have a right to know what they are getting into, and they have the right to refuse. But in practice, things are not so simple. What allows for a truly informed consent? Given that subjects are not experts in the fields where they are studied, they are bound to be led like sheep. Even the most well-intentioned experts, wanting to provide the options rightfully owed to subjects, exercise an authority over them based on trust. And, because the expert knows more than the subject, communication may break down. Some degree of expert knowledge is sure to be lost in translation, hidden from subjects unintentionally. A reciprocal difficulty also presents itself: experts may fail to discern whether subjects truly understand the information shared with them.

A quagmire, to be sure. Still, consent is a routine part of modern life, bogging down very few people despite its being filled with epistemic, not to say ethical trouble. To make sense of this, my dissertation surveys the use of consent in the construction of the information age. Regardless of where one lands on the moral technicalities of consent, information is the crux of the matter. Information is how subjects are made to fit the frame of the ethical; they are required to process what they read or hear and then generate a specific output. Informed consent, at once an individualized procedure and a largescale program, is designed at both levels to convert the subject’s choice to information. The researcher, presenting information to the subject, wants to extract a *yes-or-no* from a complex information processor. The complexity of human freedom must therefore adapt itself to the architecture of a database, following the prompt of an algorithm made to accept one of two answers. “You are, and are invited to become, only and precisely what the form says you are,” as Alasdair

---

<sup>2</sup> See for example James F. Childress and Marcia Day Childress, “What Does the Evolution from Informed Consent to Shared Decision Making Teach Us about Authority in Health Care?” *AMA Journal of Ethics*, Vol. 22, No. 5 (2020), E423-429.

MacIntyre says in his critique of medical bureaucracy.<sup>3</sup> This, in the end, is how modern science has dealt with the quagmire of consent – by covering it with a looming infrastructure of academic, corporate, and governmental proceduralism.

I share MacIntyre's leeriness, believing there is something immeasurable about human identity and freedom, something that modern information systems tend to compromise and obscure. My term for that something is *soul*, which invokes a vision of human nature that is, for the most part, undetectable to modern empiricism. In the premodern west, the soul was the embodied consciousness of one's own thinking, sensing, willing, desiring, and moving – the metaphysical substance of the self, perceived by methods of contemplation almost lost to us now. *Who am I?* is the question set before the entire tradition of Greek philosophy, implicit in the Delphic words repeated by Socrates: Know thyself. Taken up in prayer, the question motivated Augustine's *Confessions*, leading ultimately to the quest for self-knowledge in the mystical tradition of the Middle Ages.<sup>4</sup> For Socrates and Augustine, the self was a mystery – knowable, yes, but not exhaustively, and only in pursuit of the enigmatic Good from which all souls have come.<sup>5</sup> A soul could be opened or closed to such knowledge, but the movement of one's inner life was determined by no one else. The soul, the "I" who chooses, determined whether to seek the Good or not, which is what made free will so important. After receiving its name in the Augustinian tradition, free will came to light as the greatest part of the soul, indeed the greatest gift in the cosmos.<sup>6</sup> It made human souls morally distinct from each other, simultaneously making human nature distinct from other creatures. Its greatness derived from its

---

<sup>3</sup> Alasdair MacIntyre, "Medicine Aimed at the Care of Persons Rather than What...?" *Changing Values in Medicine*, ed. Eric J. Cassell and Mark Siegler (Lanham, MD: University Publications of America, 1979), 84.

<sup>4</sup> Bernard McGinn calls Augustine the "founding father" of western Christian mysticism. See *The Foundations of Mysticism: Origins to the Fifth Century* (London: LCM Press, 1991), 228-261.

<sup>5</sup> See Plato's *Phaedrus*, 229e-230b, and Augustine's *Confessions*, X.8 and X.33.

<sup>6</sup> The term "free will" is often attributed to Augustine, who wrote a book bearing that name (*De Libero Arbitrio*) early in his career. His philosophical antecedents were Stoic and Neoplatonic, though it was the Stoics who most emphasized the soul's power to choose. See Pierre Hadot, *The Inner Citadel: The Meditations of Marcus Aurelius*, trans. Michael Chase (Cambridge, MA: Harvard, 1998), 82-89.

likeness to the divine nature, because all things had their being in the will of God.<sup>7</sup> As Dante writes in the *Paradiso*:

The greatest gift that God in his bounty  
made by creating – the gift most conforming  
to his goodness, and the one he treasures most –  
is freedom of the will.<sup>8</sup>

Here we find a very different architecture of consent, epitomized in the Middle Ages by the scene of the Annunciation. Thomas Aquinas taught that in the person of Christ, the natures of God and humanity were brought together by a kind of wedlock, and it was Mary who freely consented to their union for the whole of human nature.<sup>9</sup> In effect, Mary exhibits a form of knowing inconceivable to the old Socratic method. Socrates had prized the work of reason, prompting those around him to follow the *logos*, the cosmic order in which everything subsisted.<sup>10</sup> By means of logic, the soul was to penetrate the realm of wisdom, turning from misguided private interests to the first and final Good. The incarnation, compared to such a method, encouraged a novel, indeed scandalous way to realize the *logos* in the self. Mary's form of knowing was receptive, gained not so much by reason as by free will. If Socrates called himself a midwife, assisting in the birth of wisdom on earth, Mary now took his place as the consummate mother, acting in faith beyond the Socratic labor of reason.<sup>11</sup> Consenting to a natural impossibility, she conceived the *logos* in her womb, revealing that the greatest capacity of human nature is not the penetrative intellect but the receptive will.

The story of the incarnation does not simply teach that God conformed to humanity; in Mary's consent, humanity conformed to God. Her Son, who taught the Church to pray "Thy will be done,"

---

<sup>7</sup> See Wisdom 11:25

<sup>8</sup> Dante, *Paradiso* V.19-22. Translations of Dante are mine unless otherwise noted.

<sup>9</sup> Thomas Aquinas, *Summa Theologiae* III.30. It seems appropriate to add that Aquinas did not believe in the immaculate conception of Mary. Though she was sanctified in the womb like John the Baptist, "she was not freed from the guilt to which the whole nature is subject." (*ST* III.27.2) Mary was infused with moral excellences, but with a nature like ours, she demonstrated the capacity for God inherent to all humanity, even as fallen.

<sup>10</sup> See James Carey, "Socrates' Exhortation to Follow the *Logos*," *Socrates in the Cave: On the Philosopher's Motive in Plato*, ed. Paul J. Diduch and Michael P. Harding (London: Palgrave MacMillan, 2019).

<sup>11</sup> Plato, *Theaetetus*, 149ff.

went to his death with the same prayer on his lips – not as the gadfly of Athens but as the Lamb of God – and finished the miracle. The birth of God in nature, the birth of a new nature in God, the incarnation, the resurrection of creation: a stumbling block to the Jews, foolishness to the Greeks, but for anyone consenting to the *logos*, the wisdom and the power of God. The effect of Mary’s consent was a new kind of sociality, an economy of salvation that transformed the entire legacy of wisdom on earth. Aquinas developed one of his most famous metaphors along these lines: when theologians use works of philosophy, they “do not mix water with wine, but change water into wine.”<sup>12</sup> Mary, who facilitated the miracle, reveals that the wedding of her nature with God is full of ongoing miracles.

Recall the mysterious exchange between Mary and Jesus:

On the third day there was a wedding at Cana in Galilee. The mother of Jesus was there, and Jesus and his disciples had also been invited. And they ran out of wine, since the wine provided for the feast had all been used, and the mother of Jesus said to him, ‘They have no wine.’ Jesus said, ‘Woman, what do you want from me? My hour has not come yet.’ His mother said to the servants, ‘*Do whatever he tells you.*’ There were six stone water jars standing there, meant for the ablutions that are customary among the Jews: each could hold twenty or thirty gallons. Jesus said to the servants, ‘Fill the jars with water,’ and they filled them to the brim. Then he said to them, ‘Draw some out now and take it to the president of the feast.’ They did this; the president tasted the water, and it had turned into wine. Having no idea where it came from – though the servants who had drawn the water knew – the president of the feast called the bridegroom and said, ‘Everyone serves good wine first and the worse wine when the guests are well wine; but you have kept the best wine till now.’<sup>13</sup>

Christ, the true bridegroom, makes the wedding his own affair, transforming a gift of nature through the vessel of Israelite custom. The servants, having drawn the water, know where the best wine originated. Reserved until now, this grace upon grace – the new wine replacing the old – comes from the union of the *logos* with his mother. The first wine having run out, Mary makes a simple remark: *They have no wine*. Is she being subtle? Does she know what Jesus might do? Or does her remark simply reflect her concern for the guests? Does Jesus, in responding, intend to deflect some insinuated

---

<sup>12</sup> Thomas Aquinas, *Commentary on the De Trinitate of Boethius*, trans. Rose E. Brennan, S.H.N. (Freiburg, Germany: Herder, 1946), I.II.3, reply to 5.

<sup>13</sup> John 2:1-10. All Scripture is in the New Jerusalem translation unless otherwise noted (New York: Doubleday, 1985).

request, only to do as his mother asks? Or is he also being subtle, as if to compel Mary to see the shortage brimming with great significance? Either way, the clue is in his mention of his coming hour. The statement is too strange, too pregnant with meaning for Mary to ignore. Somehow, the need for new wine signifies a time yet to come. She understands without comprehending. *Do whatever he tells you*, she says to the servants: however strange it is, consent to his will.

### New Wine.

It takes a subtle and trained form of attention to allow such miracles to occur. Aquinas, reflecting on the event, sees the potential for its recurrence in all nature. In his case, the natural insights of philosophy are the first grace; the supernatural insights of Marian consent are the second. Those who receive the *logos* in the flesh bring about a miraculous ferment, a new culture of grace upon grace. Aquinas, I think, was tacitly guided by two Marian questions: What might we ask of the *logos* now, given the materials available to us? And what novel or strange thing might the *logos* ask of us? Both, again, require a subtle and trained attention for the transformation to occur. The insights of those without faith are good by nature; by grace, they are perfected. In the thirteenth century, such a mode of reception was cutting edge. Aquinas was not yet a name in dusty libraries, let alone the “angelic doctor” he is today. Some of his ideas, before gaining acceptance, were even condemned by church officials in the thirteenth century.<sup>14</sup> Though he is remembered as one of the greatest organizers of western thought, Aquinas represents a mystical openness to change, because Mary, not Socrates, was the icon of his contemplative life.

---

<sup>14</sup> See John Wippel, “Thomas Aquinas and the Condemnation of 1277,” *Modern Schoolman* Vol. 72, No. 2 (Jan 1995), 233-272.

Catherine of Siena, who lived a century after Aquinas, called Mary a book of wisdom, looking to her as the archetype of “our human strength and freedom.”<sup>15</sup> Mary audaciously consented to what she could not quite reason out, saying yes to a light above and beyond her mind. Not that her consent was irrational or thoughtless. For the church, Mary was a figure of immense intelligence; after all, it was through her that Christ received all the capacities of human nature, including reason. Mary unified the Greek dualism between reason and passion that modern feminists rightly critique. Western Christianity has sometimes forgotten itself in that regard, warranting the attacks of thinkers like Elizabeth Grosz, who writes, “Christ was a man whose soul, whose immortality, is derived from God but whose body and mortality is human.”<sup>16</sup> In such an account, the woman is passive physical material for the divine seed of Reason, perpetuating a political theology of male dominance. But in truth, that image of Christ was put aside in the fourth century. The image of a divine soul with a human body is an Apollinarian heresy, not Christian orthodoxy. It looks something like the earlier image of the Docetists, who claimed that Christ had only the “semblance” of a body.<sup>17</sup> In both cases, the Son of Mary lacks a full human nature, and Mary’s agency is left behind. Christianity has sometimes allowed such impressions to continue by rigidly separating higher and lower realities – spirit and matter, mind and body, reason and passion, male and female. But remarkably, early teachers in the tradition persisted in affirming (against the scheme of their philosophical forefathers) that the *logos* received both a soul and a body from his mother. Nothing human was absent from him, and all of his humanity was from her, whether “higher” or “lower” in function. The soul of Christ was born of Mary, just as hers was open to the divine mystery. Sojourner Truth, the great abolitionist and feminist, left us with

---

<sup>15</sup> Catherine of Siena, *The Prayers of Catherine of Siena*, trans. Susan Noffke, O.P. (San Jose: Authors Choice Press, 2<sup>nd</sup> Edition 2001), Prayer 18, pp. 192-193.

<sup>16</sup> Elizabeth Grosz, *Volatile Bodies: Toward a Corporeal Feminism* (Bloomington, IN: Indiana University Press, 1994), 5.

<sup>17</sup> See Cyril of Alexandria, “To Theodosius,” *Three Christological Treatises*, trans. Daniel King (Washington, DC: Catholic University of America, 2014), §7-9, 19-24.

the right idea: “Where did your Christ come from? Where did your Christ come from? From God and a woman! Man had nothing to do with Him.”<sup>18</sup> The incarnation was not simply an avatar of the existing order of things; it was a new way for all things to cohere.

In short, Mary’s consent forms a new mode of reasoning. Her contemplative life is not simply a life of the mind but a life of the belly and the heart.<sup>19</sup> And out of that life, the doctrine of free will developed. Catherine’s prayer to the Virgin illuminates the image I have in view:

And God’s Son  
 did not come down into your womb  
 until you had given your will’s consent.  
 He waited at the door of your will  
 for you to open to him;  
 for he wanted to come into you,  
 but he would never have entered  
 unless you had opened to him,  
 saying,  
 “Here I am,  
 God’s servant;  
 let it be done to me  
 as you have said.”  
 The strength and freedom of the will  
 are clearly revealed, then.  
 For no good  
 nor any evil  
 can be done without that will.  
 Nor is there any devil  
 or any other creature  
 that can drive it to the guilt of deadly sin  
 without its consent.<sup>20</sup>

In this architecture, human nature is self-determining, but not in the atomistic sense applied to the liberal subject. The Marian self is not “buffered,” as Charles Taylor puts it, but “porous.”<sup>21</sup> I

---

<sup>18</sup> From the “Reminiscences by Frances D. Gage,” in *History of Woman Suffrage, Vol. 1: 1848-1861*, ed. Elizabeth Cady Stanton, Susan B. Anthony, and Matilda Joslyn Gage (New York: Fowler & Wells, 1881), 124-126; and Sojourner Truth, “Ain’t I a Woman?” *Modern History Sourcebook*, Fordham University. <https://sourcebooks.fordham.edu/mod/sojtruth-woman.asp>.

<sup>19</sup> Luke 2:19, 51

<sup>20</sup> Catherine of Siena, Prayer 18.

<sup>21</sup> See Charles Taylor, *A Secular Age* (Cambridge, MA: Harvard University Press, 2008). For an abbreviated version of the argument I am referencing, see Charles Taylor, “Buffered and Porous Selves,” *The Immanent Frame*, Sep. 2, 2008, <https://tif.ssrc.org/2008/09/02/buffered-and-porous-selves/>.



hasten to add that Taylor's concept is a bit careless, because for him, the medieval self is so extremely porous that it has no inner citadel. It is simply vulnerable to "spirits, demons, cosmic forces."<sup>22</sup> But Catherine's prayer demonstrates the opposite: free will is a door to the inner court of the self, and no spirit may enter without the soul's consent. Still, Taylor has given us good language for the difference I want to consider. The medieval self is nothing if not spiritually porous, which is precisely what gives the Marian architecture its allure. The soul is *capax Dei*, capable of God, ascending by free will to a height beyond the capacity of mere reason.

But reason, under the aegis of modern empiricism, has enclosed free will in the atomistic myth of measurability. We now tend to imagine free will on the immanent plane, in a very different material economy than the porous, pregnable union of creation with divine love. Rather than consenting to the incoming mystery of the *logos*, we moderns are directed by techniques of calculation. Consent is part of a globally networked program of thought, a behavioristic tool designed to make us do things. It is a button to click, a box to check, a line to sign. We have a choice, yes, but only as part of a large, cultural automation, readymade in throughputs we never in fact chose.

Modern history stretches between these two architectures of consent. My dissertation is a kind of archaeology project, beginning from the present age and working downward or inward, looking for the prominent architectures that have gotten us to where we are. In my view, we need an older notion of free will, one capable of changing our material culture. While it is older, it is wilder, mystically open to the new: *Do what he tells you*, says Mary to the servants, who are then instructed to fill jugs with water. The ways of the *logos* can be strange, and it takes a subtle attunement to do as he says. But my sense is that the wine of the former age has run dry. The wedding of modern progress, which sought to unite Man with Machine, has run out of resources. Many of us feel this, though perhaps not with a very good sense of what to do, and probably not with the compassion Mary felt for the wedding guests.

---

<sup>22</sup> Taylor, *A Secular Age*, 38.

Our problem is not precisely the same as the one faced by Mary in Cana. Nor is it the same as the one faced by Aquinas in Rome. Still, I believe the miracle is ongoing. There is plenty of wine to go around. Holding onto that hope, my work is shaped by an instinct some have called “metamodern.”<sup>23</sup> Cultural critics Robin van den Akker and Timotheus Vermeulen identify metamodernism as a paradigm of the new millennium, an affective form of attention no longer dominated by modern optimism or postmodern cynicism. At turns skeptical and sincere, the metamodern instinct freely oscillates between postmodern critique and earnest hope, being “situated *with or among* older and newer structures of feeling.”<sup>24</sup> In my case, it guides an effort to see multiple times at the same time – to get over modernity by getting under it, imagining another way to be modern. My study is broadly historical, but as I explain below, it does not exactly fulfill the requirements of the genre we call history. Gilles Deleuze, writing about Foucault, came up with a formula that gets near to my own: “Thought thinks its own history (the past), but in order to free itself from what it thinks (the present) and be able to finally ‘think otherwise’ (the future).”<sup>25</sup> The point of studying history is to get beyond the present; not to fully recount or recover a lost world, but to consider another way forward.

#### Pastoral Power.

Foucault leads my thinking on this. My argument develops from his genealogy of pastoral power, laid out most thoroughly in his 1978 lectures at the Collège de France. His account, as I read it, is a kind of secularization theory, because it offers nothing less than a grand narrative about the rise of modern statecraft and its entanglement with the structures of religion. Max Weber, some fifty years

---

<sup>23</sup> See *Metamodernism: Historicity, Affect, and Depth after Postmodernism*, ed. Robin van den Akker, Alison Gibbons, and Timotheus Vermeulen (London: Rowman & Littlefield, 2017).

<sup>24</sup> From the volume above, Robin van den Akker and Timotheus Ver Meulen, “Periodising the 2000s, or, the Emergence of Metamodernism,” 8.

<sup>25</sup> Deleuze, *Foucault*, 119.

prior, had famously written that the modern mind was disenchanting. In principle, he said, we have come to see nothing as incalculable; even the most mysterious forces in the universe are within pursuit of scientific rationalization. “One need no longer have recourse to magical means in order to master or implore the spirits,” he quipped. “Technical means and calculations perform the service.”<sup>26</sup> Foucault likewise talks about “the rationalization of chance and probabilities,” but he sketches a more distinct image of power, grouping his points around the “mixed figure” of the minister.<sup>27</sup> Here we find the outlines of a political theology, or what Carl Schmitt would call a secularized theological concept.<sup>28</sup>

Foucault says this:

If there really is a relationship between religion and politics in modern Western societies, it may be that the essential aspect of this relationship is not found in the interplay between Church and state, but rather between the pastorate and government. In other words, in modern Europe at least, the fundamental problem is not the Pope and the Emperor, but rather that mixed figure, or the two figures who in our language, and also in others, share one and the same name of minister. The minister, with all the ambiguity of this word, is perhaps the real problem and where the relationship between religion and politics, between government and the pastorate, is really situated.<sup>29</sup>

As far back as the fourth century, pastoral power concerned itself with an “economy of souls” – a term Foucault takes from St. Gregory of Nazianzus.<sup>30</sup> The word *oikonomia*, meaning household management, appears more conventionally in Aristotle’s *Politics*, where it refers to the administration of an *oikos* or house. An *oikos* was a constituent part of the *polis*, entailing a managerial *nomos* of masters over slaves, husbands over wives, and fathers over children.<sup>31</sup> The Apostle Paul adopted the same categories in his letter to the Ephesians, only now God was the *paterfamilias*, raising the new house of Christ (*katoikēsai tòn Christòn*) to the level of heirship. The Gentiles, no longer alienated from the

---

<sup>26</sup> Max Weber, “Science as a Vocation,” *Daedalus*, Vol. 87, No. 1 (Winter 1958), 117.

<sup>27</sup> Michel Foucault, *Security, Territory, Population: Lectures at the Collège de France 1977-1978*, trans. Graham Burchell (New York: Palgrave MacMillan, 2009), 192.

<sup>28</sup> Carl Schmitt, *Political Theology: Four Chapters on the Concept of Sovereignty*, trans. George Schwab (Cambridge, MA: MIT Press, 1985), 36.

<sup>29</sup> Foucault, *Security, Territory, Population*, 192.

<sup>30</sup> Foucault, *Security, Territory, Population*, 192.

<sup>31</sup> Aristotle, *Politics*, I.3

commonwealth of Israel, became fellow members of God's household (*oikeiōi*). All who received the *logos* of salvation were sealed with the Spirit of promise, guaranteeing that they would inherit a world transformed in union with its Creator. Paul's language thus evoked a new sacramentality of equal rights, a new administration of God's patrimony, and a new sense of world history – all by appealing to an *oikonomia* for the fullness of time.<sup>32</sup> As Foucault notes, the term “economy” now assumed the dimension of all humanity, transcending the *polis* while remaining under the supervision of pastoral power. At the same time, it assumed a new, individualizing mode of watchfulness. Pastoral methods for examining the soul, especially in the sacrament of penance, reached their most intense form in the structure of monastic rule. They specified that “every individual, whatever his age or his status, from the beginning to the end of his life and down to the very details of his actions, ought to be governed and ought to let himself be governed, that is to say, be directed toward his salvation, by someone to whom he is bound in a total, and at the same time meticulous and detailed, relation of obedience.”<sup>33</sup>

The modern state is an evolution of the same mentality, inherited from the Church but organized under a secular mode of government. Pastoral power is a data-gathering power – a point Foucault makes with reference to a parable: the good shepherd counts the whole flock and tracks individual sheep.<sup>34</sup> Thus, technologies of surveillance, statistics, and predictive analytics have proven key to the rise of ministry in the modern state. Foucault draws an important conclusion here: it was not liberalism that dismantled the divine right of kings, at least not initially. Before a liberal subjectivity could take shape and claim possession of individual rights, a new kind of subject had to emerge: *homo*

---

<sup>32</sup> In order of reference: Ephesians 3:17, 2:19, 1:12, 1:10. As Agamben also notes, St. Paul “refers to himself and the members of the messianic community using exclusively terms that belong to the language of domestic administration: *doulos* (‘slave’), *hyperetes*, *diakonos* (‘servant’), *oikonomos* (‘administrator’).” See Giorgio Agamben, *The Kingdom and the Glory: For a Genealogy of Economy and Government*, trans. Lorenzo Chiesa with Matteo Mandarini (Stanford: Stanford University Press, 2011), 24.

<sup>33</sup> Michel Foucault, “What is Critique?” *What is Enlightenment?*, trans. Kevin Paul Geiman (Berkeley: University of California Press, 1996), 383.

<sup>34</sup> Luke 15:1-7

*oeconomicus*, individually distinguished from family and estate, observable in patterns of consumption, spending, trade, travel, and so on. Along with that, populations had to displace territories as the main field of sovereign power. Both developments – namely the economic subject and the statistical population – eroded the classical image of sovereignty, because the king, even if endowed with power from above, was helpless to understand how Providence operated below, among his people.<sup>35</sup> A growing number of experts had to gather data, converting it to policies optimized by metrics of rational management. Pastoral power thus deposed the sovereign’s direct government of the people, appealing not primarily to rights but to knowledge. Any government later conceived *by* the people – whether in the name of Providence or Reason – would hence take the inevitable form of state ministries.

A further point can be added: state ministry is a form of medical management. The secularization of pastoral power entails the medicalizing of government. This was already clear in *The Birth of the Clinic*, where Foucault first discussed the political status of medicine during and after the French Revolution.<sup>36</sup> He returned to the topic in the last of his 1976 lectures, where he introduced the concept of biopower. He had yet to form a robust account of pastoral power, but as I read him, he was working his way toward it with a subsidiary notion. Biopower, he said, emerged in the eighteenth century from techniques of the seventeenth, some of which he had described in *Discipline and Punish*. His chapter on panopticism, for example, details a set of emergency rules common to French towns at the end of the 1600s. Such policies, drafted in case of plague, envisioned the town as “a segmented, immobile, frozen space.”<sup>37</sup> The town is closed; anyone attempting to leave will be killed. An emergency grid is applied, dividing the town into precincts, with each one assigned an emergency official. Every

---

<sup>35</sup> Michel Foucault, *The Birth of Biopolitics: Lectures at the Collège de France, 1978-1979*, trans. Graham Burchell (New York: Palgrave MacMillan, 2008), 292.

<sup>36</sup> This was already clear in *The Birth of the Clinic: An Archaeology of Medical Perception*, trans. A.M. Sheridan Smith (New York: Vintage, 1994), chapter 2. Foucault’s observations now appear as footnotes to his later work on biopolitics, but they show how the deep linkage is between ministry, medicine, and the state.

<sup>37</sup> Michel Foucault, *Discipline and Punish*, trans. Alan Sheridan (New York: Random House, 1995), 195.

street, too, has an officer who must remain at his post on pain of death. His task is to lock down every house from the outside, after which he surrenders his keys to the central authority. A register of the living and the dead is updated daily when officers take roll through the windows. No one may leave their assigned space, not even physicians or priests, without special permission from the central authority. Records and forms travel between the periphery and the center, sustaining the movement of information while detaining the movement of people. The panoptimized plague is an image of administrative government in its purest form, unobstructed by the unpredictable. “In order to see perfect disciplines functioning,” says Foucault, “rulers dreamt of the state of plague.”<sup>38</sup> Like a perverse utopian dream, the plague stood for “all forms of confusion and disorder,” all problems destined for perfect social control.

Biopower is an evolution of the same paradigm, but it operates at a massive scale and is non-disciplinary, or at least non-punitive. It does not fully replace disciplinary power but augments it, adding to its logic. Foucault demonstrates its rationale with the example of smallpox:

The fundamental problem will not be the imposition of discipline, although discipline may be called upon to help, so much as the problem of knowing how many people are infected with smallpox, at what age, with what effects, with what mortality rate, lesions or after-effects, the risks of inoculation, the probability of an individual dying or being infected by smallpox despite inoculation, and the statistical effects on the population in general. In short, it will no longer be the problem of exclusion, as with leprosy, or of quarantine, as with the plague, but of epidemics and the medical campaigns that try to halt epidemic or endemic phenomena.<sup>39</sup>

Here, the object of surveillance has scaled up from the individual body, which is no longer detained but monitored as one of “the global mass that is affected by overall processes characteristic of birth, death, production, illness and so on.”<sup>40</sup> The empirical sciences of probability – statistics, epidemiology, and economics – represent a shift in the surveillance ideal. The new ideal is a “power

---

<sup>38</sup> Foucault, *Discipline and Punish*, 199. Punctuation adjusted by me.

<sup>39</sup> Foucault, *Security, Territory, Population*, 10.

<sup>40</sup> Michel Foucault, “*Society Must Be Defended*”: *Lectures at the Collège de France*, trans. David Macey (New York: Picador, 1997), 242-243.

of care” that does not just discipline and punish; it *shepherds*, advancing various “techniques of conduct” meant to form willing and docile subjects.<sup>41</sup> As Foucault would later write, “It was no longer a question of leading people to their salvation in the next world but rather ensuring it in this world. And in this context, the word ‘salvation’ takes on different meanings: health, well-being (that is, sufficient wealth, standard of living), security, protection against accidents.”<sup>42</sup>

The early modern state thus adopted a secularized concept of pastoral ministry, and in Foucault’s way of thinking, that paradigm continued unabated into the twentieth century.<sup>43</sup> Its panopticism does not merely hive off in obvious constructions like prisons, factories, hospitals, and schools. Pastoral power constructs an architectural determinism of the everyday, everywhere.<sup>44</sup> It aims at a governmentality of consciousness, conducting us like traffic at every possible juncture. In the digital age, three decades after the death of Foucault, it shapes the behavioral patterns of the subject who clicks on Agree, permitting data firms to monitor and manipulate every millisecond of online activity. The myth of a social contract, sitting at the base of liberal society, does not indicate “government by consent” so much as management by consent forms.

#### Pastoral Power and the Other Life.

Foucault’s narrative introduced a pair of terms now widely used in critical discourse – *biopolitics* and *governmentality* – which, in fairness, receded from his thought in the 1980s. Both terms have a place, but only as subsidiary concepts in his larger analysis of power. An essay from 1982 reveals Foucault at his most succinct, making no mention of either term, instead summarizing the findings of his

---

<sup>41</sup> Foucault, *Security, Territory, Population*, 231.

<sup>42</sup> Michel Foucault, “The Subject and Power,” *Essential Works Volume III: Power*, ed. James D. Faubion (New York: New Press, 2001), 334.

<sup>43</sup> “The pastorate has not yet experienced the process of profound revolution that would have definitively expelled it from history.” Foucault, *Security, Territory, Population*, 150.

<sup>44</sup> Maurice Brody coined the term “architectural determinism” in his 1966 article, “Social Theory in Architectural Design,” *Arena* Vol. 81, 149-154. Bentham’s panopticon is one prominent example, though Brody did not use it.

lifework through the analytic of pastoral power.<sup>45</sup> Yet curiously, pastoral power has dropped from most receptions of his language, absent even from the *Foucault Lexicon* put out by Cambridge.<sup>46</sup> By taking it as my principal frame of reference, I want to show its continued importance in the age of big data.

For one thing, pastoral power does not simply align with state power, as the other terms usually do. Without shifting what Foucault means, we can apply it to a global tech firm like Google, which indeed grew from its enmeshment with U.S. ministries like DARPA, but which then developed into a commercial and transnational entity with far greater computing power than the state. The next chapter will discuss the meaning of consent in this context. How does consent form in the global, neoliberal age of big tech?<sup>47</sup> If we think only in terms of modern biopolitics and governmentality, our concerns may drift habitually to the old nightmare of an Orwellian superstate, where the consent of the governed is obviously nullified. Make no mistake: there are good reasons for the recurrence of that nightmare, given the rise of government surveillance in the new millennium – epitomized in China, perhaps, but normalized around the world. I for one am glad to give Orwell his place on the shelf. Still, Foucault points out that pastoral power is not the same as state power; it has always transcended the *polis*. Although it built the administrative rule of the modern state, pastoral power functions in all kinds of non-state capacities. Even during the nation building projects of the eighteenth century, it was exercised by “private ventures, welfare societies, benefactors, and generally by philanthropists.”

---

<sup>45</sup> I am referring to Foucault, “The Subject and Power.” Colin Koopman has argued that “infopower” is a third term we ought to add after sovereign power and biopower. His insights, while sharp, nest within the larger sense of pastoral power highlighted here. See Koopman, *How We Became Our Data: A Genealogy of the Informational Person* (Chicago: University of Chicago Press, 2019).

<sup>46</sup> *The Cambridge Foucault Lexicon*, ed. Leonard Lawlor and John Nale (Cambridge: Cambridge University Press, 2014).

<sup>47</sup> Throughout my dissertation, I use the terms “liberal” and “neoliberal” somewhat interchangeably, following Gary Gerstle, *The Rise and Fall of the Neoliberal Order: America and the World in the Freemarket Era* (Oxford: Oxford University Press, 2022). I recognize that I am on difficult terrain here, given that not all scholars think of neoliberalism as a descendent of classical liberalism. Some instead see it a response to the strongly governmentalized New Deal liberalism of Franklin D. Roosevelt. Gerstle suggests that such a view misses the stronger connection neoliberalism made with its roots. (p. 6)



Moreover, it was already exercised “by complex structures such as medicine, which included private initiatives with the sale of services on market economy principles but also included public institutions such as hospitals.”<sup>48</sup> By recognizing pastoral power as a *logic*, a way of reading and leading subjects in fields of data, we can better position ourselves to conceive a response to its methods, especially those designed to produce consenting subjects in the digital age.

Furthermore, by using the analytic of pastoral power, we can broaden our historical frame of reference. Pastoral power dates back centuries, even millennia, whereas biopolitics and governmentality are terms usually reserved for its modern iterations. This proves important for a study like mine, which is an archaeology of the present. My plan, as outlined below (pages 51-52), is to conduct an excavation of consent, looking around at accompanying terms like free will. My aim is not only to examine consent as a tool of modern power; I want to see how the term arrived in the modern lexicon. Finally, I want to show how an older setting of the term – indeed, a sacred and mystical architecture – remains vital to us now. How did consent form in other contexts of pastoral power, and how might a retrieval of its older form affect our consciousness today?

If the stakes of my question are theological, it is not because I want to apply theology to a problem outside its discourse. The problem itself is an adaptation of pastoral theology. The notion of scientific progress – the vision by which science outmodes religion – owes its very form to the Christian doctrine of salvation.<sup>49</sup> Critics like Foucault have rightly observed the hazards of its development, and in his wake, Donna Haraway and others have elaborated his main point. The natural

---

<sup>48</sup> Foucault, “The Subject and Power,” 334-335.

<sup>49</sup> Francis Bacon arguably sets the paradigm. See Bacon, *Novum Organum* (New York: P.F. Collier and Son, 1902), CXXIX, LXXXIX. His book concludes: “For man, by the fall, lost at once his state of innocence, and his empire over creation, both of which can be partially recovered even in this life, the first by religion and faith, the second by the arts and sciences. For creation did not become entirely and utterly rebellious by the curse, but in consequence of the Divine decree, ‘in the sweat of thy brow shalt thou eat bread,’ she is compelled by our labors (not assuredly by our disputes or magical ceremonies), at length, to afford mankind in some degree his bread, that is to say, to supply man’s daily wants.” (LII, p. 290)

sciences impose a form of domination, especially in disciplines that try to explain social groups and behavior.<sup>50</sup> By treating the problem as theological, I intend to show that consent and free will are best understood along the lines of their heritage. Our choice, in the end, is between theological architectures. There is no master key for an exit from theology, no door granting access to an exterior form of thought, no place outside the basic material of old beliefs. What we do with that material is another question, and I take it to be the proper one.

As Deleuze writes in his book on Foucault, “To think means to be embedded in the present time-stratum that serves as a limit: what can I see and what can I say today? But this involves thinking of the past as it is condensed in the inside, in the relation to oneself (there is a Greek in me, or a Christian, and so on).”<sup>51</sup> So if we are to conceive a response to modern pastoral power, we must begin with old material, as Foucault himself recognized in his late turn to the Greeks. In the Stoics and Cynics, he found a number of practices – *techniques du soi*, he called them – for transforming one’s own subjectivity. Over the course of his final lectures, Foucault examined the topic of *parrhesia*, fearless speech, as practiced by the Cynics from the fourth century on. “Truth to power” may be its closest modern equivalent. The term dates back at least to Socrates, who was condemned to death as a consequence of its practice. But it was the Cynics who radicalized the Socratic drama, living “the unconcealed life,” disciplining themselves to possess nothing and speak their mind at all times.<sup>52</sup> Unafraid of loss, they doggedly embodied an ethic of innate freedom. They lived as public vagrants, critiquing the self-interest and superficial customs of citizens in general, philosophers in particular, and sovereigns overall. “With this idea that the true life is an *other* life,” says Foucault, “I think we arrive at a particularly important point in the history of Cynicism, in the history of philosophy, certainly

---

<sup>50</sup> Donna Haraway, *Simeons, Cyborgs, and Women: The Reinvention of Nature* (New York: Routledge, 1991), 8.

<sup>51</sup> Deleuze, *Foucault*, 119.

<sup>52</sup> Michel Foucault, *The Courage of Truth: Lectures at the Collège de France 1983-1984*, trans. Graham Burchell (New York: Palgrave MacMillan, 2011), 253-255.

in the history of Western ethics.”<sup>53</sup> The virtue of fearless speech, having been disclosed in Socratic reference to the “other world” of pure forms, evolved into the “other life” of Cynicism. As Foucault puts it, “there is no establishment of the truth without an essential position of otherness; the truth is never the same; there can be truth only in the form of the other world and the other life.”<sup>54</sup> This, coming from a thinker famous for “thinking otherwise,” opens up another way to read the history of philosophy.<sup>55</sup> Through study, one might get free of established ways of thinking, transgressing the settled narrative of modern progress; one might indeed craft alternatives to the construction of modern thought.

The final lecture of the series, the last of Foucault’s life, ends with an even more provocative suggestion. The practice of *parrhesia*, he says, continued to evolve in the “great mystical tradition of Christianity,” which he places in opposition to “all the pastoral institutions of Christianity.”<sup>56</sup> That distinction, heavy with interpretive commitments, recalls two ideas from the arc of his thought, or really two archetypes we can use to consolidate several of his ideas. They are *the minister* and *the mystic*, who typify the relationship between power and what eludes power, between a system of subjectification and the mystification of its techniques. As archetypes, they come to Foucault from Nietzsche’s *Birth of Tragedy*, where Apollonian reason cannot contain the Dionysian wildness of life. Madness, in fact, is one name for the vital principle of mystical knowledge, as Foucault briefly suggests in his early *History of Madness*.<sup>57</sup> A self-declared Nietzschean, he worked and reworked the same basic treatment of power – the power to define what is rational and what is not – until, in the late 1970s, he

---

<sup>53</sup> Foucault, *The Courage of Truth*, 244.

<sup>54</sup> Foucault, *The Courage of Truth*, 340.

<sup>55</sup> See Deleuze, *Foucault*, part 2.

<sup>56</sup> Foucault, *The Courage of Truth*, 337.

<sup>57</sup> See Johannes Tauler, “*Recumbentibus undecim discipulis*,” in *Die Predigten Taulers*, ed. Ferdinand Vetter (Berlin: Weidmannsche Buchhandlung, 1910), 288. As best as I can discern, Foucault refers to this sermon (*History of Madness*, trans. Jonathan Murphy and Jean Khalifa [London: Routledge, 2006], 12), though his citations are notoriously imprecise.

turned to the Greeks.<sup>58</sup> And precisely from that vantage point, when he looked again at the tradition of Christian mysticism, he found a form of life worth retrieving (or, if not exactly a *form*, a subjectivity that *could be* formed). To put it in Nietzschean terms, the mystic embodies Dionysian potential, passing confidently beyond the modern confinements of rationalist thought.<sup>59</sup>

The minister and the mystic hence appear in Foucault's first major work, already characters in the history of power that took shape in his thinking over the next two decades.<sup>60</sup> While my focus here is sharpened by their later appearances, their initial presentation sets the frame of Foucault's intellectual project. The distinction he makes between them is somewhat questionable, begging for a more focused commentary than he ever provided. For me, the most pressing questions are these: What does Foucault insinuate by gesturing to a single, organized religion with a mystical life running counter to its officialdom? And what, precisely and historically, does he have in mind when referring to its opposite pole, the "pastoral institutions" of Christianity?

My suspicion is likely clear at this point: he wants to find an "other life" in the context of pastoral power, where the practice of *parrhesia* must take place in a social field quite alien to the ancient Cynic. Mysticism therefore suggests a mode of self-cultivation that Foucault seems ready to adopt. It suggests, on the one hand, a practice of fearless speech, and on the other, an alertness to the incapacity of formal knowledges to define reality. In both functions, it eludes ministerial control, because it speaks from beyond conventional structures of classification (and thus from beyond the pastoral discourses emerging in fields like psychology, criminology, and even biology). If we read him that way, the answer to my second question is clear. Pastoral institutions are active across times and populations

---

<sup>58</sup> See Foucault's last interview, published as "The Return of Morality," trans. Thomas Levin and Isabelle Lorenz in *Michel Foucault: Politics, Philosophy, Culture*, ed. Lawrence Kritzman (New York: Routledge, 1988), 251.

<sup>59</sup> See Foucault, *History of Madness*, 28-32.

<sup>60</sup> Foucault's primary mystic here is Nicolas of Cusa (*History of Madness*, 31), who spoke of the soul's ecstasy as a kind of dementia. But far more present is the figure of the minister, personified by St. Vincent de Paul, who played a part in "the great confinement" of the insane (pp. 51, 59, 86, 119, 153-155, 513).

– evolving, but with discernible continuity as a governmental logic. Their basic image is the shepherd who counts the whole flock and tracks every sheep. Thus, in their modern iterations, they develop fields of empirical knowledge at two corresponding levels: “one, globalizing and quantitative, concerning the population; the other, analytical, concerning the individual.”<sup>61</sup> As for the counteractive possibilities of mysticism, Foucault left much unsaid. My own task, in a manner of speaking, is to finish his thoughts, guided by the mystics themselves.

### An Other Modernity.

My method emulates Foucault but goes beyond him, retrieving the Marian mode of self-knowledge found in two mystics of the late Middle Ages: Dante and St. Catherine of Siena. Why Dante and Catherine? A number of reasons will surface in my final chapter, but to put the matter broadly, they stand at the headwaters of a modern tributary – call it “an other” modernity – flowing through the Italian renaissance into streams of thought still available to us, at least in some cultural currents.

Commenting on Catherine’s *Dialogue*, the Cambridge Italianist Edmund Gardner says this:

In a language that is singularly poor in mystical works (although rich in almost every other field of thought), it stands with the *Divine Comedy* as one of the two supreme attempts to express the eternal in the symposium of a day, to paint the union of the soul with the suprasensible while still imprisoned in the flesh. The whole of Catherine’s life is the realization of the end of Dante’s poem: “to remove those living in this life from a state of misery, and lead them to the state of faithfulness.” And the mysticism of Catherine’s book is as practical and altruistic as that of Dante’s, as when he declares to his patron, Cangrande della Scala, that the whole *Divine Comedy* “was undertaken for work, not for speculation.” Thus Catherine, in the preliminary chapters of the *Dialogue* makes her first petition to the eternal Father for herself only because “the soul cannot perform any true service to her neighbor by teaching, example, or prayer, unless she first services herself by acquiring virtue.”<sup>62</sup>

Plainly, these two works are rich with material for techniques of the self. By the same stroke, they go beyond Foucault, because their mystical techniques are grounded in motifs of communion.

---

<sup>61</sup> Foucault, “The Subject and Power,” 335.

<sup>62</sup> Gardner, *The Road to Siena*, ed. Jon M. Sweeney (Brewster, MA: Paraclete Press, 2019), 183. He quotes from Dante’s *Epistle to Cangrande* XIII.39-41 and from Catherine’s *Dialogue*, §1.

As Catherine hears profoundly from God: “I would have you know that every virtue of yours and every vice is put into action by means of your neighbors. If you hate me, you harm your neighbors and yourself as well (for you are your chief neighbor), and the harm is both general and particular. I say general because it is your duty to love your neighbors as your own self.”<sup>63</sup> There is no self without another; to love oneself is to love another, and to love another is to love oneself. No self is atomized, and furthermore, the relation between the self and the other goes beyond that of a dyad. All relations are triadic, conceived from the beginning in the One divine mystery of love.<sup>64</sup> That metaphysical distinction highlights what we stand to recover, because in modern consent theory, two parties form a contract in isolation. Without reference to a human nature where God has come to dwell, atomistic free will is bound up in a world of radical difference – a void of primordial oneness, as it were. But in techniques of mystical self-knowledge, another belief prevails: virtue and vice weave and unweave the trinitarian image of human being, which always inclines toward communion. The communion of nature may be distorted, but the incarnation of the *logos* brings a new hope of its fullness. Dante and Catherine supply us with a rich visual language for that reality. My study, while limited to just a few images from the grand scheme of their work, offers a preliminary shape to a cultural project much larger than a single dissertation. I hope to provide keys to a mystical architecture, where old techniques of the self may flourish once again.

In the vein of that hope, I also want to affirm the range of activities Dante and Catherine pursued – activities we can bring into surprising focus under the heading of mysticism. Dante, a career politician, was a poet whose talents as a mystic were fully realized only when he was forced into exile. Catherine, by contrast, was a nurse who entered political life as a means of realizing her mystical

---

<sup>63</sup> Catherine of Siena, *The Dialogue*, trans. Susan Noffke, O.P. (Mahwah, NJ: Paulist Press, 1980), 33.

<sup>64</sup> The Catherinian logic suggests 18 permutations of perfect love, a trinity of paired threes coinciding with first-person, second-person, and third-person pronouns. To each pronoun belongs a set of six permutations. For example: *I love you in me; I love me in you; I love you in them; I love them in you; I love them in me; I love me in them.* This is followed by: *you love you in me; you love me in you; etc.*

talents. Neither of them was religious in the medieval sense, a fact that makes them all the more intriguing in the context of ecclesial authority. They were laypeople, experimenting with protomodern mixtures of the contemplative and the active life. Their literary achievements resonate with each other because they offer a new mystical attention to the secular domain. Dante's *Comedy* grows from his time in contemplation after years in politics; Catherine's *Dialogue* grows from her time in politics after years in contemplation. Both, in distinct ways, exemplify what Foucault defined as "counter-conduct," a mode of self-authorship eluding the designs of pastoral power.<sup>65</sup> Turning to them, I see myself departing from Foucault even as I continue his line of approach.

To my mind, the doctrine of the *logos* remains foundational, though Foucault believed it was superfluous to his own recovery of the Greeks.<sup>66</sup> His turn to them was intuitively right, because it allowed him to unearth a number of practices for transforming the self. The Stoics, like their precursors the Cynics, practiced a form of *askesis* that led to the soul's freedom from social control. To quote Martha Nussbaum, "These philosophers claim that the pursuit of logical validity, intellectual coherence, and truth delivers freedom from the tyranny of custom and convention, creating a community of beings who can take charge of their own life and their own thought."<sup>67</sup> Note that logic is required, but its requirement stems from a cosmic reality beyond the social order. Participating in it, a novel community forms in the solidarity of freedom. Nussbaum goes on: "It is questionable whether Foucault can even admit the possibility of such a community of freedom, given his view that knowledge and argument are themselves tools of power." Nussbaum has a point: Foucault developed techniques of the self with no obvious links to reason or a communal ethic. But Nussbaum, after making that point, pays little attention to Foucault, which is a risk equal and opposite to following him

---

<sup>65</sup> Foucault, *Security, Territory, Population*, 212.

<sup>66</sup> See Arnold I. Davidson's introduction to Pierre Hadot, *Philosophy as a Way of Life*, trans. Michael Chase (Malden, MA: Blackwell, 1995), 25.

<sup>67</sup> Martha Nussbaum, *The Therapy of Desire: Theory and Practice in Hellenistic Ethics* (Princeton: Princeton University Press, 1994), 5.

too far. To state my own view briefly: Foucault, like Virgil in Dante's *Inferno*, has a great deal to show us about the ordering of nature under modern pastoral power. Much of what he has to say is haunting and horrific, but it is *credible* only if his critiques lead us to well-grounded knowledge. And so Nussbaum is also right: our search for the ground of truthful communion will require greater guides. In the end, it will be Dante and Catherine who lead us further than Foucault. Like Dante's Beatrice, they can bring us to the Marian *logos*, who is himself unconfined by Greek dogma, known by an attunement of free will beyond the practice of rational discipline.<sup>68</sup>

That said, Foucault proves constructive in many ways, offering a sharp reading of the context in which we might rebuild such an old frame of understanding. As a genealogist of modern power, he is uniquely suited to help us survey the land on which we build. We must remember that by turning to the Stoics and Cynics, he does not intend to offer an exact alternative to modern ethics. Nor does he intend to retrieve a lost world, since the problems of antiquity were not the same as ours. As he puts it, "you can't find the solution of a problem in the solution of another problem raised at another moment by other people."<sup>69</sup> Instead, his task is to see how a modern self can be crafted with the materials of its history, reframing modern problems with another technique of life.

Paul Veyne, a friend of his and a scholar of antiquity, said: "Foucault's affinity with ancient morality is reduced to the modern reappearance of a single card in a completely new hand: the card of the self working on the self, an aestheticization of the subject, in two very different moralities and two very different societies."<sup>70</sup> Foucault translated the Greek form of self-work into an "aesthetics of existence" – a somewhat misleading term meaning the beautification of one's life. Socrates, for example, was seen as beautiful in the dialogues of Plato; in light of the sage, the self became an artistic

---

<sup>68</sup> I speak to this further in chapters five and six.

<sup>69</sup> Foucault, "On the Genealogy of Ethics: An Overview of Work in Progress," *Essential Works, Vol I: Ethics: Subjectivity and Truth*, ed. Paul Rabinow (New York: The New Press, 1997), 256.

<sup>70</sup> Paul Veyne, "The Final Foucault and His Ethics," trans. Catherine Porter and Arnold I. Davidson, *Critical Inquiry* 20, no. 1 (Fall 1993), 2.



work in progress. As both the material and the artist, the self was a highly distinct artform, requiring a unique method of craft, a *techne tou bios*. Foucault therefore wanted to discuss “the *bios* as a material for an aesthetic piece of art.”<sup>71</sup> But we must not equate his idea with mere fashion and fine taste. To be sure, his language is open to critique for its apparent superficiality (seeming to represent “a new form of Dandyism,” as Pierre Hadot says), but he goes a level deeper than his critics allow.<sup>72</sup> He is interested in the “ethical substance” of the self, the inner material to be worked and crafted, the content of which is fundamentally unsettled and malleable. When taken up in the tradition of Christian mysticism, its formation creates a new opening in the social order. And Foucault, as I read him, believed that the opening had never really closed. In other words, he was not exactly drawing an old card into the hand modernity had dealt him; he was adopting the rules of a totally different game.

The problem, as Foucault himself understood, is that modern structures tend to obscure revolutionary features in past forms of life. His interest in the past was decidedly unsecular, even antimodern, resisting the museum-shaped “curiosity that seeks to assimilate what is proper for one to know.”<sup>73</sup> As he wrote in *The Use of Pleasure*, his method was to seek “that which enables one to get free of oneself.”<sup>74</sup> That phrase, which Deleuze read at his funeral, expresses Foucault’s remarkable conclusion about why one should study the canon of western thought.<sup>75</sup> The point is not to master its contents; the point is to have one’s inner contents changed. Through a kind of *askesis*, one learns to

---

<sup>71</sup> Foucault, “On the Genealogy of Ethics,” 266

<sup>72</sup> Pierre Hadot, “Reflections on the Idea of the ‘Cultivation of the Self,’” *Philosophy as a Way of Life*, trans. Michael Chase (Malden, MA: Blackwell, 1995), 211.

<sup>73</sup> Michel Foucault, *The Use of Pleasure: History of Sexuality Vol. 2*, trans. Robert Hurley (New York: Vintage Books, 1990), 8. Foucault once joked: “If I were not a total atheist, I would be a monk.” His was a strange atheism indeed, especially because the atheist and the monk are subjectivities heavily marked by the pastoral power of an era. Foucault, sensing his modern “monastic” moorings as an atheist, may be offering a wry look at how difficult it is to detach from the pastoral arrangement of consciousness in general. I speculate that he wanted to disregard the extreme pastoral options of both atheism and monasticism – precisely by combining them in a novel way. See David Macey, *Michel Foucault* (London: Reaktion Books, 2004), 130.

<sup>74</sup> Foucault, *Use of Pleasure*, 8.

<sup>75</sup> Foucault, *Use of Pleasure*, 8. I believe this to be the text Deleuze read based on David Macey, *Foucault*, 142; and Gilles Deleuze, *Foucault*, 95-96.

“think differently, instead of legitimating what is already known.”<sup>76</sup> I take the same approach to Dante’s *Divine Comedy* and Catherine’s *Dialogue*, which are not merely books in a repository of classics where ideas have been established or outmoded by the gradual progression of time. They are texts that can change the material of consciousness, offering us another way to be modern. That is, they create a permutation of progress unauthored by modern strategies of thought, the endpoint of which is indeed a beautiful life.

### Freedom and the Self.

“To get free of oneself.” Deleuze found that phrase so compelling because it marked a new chapter in Foucault, appearing in print the year of his lectures on pastoral power. Foucault had undergone a sort of conversion – a rupture, he later called it – starting when his prior book, the first *History of Sexuality* volume, was published. In his final interview, Foucault admitted that he had detached himself from the “philosophical vocabulary, game, and experience” of his initial work.<sup>77</sup> His new method was distinct in two important ways, as Deleuze explains. “On one hand, it invokes a long period of time that begins with the Greeks and continues up to the present day by way of Christianity, while the previous books considered short periods, between the seventeenth and nineteenth centuries.”<sup>78</sup> I infer that Foucault, having analyzed modern power, wanted to retrieve a counter-tradition of the self from its grasp. Thus, Deleuze continues, his new work also “discovers the relation to oneself, as a new dimension that cannot be reduced to the power-relations and relations between forms of knowledge that were the object of previous books: the whole system has to be reorganized.”<sup>79</sup>

---

<sup>76</sup> Foucault, *Use of Pleasure*, 8.

<sup>77</sup> Foucault, “The Return of Morality,” 243.

<sup>78</sup> Deleuze, *Foucault*, 101-102.

<sup>79</sup> Deleuze, *Foucault*, 101-102.

I have a similar process in mind as I embark on my study of consent. To organize my own system of critical discourse, I treat my writing as a technology of the self. Freedom from the self – or from a false construct of the self – is the endpoint of my discussion. What Foucault intended and what I intend are different, but we are not opposed: we want a new relation to the self, a new relation to the sedimented history *in* the self. I pursue this through the mystical architecture of free will, obscured for some time by modern techniques of knowledge. And Foucault leads me there, if only to stop at its threshold. Despite the obscurity of its old architecture, the notion of free will is not unfamiliar to us; *libera voluntas* was the medieval culmination of our most basic assumptions about freedom of choice.<sup>80</sup> But deeper than the liberal notion of voluntary consent, it conceived the possibility of material union with God. Its recovery promises not only freedom but sanctuary, because it draws us back to the mysterious inner life that gave us our language.

However, there are serious risks involved in such a method. Nostalgia, for one thing. If we choose to seek this inner sanctuary, we must seek it here and now. The task is not to recover a lost world but to discover another way to be modern. Here and now, the rediscovered form of consent suggests a new situation, a new context – both for the structures clearly built in its legacy and for those that have risen to obscure it. The point is not to move back in time but to track time laterally, across the skyline of a storied city with old and new constructions. As Wittgenstein said, “Our language can be regarded as an ancient city: a maze of little streets and squares, of old and new houses, of houses with extensions from various periods, and all this surrounded by a multitude of new suburbs with straight and regular uniform houses.”<sup>81</sup> It is here, in the city of our language, that we must conduct a careful survey, marking off the exact site where an excavation will help us reconceive and respond to the present order of things.

---

<sup>80</sup> See Tobias Hoffman and Cyrille Michon, “Aquinas on Free Will and Intellectual Determinism,” *Philosophers’ Imprint* Vol. 17, No. 10 (May 2017), 1-36.

<sup>81</sup> Wittgenstein, *Philosophical Investigations*, trans. by G.E.M. Anscombe (Oxford: Blackwell, 2009), §18.

Consent, as a lexical tool, has built up much of our moral architecture, and its designs have changed as our language has been suburbanized. It now sets a precedent for remodeling the oldest parts of our city in compliance with technical patterns of knowledge. Alert to this, my task is to follow the designs of consent over time, asking what it has formed. I said at the beginning that consent is a technology of power, and in principle, that holds true for every paradigm of its use. We have always used the word to do things, to act upon ourselves and others – to claim, receive, and bestow the power to act. But its architectures, the conduits and corridors it opens or occludes, are manifestly distinct in every paradigm. My task is to bring its older passageways out of obscurity, to excavate its older options for use today. Better put: for those with eyes to see, my task is to find a mystical architecture still quietly attended, nestled like a chapel in the old maze of our streets and squares. There, shielded from the noise of modern traffic, we may find a place to contemplate our power to act. We may indeed mobilize an alternative, more beautiful cultural consciousness.

But if, by sitting there, we risk falling into a nostalgic fantasy, we ought to beware of a more sinister fantasy crouching at the door: an essentialized, nationalized, or racialized fantasy called *us*. What does this chapel teach, nestled as it is in the heart of *our* language? Who are *we*? Here I hit upon a function of consent explored profoundly by philosophers of the social contract, whom I discuss in chapter four. An important connection lies between their investigations and those of Wittgenstein, since, as Stanley Cavell observes, a social contract exists only if there is a native language.<sup>82</sup> What does it mean – politically – to have a mother tongue? Who speaks for me, and for whom do I speak? By what people am I already possessed, and what is my choice in the matter? The social contract is meant to answer those questions. It is not a written contract, signed and archived somewhere as proof of a society's origin or membership. It is an explanatory myth intended to help a people see their

---

<sup>82</sup> Stanley Cavell, *Claim of Reason* (Oxford: Oxford University Press, 1979), 22-28.

government as representing them; to put *them* at an imaginary distance from *it*, and to fill that distance with the ground of their rational consent.

That ground, or “the state of nature,” is inconceivable without a common form of life. Nature and the natural are pictures developed by culture. While they signify its exterior and its raw materials, they never present themselves apart from a common tongue. Not even the most intrepid explorer could evacuate the language and symbolic systems of his homeland. He takes society with him, never leaving its discourses, no matter how far he treks into the new world of those he finds strange or savage. Adopting this view (in the company of Foucault), I have more in common with Rousseau than with Hobbes and Locke. Cavell points out that Rousseau, unlike his British precursors, “does not claim to know what the state of nature is (was) like, but sketches a reconstruction of social origins designed to prove that what philosophers say about nature is a projection of their own states of society, or their fantasies of it.”<sup>83</sup> Rousseau wants to identify two ideal types of freedom – the natural and the social – in a world where neither is clearly observable. “Man is born free,” he says famously, “yet everywhere he is in chains.”<sup>84</sup> The philosopher’s recourse cannot be empirical, as it was for Locke; Rousseau does not seek facts from natural history. As Cavell puts it, he seeks “a way to use the self as access to the self’s society.”<sup>85</sup> The question is: who is already speaking for me, and for whom do I already speak?

It is not a question of demography, or at least not only that. It is a question of collective history, sedimented in the language I use. I belong to a people who speak as I do, perhaps in numerous and evolving dialects. I am possessed by their language, and the more I master it, the more obvious the possession. My obedience to their form of life is not easy to understand or represent, but we belong to each other, and the nature of that belonging is both unavoidable and political. I can think

---

<sup>83</sup> Stanley Cavell, *Claim of Reason*, 25.

<sup>84</sup> Jean Jacques Rousseau, *Of the Social Contract* (Cambridge: Cambridge University Press, 2012), 41.

<sup>85</sup> Cavell, *Claim of Reason*, 26.

of no more poignant example than Frederick Douglass, who recalls a visit to his “old master” some forty years after escaping enslavement. The man, Thomas Auld, had seen the danger of young Frederick’s literacy, threatening him with the lash if he taught other enslaved people to read. “He had struck down my personality,” writes Douglass, “had subjected me to his will, made property of my body and soul, reduced me to chattel, hired me out to a noted slave breaker to be worked like a beast and flogged into submission.”<sup>86</sup> Douglass had once railed against Auld in his writing, using him as “a weapon with which to assail the system of slavery.”<sup>87</sup> But the man was now dying, and the abolition of slavery had changed the conditions of their meeting. Douglass recalls the event with unimaginable mercy.

Our courses had been determined for us, not by us. We had both been flung, by powers that did not ask our consent, upon a mighty current of life, which we could neither resist nor control. By this current he was a master, and I a slave; but now our lives were verging towards a point where differences disappear, where even the constancy of hate breaks down, where the clouds of pride, passion, and selfishness vanish before the brightness of infinite light.<sup>88</sup>

The episode above, as I read it, is an effort to resolve the questions, *Who are we? And what form of life do we share?* Neither man explicitly consented to the system of slavery, though it advantaged the one over the other. And Douglass, in withholding consent from it, never removed himself from a shared form of life, a shared language. Quite the opposite: his mastery of the form was his emancipation. His mastery was simultaneously a form of consent – not to slavery but to the grammar and lexicon of English. His autobiographical writing, as a technique of the self, proves that the social contract is somehow binding yet boundlessly open. The social contract signifies not the enclosure but the disclosure of a society.

---

<sup>86</sup> This quote and the next are from Frederick Douglass, *The Life and Times of Frederick Douglass* (Hartford, CT: Park Publishing, 1882), 534.

<sup>87</sup> Frederick Douglass, Letter to Thomas Auld (September 3, 1848), Yale MacMillan Center, <https://glc.yale.edu/letter-thomas-auld-september-3-1848>.

<sup>88</sup> Douglass, *The Life and Times of Frederick Douglass*, 534.

It follows for Cavell that “mere withdrawal from the community (exile inner or outer) is not, grammatically, the withdrawal of consent from it.”<sup>89</sup> I am always spoken for by speaking, and in that sense, it is impossible to withhold my consent from the form of life I share with others. What I *can* do – and what the Marian architecture teaches me to do – is to novelize the form, to renew it: to consent to being transformed in it, even as it is somehow transformed in me; to see how this form of life, with its sedimented history in myself, can be changed in the “brightness of infinite light,” as Douglass says; to see what I can become with others in this immeasurable economy of divine love; to see how the vernacular, the koine, may become something it never was before; to get free of myself, but to do it in the common tongue; to engage in the practice of fearless speech; to live another life, conceiving a new cultural project with past materials; to escape the lineaments of domination. This is not to fantasize about an exterior state of nature. Nor is it even to imagine two ideal freedoms, one natural and one social. It is to consent to a mystical vision of a loving life in common, disarming the inner fantasies that keep souls chained in the fear of loss and the lust for control.

#### Counter-Memory.

Another way to describe what I mean is in terms of a counter-memory. I take this from Foucault, following the womanist approach of Emilie Townes, who links his concept to a talk given by Toni Morrison.<sup>90</sup> For Townes, the practice of counter-memory opens up subversive, creative spaces within dominant structures of thought. Morrison exemplifies it in how she reads slave narratives, noting that their authors tended to avoid the display of emotion to maintain appeal in white society. To get beneath the surface, Morrison regards her work as “a kind of literary archaeology: on the basis

---

<sup>89</sup> Cavell, *Claim of Reason*, 27.

<sup>90</sup> Michel Foucault, “Nietzsche, Genealogy, History,” *Language, Counter-Memory, Practice*, ed. Donald F. Bouchard (Ithaca, NY: Cornell University Press, 1977), 160; Emilie M. Townes, *Womanist Ethics and the Cultural Production of Evil* (New York: Palgrave MacMillan, 2006), 7-9; Toni Morrison, “The Site of Memory,” *Inventing the Truth: The Art and Craft of Memoir*, ed. William Zinsser (Boston: Houghton Mifflin, 1995).

of some information and a little bit of guesswork you journey to a site to see what remains were left behind and to reconstruct the world that these remains imply.”<sup>91</sup> Morrison’s *Beloved* reconstructs the inner lives of the enslaved, an exercise she deems “critical for any person who is black, or who belongs to any marginalized category, for, historically, we were seldom invited to participate in the discourse even when we were its topic.”<sup>92</sup> Is Morrison the author of fact or fiction? To force that distinction would be to miss the point. In her words:

Fiction, by definition, is distinct from fact. Presumably it’s the product of imagination – invention – and it claims the freedom to dispense with “what really happened,” or where it really happened, or when it really happened, and nothing in it needs to be publicly verifiable, although much in it can be verified. By contrast, the scholarship of the biographer and the literary critic seems to us only trustworthy when the events of fiction can be traced to some publicly verifiable fact. It’s the research of the “Oh, yes, this is where he or she got it from” school, which gets its own credibility from excavating the credibility of the sources of the imagination, not the nature of the imagination.

The work that I do frequently falls, in the minds of most people, into that realm of fiction called fantastic, or mythic, or magical, or unbelievable. I’m not comfortable with these labels. I consider that my single gravest responsibility (in spite of that magic) is not to lie... Therefore the crucial distinction for me is not the difference between fact and fiction, but the distinction between fact and truth.<sup>93</sup>

The distinction between fact and truth recalls the Foucauldian archetypes of the minister and the mystic, the first obtaining power by scientific credibility, the second by a depth of inner work. Morrison is clearly grounded in the second category, permitting us by counter-memory to imagine the truthful authorship of an obscured life. Against the dominant structures of western thought, she retrieves and vivifies a side of life that was, until she wrote it, erased from public memory. Suppose we carry this further, reading Morrison against the fantasy of a social contract. Might hers be the more truthful political myth – the reality that has *in truth* shaped our present form of life? Unforgettably, one character in *Beloved* asks another: “Tell me this one thing. How much is a nigger supposed to take?”

---

<sup>91</sup> Morrison, “The Site of Memory,” 92.

<sup>92</sup> Morrison, “The Site of Memory,” 91.

<sup>93</sup> Morrison, “The Site of Memory,” 93.



Tell me. How much?” And the reply: “All he can.”<sup>94</sup> In what sense is this fiction? Paul Gilroy sees that Morrison’s “return to slavery” offers “a means to restage confrontations between rational, scientific, and enlightened Euro-American thought and the supposedly primitive outlook of prehistorical, cultureless, and bestial African slaves.” Morrison’s counter-memory invokes an immeasurable, de-empiricized form consciousness, opening up space for a different kind of Black subjectivity in the very language that has read it as a tool of economic rationalization. Gilroy continues:

The desire to pit these cultural systems against one another arises from present conditions. In particular, it is formed by the need to indict those forms of rationality which have been rendered implausible by their racially exclusive character and further to explore the history of their complicity with terror systematically and rationally practiced as a form of political administration.<sup>95</sup>

Morrison’s archaeology, beginning from present conditions, once again raises the question of how and why a person might study history. As Gilroy suggests, her technique develops in response to the “double-consciousness” named by W.E.B. Du Bois: “this sense of always looking at one’s self through the eyes of others, of measuring one’s soul by the tape of a world that looks on in amused contempt and pity.”<sup>96</sup> The concept is roughly Hegelian, situating self-consciousness in the eyes of the Other, and it clearly parallels Foucault’s pursuit of freedom from the self. As Deleuze points out, “The theme which has always haunted Foucault is that of the double. But the double is never a projection of the interior; on the contrary, it is an interiorization of the outside.”<sup>97</sup> The pursuit of self-knowledge, then, is often a form of resistance, a withholding of consent from the structures in which one is measured, by which one measures oneself. But how? How can I come into a new relation with this nervous, measured self, setting it free from the power of measure – or else transforming the measuring

---

<sup>94</sup> Toni Morrison, *Beloved* (New York: Vintage, 2004), 277.

<sup>95</sup> Paul Gilroy, *The Black Atlantic: Modernity and Double Consciousness* (London: Verso, 1993), 220.

<sup>96</sup> W.E.B. Du Bois, *The Souls of Black Folk* (New York: Penguin, 1989), 5.

<sup>97</sup> Deleuze, *Foucault*, 97-98.

double, the self-consciousness adhering to the discourse of power? How can this doubled self-consciousness become another, emancipated consciousness?

Writers like Morrison are luminaries because, to borrow another phrase from Du Bois, they are “gifted with second-sight.”<sup>98</sup> If double-consciousness begins in childhood, with no great awareness of its pressure, second sight is the awareness one gains in the creative, courageous process of undoubling. The process of undoubling does not indicate the removal of outside influences but a conscious reordering of those influences from the inside space of counter-memory. As a master of the English language, Morrison converts the vernacular into something it never was, excavating the inner lives of enslaved people, refusing to placate the white bourgeoisie who invented the literary forms of history and the novel. She defies the distinction between fact and fiction, because, as Gilroy points out, genre boundaries legitimize “social processes that govern the remaking and conservation of historical memory.”<sup>99</sup> *Beloved* is haunted by a spirit of trauma, nonlinear in the telling, unfolding in many layers of time at once, and it strangely mirrors the technique of Foucault. For both writers, counter-memory goes sideways with the archive. Morrison narrates what is not there; Foucault re-networks what is (naming the pastorate, for example, as a widespread secular phenomenon). For both, as Foucault says, writing entails the practice of “making one’s own history.”<sup>100</sup>

What does it mean to make one’s own history? Foucault’s elaboration is prolix but worth including. It means “fabricating as through fiction the history that would be traversed by the question of the relations between the structures of rationality that articulate the true discourse and the mechanisms of subjugation that are tied to it.”<sup>101</sup> Put it like this: a fictive history can be told against the truth, where a “true” discourse like racialized propaganda has come to shape the very conditions

---

<sup>98</sup> Du Bois, *The Souls of Black Folks*, 5.

<sup>99</sup> Paul Gilroy, *The Black Atlantic*, 218-219.

<sup>100</sup> Michel Foucault, “What is Critique?”, 391.

<sup>101</sup> Michel Foucault, “What is Critique?”, 391.

of domination. Or, referring back to the Cynics, the other life can be lived against the normal life, where the norm shapes the conditions of corruption.

Or, referring back to Mary, the *logos* can be known against wisdom, where wisdom finds the *logos* to be foolish and offensive. The Magnificat, after all, is a work of counter-memory. Stitched from bits of the established Hebrew canon, it is “an other” psalm sung against the dominant strategies of power. For good reason, Gustavo Gutiérrez regards it as central to a “spirituality of liberation.”<sup>102</sup> It strengthens a people to withhold consent from the deceptive fantasy that the powerless will starve while the powerful prosper. No! cries Mary: God has done something else, and that history is present *in me!* He has routed the arrogant of heart; he has pulled down princes from their thrones and lifted up the lowly; he has filled the starving with good things and sent the rich away empty.<sup>103</sup> Courtney Hall Lee, author of *Black Madonna: A Womanist Look at Mary of Nazareth*, sees Mary as an icon of Black motherhood, easily stigmatized as irresponsible, unwed, and uneducated.<sup>104</sup> As Lee points out, Mary sings her own history, boasting in the God of Israel, who multiplies her flesh and blood even as he undoubles her identity.

Here we find the beginning of a triune metaphysics, going beyond the dyadic relation between self-consciousness and the gaze of the Other. Mary, the beloved of God, loves herself in God, loves God in herself; and with reference to Israel, she loves others in God, and loves God in others. *Let others see me how they will*, she seems to say; *the truth within me knows the truth about me*. Love, in her case, forms the capacity to withstand public scrutiny, and it does so by turning to the counter-memory of Israel. If the Catholic tradition regards Mary as an icon of consent, she is equally an icon of resilience,

---

<sup>102</sup> Gustavo Gutiérrez, *A Theology of Liberation: History, Politics and Salvation*, trans. Sister Caridad Ina and John Eagleson (New York: Maryknoll, 1985), 207.

<sup>103</sup> Luke 1:51-52.

<sup>104</sup> Courtney Hall Lee, *Black Madonna: A Womanist Look at Mary of Nazareth* (Eugene, OR: Cascade, 2017), xii. In addition, I eagerly await the forthcoming book from Amey Victoria Adkins-Jones, *Immaculate Misconceptions: Black Mariology, Freedom, Fugitivity*.

manifesting a fierce inner freedom in the songs of her people. She has received and incarnated the *logos* of Scripture – a practice she must have begun long before she was found to be with child. Her consent is not a one-time event; it is *repeated* at the moment of the Annunciation, having long been rehearsed in the counter-memory that she has made her own. Hers is the strange effort of the Jews, looking for home in many promises while living in exile and forced occupation. Treasuring those promises, she sings. The God of all ages, magnified in her soul, has led generations to this moment, and from now on, she will be remembered as the one who said yes to the deliverance of her people.

Hybridity and the Vernacular.

Dante and Catherine, too, manifest the fierce inner freedom of Marian typology. Remarkably, their writing also parallels the language-mastering self-work of Douglass and Morrison. As vernacular mystics, they pushed Italian beyond its established forms, opened up genre possibilities that did not exist beforehand.<sup>105</sup> Their writing, moreover, broke from the strictures of Latin theology, making their vision widely accessible to the uneducated class of their time. Dante demonstrates an especially powerful counter-memory, fabricating his own history “as through fiction,” to borrow the phrase of Foucault. The *Divine Comedy* collapses many ages into one, redefining its exiled author by the true politics of “the other world.” Journeying through the afterlife, Dante encounters souls from every age of history, until he is finally made a citizen of “the true Rome where Christ is Roman too.”<sup>106</sup>

Led first by Virgil, the epic poet of Rome, Dante’s technique also corresponds to that of Aquinas, who incorporated new translations of Aristotle by Muslim scholars. Dante seems to ask the same Marian questions: What might we ask of the *logos* now, given the materials available to us? And what novel or strange thing might the *logos* ask of us? Both questions, as I said above, require a subtle

---

<sup>105</sup> Bernard McGinn, *The Varieties of Vernacular Mysticism (1350-1550)* (New York: Herder and Herder, 2012), chs. 6-7.

<sup>106</sup> Dante, *Purgatorio* XXXII.101

and trained attention for the transformation of water to wine. The insights of those without faith are good by nature; by grace, they are perfected. At the same time, pagan forms of thought might transform the language of grace, creating a hybrid knowledge unavailable without consenting, here and now, to the incarnation. Allegorically, time works in two directions: the promises of Israel have come to fulfillment in Christ, even as Christ illustrates the meaning of the law. In Greek philosophy too, the *logos* has impressed itself onto nature, having been observed by pagans before its advent in the flesh. Christ folds all of history on his coming, creating not only two ages but a retrospective parallel in the first, between Israel and the Gentiles. Christmas evokes an emerging counter-memory of world history, a gift witnessed equally by lowborn Israelite shepherds and pagan magi. Neither body of literature is fulfilled until the *logos* demonstrates what human nature, by consent, can become. The body of Christ is where they come together, effecting a new kind of literary material.<sup>107</sup>

Virgil can therefore lead Dante through the *Inferno*, guiding him by virtue to avoid the traps of vice. A pagan icon of the liberal arts, Virgil is naturally enlightened, living in limbo with the great philosophers of history. But importantly, his commission to rescue Dante comes from a higher light: Beatrice, whom Dante knew in life, has appeared from heaven to solicit Virgil's help. Her story discloses yet another: a Lady in heaven (Mary, though her name is never said in the *Inferno*), has taken pity on Dante, calling on St. Lucy to help him. Lucy, the patroness of sight, has thus commissioned Beatrice. "He loves you," says Lucy to Beatrice, indicating her unique suitability for the rescue of this particular soul.<sup>108</sup> Moved by love from heaven to hell, Beatrice incarnates the *logos* in her commission of Virgil, her eyes bright with tears. The Latin roots *lux* and *lucis* draw the whole sympathetic chain

---

<sup>107</sup> I discuss this further in my final chapter, developing what I have written in "Dante's Economy of Words after Marx," *Dante and the Other: A Phenomenology of Love*, ed. Aaron B. Daniels (London: Routledge, 2021). I also borrow from my article, "Mysticism as Counter-Conduct: A Foucauldian Retrieval of Dante and St. Catherine of Siena," *Journal for the Society of Christian Ethics* (forthcoming).

<sup>108</sup> Dante, *Inferno*, ll.104

together, granting a preview of later expositions of light and sight. Mary has multiplied the light of heaven in hell, where Dante will be granted a safe, albeit difficult passage into greater self-knowledge.

In other words, the whole of the *Divine Comedy* is shaped by the Marian architecture of consent, which proliferates her union with the divine through her love for particular others. Her consent initiates hybrid forms of knowing, conceivable as particular souls love one another. The divine light chooses Virgil precisely because he is attractive to Dante's intellect; Beatrice wants to educate Dante's erotic longing, but not before Virgil educates his poetic understanding. Their skills are uniquely focused on a single, frightened, romantically poetic soul. Consenting to the consenting life of Mary, they lead Dante into his own pattern of union with the First Light. The *Comedy*, as we will see, was intended to bring about a cultural shift in the same direction. Dante's new wine was a vernacular epic written to invite communion between the factious city-states of Italy.

Regrettably, however, Dante would later become a darling of the Italian fascist party (as would Catherine, to a lesser extent).<sup>109</sup> He had solidified a standard Italian language, unifying a nationality in the mythical train of Virgil, whose Aeneid was the founding epic of Rome. His minor work, *Monarchia*, would thus be deployed by thinkers like Giovanni Gentile to advance a political theology of State transcendence. A full response to Gentile and others lies beyond my work here, but suffice it to say that my own reading goes in the opposite direction: *Monarchia* was written to curb pastoral power, not to increase its proliferation through secular ministries of the modern state. The matter deserves renewed attention, because at the time of my writing, the prime minister of Italy is the first since Mussolini to claim obvious roots in the fascist movement. She herself has called Dante "authentically Italian, authentically Christian," and "the father of our identity."<sup>110</sup> These are not uncommon

---

<sup>109</sup> See for example Donatella Stocchi-Petrucchio, "Giovanni Gentile's Reading of Dante as Prophet of the State *in interiore homine*," *Mediaevalia* Vol. 38 (2017), 169-207; Gerald Parsons, "A National Saint in a Fascist State: Catherine of Siena, ca 1922-1943," *Journal of Religious History* Vol. 2, No. 1 (March 2008), 76-95.

<sup>110</sup> Anna Momigliano, "Why Do Fascists Love Dante?," *The Atlantic*, Feb 10, 2023.

sentiments among Italians, but when they energize the old currents of rightwing nationalism, they conjure an Italian mystique weaponized to slaughter those of impure blood. Nationalism indeed fabricates history as through fiction, but its fabrication is deceptive and sinister, not a hybrid counter-memory from below.

No doubt some would prefer to leave Dante in Italy for the reasons I have just mentioned. But they cannot, because he has not stayed put. The “true Rome where Christ is Roman” is precisely an *other* Rome, the City of God. As I read him, Dante transcends Italian, turning up in the language of Du Bois and other Black folk of his time, such as the poet Henrietta Cordelia Ray.<sup>111</sup> In Ray’s poem *Dante*, she depicts the great Florentine as a prototype for abolitionists:

Indignant at the wrongs that Florence bore,  
 Florence, thy well-beloved, thy hallowed home,  
 With stern denunciation thou didst wage  
 Against the law's lax mandates bloody war,  
 And all unawed, rebuked the false decrees  
 Of kings, of conquerors, popes and cardinals.<sup>112</sup>

My dissertation stays with this tradition, elaborating a counter-memory to disarm the pastoral fantasy of a pureblood biopolitics. As the maternal grandson of a Jewish professor, I descend on my father’s side from a colonial stock of New England antisemites. I have a strong sense of the stakes here. In my own practice of counter-memory, the *logos* does not become flesh to stabilize language and cultural identity. “Behold,” says the one on the throne of Revelation, “I am making all things new.”<sup>113</sup> The statement evokes and promotes a creole iconography – a form of life incarnated in Black Madonnas, Guadalupanas and so on – all revealing the Universal One to whom Mary consented. “The

---

<sup>111</sup> Freeden Blume Oeur, “Object Lessons: W. E. B. Du Bois and the *Sturm und Drang* of Race Childhood,” *The Journal of the History of Childhood and Youth* Vol. 14, No. 3 (Fall 2021), 448. Also see Dennis Looney, *Freedom Readers: The African American Reception of Dante Alighieri and the Divine Comedy* (Notre Dame: University of Notre Dame Press, 2011).

<sup>112</sup> H. Cordelia Ray, “Dante,” *Poems* (New York: Grafton, 1910), 154. Initially in *The A.M.E. Church Review*, ed. B.T. Tanner, Vol. 1, No. 3. (Philadelphia: Publishing House of the African M.E. Church, January 1885), 251.

<sup>113</sup> Revelation 21:5

universal,” to quote Townes, “is created in the creolization of discourses, not in the austere terrain of monochromatic abstract conceptualizations spuming from the fantastic hegemonic imagination.”<sup>114</sup> Her remark follows Gilroy, who wrote *The Black Atlantic* about “the inescapable hybridity and mixture of ideas.”<sup>115</sup> He insists that the European consciousness of western settlers was never sealed off from the Africans they enslaved. Against the fantasy of nationalism, there is “another, more difficult option: the theorisation of creolization, métissage, mestizaje, and hybridity.”<sup>116</sup>

With that in mind, I can see a *meticcio* Dante making his way to the Americas for the cause of liberation, giving form to “an other life.” Ray, the poet who adopted him as such a figure, was herself described as coming from “the primitive Massachusetts stock, being a direct descendant of aboriginal Indian, English and of the first Negroes of New England.” Her biographer adds: “To find an ancestor of hers with unmixed blood, one would have to trace back from four or five generations. Emphasis is made of this fact as a vital disproof of the theory that a mixture of blood deteriorates all the competent elements.”<sup>117</sup> Ray no doubt experienced the double-consciousness named by Du Bois, but her “mixture of blood” gave her the gift of second sight when recalling the life of the Florentine poet. I too hold Dante in such a counter-memory, reading him as an opponent “of kings, of conquerors, popes and cardinals.” His vernacular goes far beyond the ministerial myth of a pure Italian nation. As we will see, he represents a counter-memory that opens up space for another *us*. Together with Catherine, he is a deep resource for a mystical, liberative and loving biopolitical theology.

It all amounts to this question: how do we tell the story of the outside? That is, what fantasies of the outside have we let into the vernacular of our life together? Is there a moral or biological threat *out there*? Is there something crouching at the door, waiting to invade the true and vital substance of

---

<sup>114</sup> Townes, *Womanist Ethics...*, 38.

<sup>115</sup> Paul Gilroy, *The Black Atlantic*, xi.

<sup>116</sup> Gilroy, *The Black Atlantic*, 2.

<sup>117</sup> Hallie Q. Brown, *Homespun Heroines and Other Women of Distinction* (Xenia, OH: The Aldine Publishing Company, 1926), 172.



our social order? Is there a pending “state of plague,” as Foucault puts it? And, in quite another register of thought, is there a state of nature, an essence called “human” beyond all social constructions? Is there a secular exterior, free of all religious trappings, grounding a neutral position for rational agreement? Is there an “objective” universe outside our symbolic systems? And, in still another register, is there an eternity? Is there “an other world,” a realm of pure form or spirit? Is there a Paradise, a Purgatory, an Inferno? The way we answer these questions will shape the architectures we create. What is the *inside*? What is the self? The *oikos*? The homeland? How is it managed, and who is in it?

By grouping all such questions together, we can more easily identify the architectures of consent prevailing upon our consciousness. After all, consent is a way of letting in and keeping out, a way of marking sovereign territory, both in the self and a people. In its most basic grammar, the story of consent is about what we *admit* or *receive*. So: to what mythologies and fantasies do we consent? What have we received, and in what kind of memory? This line of inquiry allows us to place numerous figures alongside one another: Virgil, Augustine, Dante, Locke, Hobbes, Rousseau, Morrison, Gilroy... The list will continue. Among their ranks, I read Foucault as something of a mythmaker, a modern Virgil who can help us understand, as through fiction, the true origins of our life together.

The Bios.

As I have said, I tend to see biopolitics the way Foucault does – as emerging under the “governmental regime of liberalism.”<sup>118</sup> But I must emphasize an important caveat before concluding this chapter. Some thinkers, led by Giorgio Agamben, have revealed a biopolitical thread running through the history of western thought. From the time of Aristotle, *bios* coincided with life in the *polis*. As distinct from *zoe* – the animal fact of being alive – *bios* indicated “the form or way of living proper

---

<sup>118</sup> Foucault, *The Birth of Biopolitics*, 22.

to an individual or group.”<sup>119</sup> The concept of a *zoe politike* would have made no sense, as Agamben observes; political life has always been a *bios politike*. Hence, as late as the fourth century, we find St. Athanasius taking for granted that people can *areten zēsai bion* – live a virtuous life — with the verbform of *zoe* achieving fulfillment in the *bios* of human flourishing.<sup>120</sup> Conceptually, *zoe* comes to its apex in the moral and political excellence of *bios*.

Aristotle, of course, taught that all life existed in a hierarchy, from plants up to the political animal. His taxonomy has lingered in modern biology, but not without extreme tension, because we can no longer ignore its innately supremacist logic. In the *Politics*, we find Aristotle contending that some men are slaves by nature, being less rational than those whom nature has made to rule; women, if perhaps rational, are less so than the ruling class of men; furthermore, deformed babies should be left to die, and the state should control for overpopulation by infanticide and abortion.<sup>121</sup> All of this, for Aristotle, is embedded in the notion of *bios*. The problem presents itself uniquely to people like me, who put trust in the old canon of western virtues. MacIntyre, for example, tried in *After Virtue* to say that human nature seeks a telos, but he rushed to blot out the philosopher’s “metaphysical biology.”<sup>122</sup> While he was eager to be rid of Aristotle’s biopolitics, he soon realized it was no easy task. Virtues always presuppose a picture of flourishing *by nature*, at the level of biology. MacIntyre’s follow-up book, *Dependent Rational Animals*, begins with a confession: while he was right to reject “elements in Aristotle’s biology,” he was wrong to think that an ethics could be contrived without a biological account of life.<sup>123</sup> My own resolution differs from his, but my sense of the problem is the same. In a

---

<sup>119</sup> Giorgio Agamben, *Homo Sacer: Sovereign Power and Bare Life*, trans. Daniel Heller-Roazen (Stanford: Stanford University Press, 1998), 9.

<sup>120</sup> Athanasius, *On the Incarnation: The Greek Text*, ed. Archibald Robertson (London: David Nutt, 1893), XII.5

<sup>121</sup> Aristotle, *Politics*, I.5.7-11; 1.13.7-10; VII.16.15.

<sup>122</sup> Alasdair MacIntyre, *After Virtue* (Notre Dame: University of Notre Dame Press, 3<sup>rd</sup> ed. 2007), 141.

<sup>123</sup> Alasdair MacIntyre, *Dependent Rational Animals* (Chicago: Open Court, 1999), x.

way, the entire tradition of western ethics amounts to a bioethics, because it always presumes an account of the *bios* – “the form or way of living proper to an individual or a group.”

Agamben has long warned readers about the ramifications of that fact. Bare life, as he puts it, is a concept emerging from the political centrality of *bios*. That is to say, *zoe* precedes *bios* only conceptually, as a notion conceived within a given speech community. It signifies the life that cannot be lived in the *polis*, the “life itself” inferior to, yet taken up within, the political animality of man. Biological modernity has sustained that inner exclusion, the marks of which are clear enough in the animal life used for drug trials: rats and monkeys are *zoe*, not *bios*, killed with impunity for the science of human health. The same logic was ramified with shocking intensity by the “death science” of the Nazis, which I discuss further in chapter three. Under Hitler’s research paradigm, human subjects were exposed to extreme altitudes, temperatures, thirst, and toxicity. Among them were Jews, Romani, and disabled Germans, all of whom were legally constituted as non-citizens, then studied to death as such. The whole process, guided by the pastoral logic of national health, was a work of science in two phases. Commencing with a science of racial purity, it ended with experiments on the impure. “What follows is a kind of bestialization of man achieved through the most sophisticated political techniques,” Agamben remarks. “For the first time in history, it becomes possible to both protect life and authorize a holocaust.”<sup>124</sup> In other words, the holocaust magnified the form of western life that was, until then, unachievable at such a scale. *Bios* constituted *zoe*; the state conceived of life outside itself within itself, all to support the constitution of a pure population.

Agamben does not identify the holocaust as an act of pastoral power, but there is no denying its ministerial imprint. To be sure, the Nazi party had exposed a weakness in the pastoral system of the Weimar Republic, effecting a new commissarial sovereignty that was uncontrolled by the existing ministries of state. Yet the dictatorship was ultramodern, requiring an even more efficient, bureaucratic

---

<sup>124</sup> Agamben, *Homo Sacer*, 10.

system of pastoral power to carry out its plans.<sup>125</sup> Keeping that in mind, we need to remember what I said above – that pastoral power has never operated on the basis of a social contract. While it evolved with classical liberalism, the Lockean “consent of the governed” – which I discuss in chapter four – is a technology of political fiction. With Foucault and Agamben, I take the position that there is no rights-bearing life “outside the contract,” so to speak.<sup>126</sup> There is no pre-political state of nature, no “natural rights” without society, because the concept of an outside is always conceived from within.

For that reason, I understand why Agamben locates the consent of the governed in a very different mythos – not in a state of nature but in a state of acclamation, exemplified by the coronation of Charlemagne on Christmas Day of 800 AD. The emperor, crowned by the pope and hailed by Roman Christians, revealed that heaven itself “consented to the new *Deo coronatus*.”<sup>127</sup> Pastoral power has since deposed the sovereign, doing away with the need for a transcendent legitimation of power. Through the techniques of polling and voting, it generates acclamation according to the logic of a “governmental machine.”<sup>128</sup> But as Agamben observes, the twentieth century showed that a transcendental void was left open: “perhaps never has an acclamation, in the technical sense of the word, been expressed with so much force and efficacy as was ‘Heil Hitler’ in Nazi Germany or ‘Duce duce’ in fascist Italy.”<sup>129</sup> These events, which happened in the city of our language – in its old piazzas and squares – reveal that consent is a liturgical act, an expression of desire for transcendence and salvation. I carry this basic understanding with me, since it resonates more clearly with the older

---

<sup>125</sup> As Foucault said when he began to conceptualize biopower: “The specificity of modern racism, or what gives it its specificity, is not bound up with mentalities, ideologies, or the lies of power. It is bound up with the technique of power, the technology of power... We are dealing with a mechanism that allows biopower to work.” In *Society Must Be Defended*, 258.

<sup>126</sup> Foucault, *Society Must Be Defended*, 21.

<sup>127</sup> Agamben, quoting Ernst Kantorowicz, *Kingdom and Glory*, 190.

<sup>128</sup> Agamben, *Kingdom and Glory*, xiii.

<sup>129</sup> Agamben, *Kingdom and Glory*, 253-254.

architecture I want to uncover. The consent of the governed is not strictly democratic or liberal; in fact, it may reveal what Agamben calls “an inner solidarity between democracy and totalitarianism.”<sup>130</sup>

For me, the point is not to escalate our political situation to a hypothetical extreme. The point is to dislocate the meaning of consent from its liberal frame, recognizing how it works as a technology of pastoral power. We tend to think of consent and coercion as opposites – the first being ethical and the second unethical – when both simply function as tools in opposite hands of the same system.

Foucault says as much:

Obviously the establishing of power relations does not exclude the use of violence any more than it does the obtaining of consent; no doubt, the exercise of power can never do without one or the other, often both at the same time. But even though consent and violence are instruments or results, they do not constitute the principle or basic nature of power... In itself, the exercise of power is not a violence that sometimes hides, or an implicitly renewed consent. It operates on the field of possibilities in which the behavior of active subjects is able to inscribe itself. It is a set of actions on possible actions; it incites, it induces, it seduces, it makes easier or more difficult; it releases or contrives, makes more probable or less; in the extreme, it constrains or forbids absolutely, but it is always a way of acting upon one or more acting subjects by virtue of their acting or being capable of action. A set of actions upon other actions.<sup>131</sup>

Ultimately, Foucault settles on the term “conduct” to define the operations of power. The word’s utility is manifold: as a verb, it means *to direct, to lead*, but also *to behave, to lead oneself*; as a noun, it is an ethical constraint, *e.g.* a code of conduct; it is also a channel or passageway, as indicated by the French *conduit*. Hence, “The exercise of power is a ‘conduct of conducts’ and a management of possibilities.”<sup>132</sup>

Understood that way, pastoral power is now omnipresent beyond the gaze of the state. The next chapter will address the meaning of consent in this context. Alphabet, Amazon, Apple, Meta, Microsoft – all of these companies design our choices, shepherding our behavior through an internet of things. In today’s “economy of souls,” we are users first, citizens second. We are monitored as

---

<sup>130</sup> Agamben, *Homo Sacer*, 13.

<sup>131</sup> Foucault, “The Subject and Power,” 341.

<sup>132</sup> Foucault, “The Subject and Power,” 341.

digital subjects outside existing state regulations. Scholars have yet to settle on a term for the present economic order. “Surveillance capitalism,” a term put forward by Shoshanna Zuboff, seems a better fit than some sort of “techno-feudalism,” suggested by Yanis Varoufakis and others.<sup>133</sup> Still, Varoufakis has a point: we now exist in a radically new political economy. “For the first time in history,” he observes, “almost everyone produces for free the capital stock of large corporations. That is what it means to upload stuff on Facebook or move around while linked to Google Maps.”<sup>134</sup> For free, we produce data that rather mysteriously serves the profit models of big tech. Does this make us serfs? Yes and no; the comparison is inadequate though generative. Modern capitalism has always relied on unpaid work, especially from enslaved people and “caring classes” of women.<sup>135</sup> In that respect, the only significant shift – which is indeed significant – has occurred in the demographic of unpaid workers and the kind of work they perform. Still, an appeal to the structure of feudalism adds color to a kaleidoscope through which I can see something Varoufakis has yet to consider: the form of agency discovered by non-elites like Catherine during the Middle Ages.

#### The Stakes and the Outline.

To begin, however, I work more critically in the present, thinking with Zuboff about surveillance capitalism and its implications for the modern *bios*. How does consent form in the present digital ecosystem? As a business historian, Zuboff provides a detailed account of big tech firms like Google, though she is less acute in how she interprets modern power. By appealing to the state to

---

<sup>133</sup> See Evgeny Morozov, “Critique of Techno-Feudal Reason,” *New Left Review* No. 133/134 (Jan/Apr 2022), 89-126.

<sup>134</sup> Yanis Varoufakis, “Techno-Feudalism is Taking Over,” *Project Syndicate*, June 28, 2021, <https://www.project-syndicate.org/commentary/techno-feudalism-replacing-market-capitalism-by-yanis-varoufakis-2021-06>.

<sup>135</sup> I get the term “caring classes” from David Graeber, who sadly could not develop the idea before his untimely death. See Graeber, “Caring too much. That’s the curse of the working classes,” *The Guardian*, Mar 26, 2014, <https://www.theguardian.com/commentisfree/2014/mar/26/caring-curse-working-class-austerity-solidarity-scourge>. Graeber’s idea pairs with the Marxist understanding of social reproduction, well developed by Susan Ferguson, *Women and Work: Feminism, Labour, and Social Reproduction* (London: Pluto Press, 2020). Also see Jason W. Moore, “The Capitalocene Part II: accumulation by appropriation and the centrality of unpaid work/energy,” *The Journal of Peasant Studies* Vol. 45, No. 2 (2018), 237-239.

regulate big tech, she misses the deeper logic of pastoral power that binds the two together. My own view is that pastoral power tends to seek a massified yet hyper-individualized view of everything. It is global and granular, like Google Maps, seeking its apotheosis in the deepest and widest assimilation of both dimensions of knowledge. In its financializing techniques, it tends to nullify the rule of law just as it nullified the sovereign, while at the same time, it structures the regulatory state and potentiates new modes of sovereign decision making. Importantly, it is the unifying mode of global power, a world governmentality in which the state participates.

That said, questions about state sovereignty have not disappeared, and Agamben helps clarify the point. He believes we live in the legacy of two theological paradigms, the first of which “founds the transcendence of sovereign power on the single God.” The second then “replaces this transcendence with the idea of an *oikonomia*.”<sup>136</sup> The first presents itself in the legal theory of Carl Schmitt, the proto-Nazi jurist some have called the Hobbes of the twentieth century. Schmitt’s *Political Theology* remains incisive, pointing to the sovereign – “the one who decides on the exception” – as a figure mistakenly ignored by liberalism.<sup>137</sup> The second paradigm, as we have seen, is the basic political theology of liberalism, which Foucault observes without embracing. Agamben, affected by Foucault, has long argued that Schmitt is tragically right: liberalism conceals the sovereign decision, authorizing continued states of exception that lead to the erasure of those rendered bare life. I tend to agree, or at least I tend to be wary of the same likelihood.

Foucault, for his part, fails to say anything about the sovereign decision as such. While he notes that a state of emergency had to precede the birth of biopolitics (in his treatment of the panoptimized plague, for example), he says little about sovereign power in the twentieth century.<sup>138</sup> The

---

<sup>136</sup> Agamben, *The Kingdom and the Glory*, 1.

<sup>137</sup> Schmitt, *Political Theology*, 5.

<sup>138</sup> In the last of his 1976 lectures, he introduced the concept of biopower and showed its implications in Nazism. The lecture remains one of his most important, but it represents a road not taken in his later work.

most likely reason is that, unlike Agamben, he does not see modern power residing primarily in the state. As Nancy Fraser reminds us, “Foucault’s account demonstrates that modern power is ‘capillary,’ that it operates at the lowest extremities of the social body in everyday social practices. This suffices to rule out state-centered and economistic political praxes, since these praxes pre-suppose that power resides solely in the state or economy.”<sup>139</sup> Agamben, by contrast, continues to worry about the power of the state, which limits his ability to recognize the capillary diffusion of pastoral power across times and institutions.

In the next chapter, I explore a new development that neither Foucault nor Agamben quite perceive, beginning with a prologue from these last few years of pandemic life. Early in 2020, before Italy faced one of its most devastating waves of the virus, Agamben accused the government of imposing unwarranted emergency measures on the population, thinking that the measures would broaden beyond any limitation.<sup>140</sup> So alert was he to a state of exception that he correlated the government’s actions with a permanent risk to freedom. Many saw his reaction as outsized, imprudent, and misplaced; others thought he was not entirely off the mark. I am therefore left with an urgent question, a question that any serious study of consent must now undertake. How, in the age of big data, might a sovereign decision occur? What manner of exception should we train ourselves to see? My answer has far less to do with state power than it does with surveillance capitalism. In short, we need to consider a new kind of sovereign figure – not a *Deo coronatus* but a *Data coronatus* – one “given the crown” by the informatic functions of pastoral power. To put this in the form of a question: do sovereign decisions now occur based on data analytics, and do those who decide on exceptions live in places like Silicon Valley and Seattle?

---

<sup>139</sup> Nancy Fraser, *Unruly Practices: Power, Discourse, and Gender in Contemporary Social Theory* (Minneapolis: University of Minnesota Press, 1989), 18.

<sup>140</sup> Giorgio Agamben, “Lo stato d’eccezione provocato da un’emergenza immotiva,” *Il Manifesto*, Feb 26, 2020, [https://ilmanifesto.it/lo-stato-deccezione-provocato-da-unemergenza-immotivata?fbclid=IwAR17ciygOzmlpolNxACx8WWMoRzrPpePxJMN0Tns7ni69ZfwO\\_QzmHYeYXV%5C](https://ilmanifesto.it/lo-stato-deccezione-provocato-da-unemergenza-immotivata?fbclid=IwAR17ciygOzmlpolNxACx8WWMoRzrPpePxJMN0Tns7ni69ZfwO_QzmHYeYXV%5C).



Chapter three then continues my discussion about research on human subjects, a topic wrapped up in the history of modern bioethics. I first learned the history of consent when I was hired as a research worker to “consent people.” My trouble with that grammar leads me to consider the logic of automation behind consent, the logic now driving the expansion of the labor market in the research sector. In chapter four, I go a level deeper in our language to examine John Locke’s theory of the social contract. I read Locke as a biopolitical theologian, a physician who believed that empirical science, philosophy, and theology were overlapping domains, if not one and the same. Chapter five then goes a level deeper, excavating multiple layers of language from Aquinas to Luther, working to retrieve an Augustinian grammar that now lies obscured from modern view. Having retrieved that grammar, I turn in chapter six to Dante and St. Catherine, vernacular mystics whom I believe can teach us another way to be modern.

## Chapter 2.

### Data Coronatus.

Wuhan's novel coronavirus landed in Seattle just days before the Chinese New Year, as if to announce – of all things – the year of the rat.<sup>1</sup> At first, the infestation seemed to stop where it started; a month passed with no report of its continued spread. But an outbreak is a narrative, and as it unfolds, its official history is apt to be revised.<sup>2</sup> In this case, the experts tracking the contagion were privy to a historic first: the virus, not yet a pandemic, had gone global as *data*, transmitted from its epicenter long before the devastation. Chinese researchers had posted its genetic sequence online, allowing scientists everywhere to see the writing on the wall, so to speak, in a line of code.<sup>3</sup>

When a stateside death was finally reported – two months later, on leap day – the code had effectively rewritten the outbreak narrative.<sup>4</sup> A genetic match was found in a high schooler some fifteen miles away from the victim, and no one could explain how it happened – least of all the student.<sup>5</sup> With no recent travel and no link to a known case, his body was a warning sign that the outbreak had spread far beyond its imagined radius. The mystery was compounded by another fact: the student had not consented to be screened. Those who found the virus were as unknown to him

---

<sup>1</sup> Roni C. Raby, "First Patient with Wuhan Coronavirus is Identified in the U.S." *New York Times*, Jan 21, 2020. <https://www.nytimes.com/2020/01/21/health/cdc-coronavirus.html>; Holshue M. L., DeBolt C., Lindquist S., Lofy K. H., Wiesman J., Bruce H. *et al.* "First case of 2019 novel coronavirus in the United States" *New England Journal of Medicine* 382 (2020), 929–936.

<sup>2</sup> See Priscilla Wald, *Contagious: Cultures, Carriers, and the Outbreak Narrative* (Durham, NC: Duke University Press, 2008), 1-2.

<sup>3</sup> "Severe acute respiratory syndrome coronavirus 2 isolate Wuhan-Hu-1, complete genome," National Center for Biotechnology Information, January, 2020. <https://www.ncbi.nlm.nih.gov/nuccore/MN908947>; F. Wu, S. Zhao, B. Yu *et al.*, "A new coronavirus associated with human respiratory disease in China," *Nature* No. 579 (2020), 265–269. <https://doi.org/10.1038/s41586-020-2008-3>

<sup>4</sup> "First Death Due to Novel Coronavirus (COVID-19) in a Resident of King County," Public Health Insider. Originally posted Feb 29, 2020. <https://publichealthinsider.com/2020/02/29/first-death-due-to-novel-coronavirus-covid-19-in-a-resident-of-king-county/>

<sup>5</sup> "Coronavirus update: Addressing questions about a presumptive positive case in an adolescent," Snohomish Health District, Feb 29, 2020. <http://snohd.org/Blog.aspx?IID=13>

as its vector. His body was the site of a sovereign decision, a decision made not by the state but by someone somewhere in the capillary movements of biopower.

When the *New York Times* broke the story, it was all very straightforward: The student had stayed home that week with flu-like symptoms; he had gone to a health clinic, where he was swabbed for the seasonal flu; the clinic had shared his swab with the Seattle Flu Study, a research group that sequenced the genes in his mucus; the RNA matched one of the sequences posted by Chinese researchers; public health officials were notified, meeting the student just as he was returning to school; he was placed in immediate quarantine, and his school was shut down for sanitizing.

This reconfiguration of time and space – of history, of maps, of clean and unclean things – was traceable to a decision made by Dr. Helen Chu at the University of Washington.<sup>6</sup> As a lead scientist with the Seattle Flu Study, she and her team had spent months collecting nasal swabs from people in the Puget Sound area. For the third year running, they were conducting research at the intersection of genetic surveillance and infectious disease, developing a system that would chart the transmission of seasonal sickness. When the first coronavirus patient landed in her region, Chu saw that she was sitting on a stockpile of critical information. Had the infection spread beyond the first patient? If so, how far? Answers, she knew, were in the swabs her team had collected. But before she could repurpose the tests, she needed the approval of regulators. The Seattle Flu Study operated from research laboratories – not clinical ones – meaning that Chu was not authorized to share results with anyone but other researchers. For approval to act as a public health platform, Chu’s team went to the Center for Disease Control, who told them to take the matter up with the Food and Drug Administration.

---

<sup>6</sup> “Coronavirus: Two people test ‘presumptive positive’ in Western Washington,” KIRO7 News, Feb 29, 2020. <https://www.kiro7.com/news/local/coronavirus-2-test-presumptive-positive-western-washington/5B2T22DXRVBJVABTSSJNRFYJ2Y/>; Sheri Fink and Mike Baker, “Coronavirus May Have Spread in U.S. for Weeks, Gene Sequencing Suggests,” *New York Times*, Mar 1, 2020. <https://www.nytimes.com/2020/03/01/health/coronavirus-washington-spread.html>; Sheri Fink and Mike Baker, “‘It’s Just Everywhere Already’: How Delays in Testing Set Back the U.S. Coronavirus Response,” *New York Times*, Mar 10, 2020. <https://www.nytimes.com/2020/03/10/us/coronavirus-testing-delays.html>

The FDA said no, it could not approve screenings until the lab was clinically certified – a process that would likely take months. Chu’s team also learned they would need to obtain consent from subjects, or else they would need a waiver of consent from regulators. Both requirements would cost more time than Chu felt they had. “We felt like we were sitting, waiting for the pandemic to emerge,” she said to the *Times*. “We could help. We couldn’t do anything.”<sup>7</sup> Weeks passed, and then a month, and then Chu and her team decided to act, running the swabs without government approval. In a matter of days, they came up with the positive result, and Chu felt a growing sense of dread. “It’s just everywhere already,” she said in a headline-making quote. The virus had been caught too late, like a metastatic cancer of the biopolitical body.

The story of Dr. Chu presents us with an interpretive question. Was her choice an act of civil disobedience, or was it a kind of sovereign decision? The *New York Times* construed it as the former, praising Chu’s heroism. But because she effectively imposed emergency rule over a population, there is good reason to frame it as the latter. Interviewed almost a year later, Chu reflected on her decision using language that echoed Carl Schmitt’s *Political Theology*. “We just thought: you know, there are these rules, and they are made for ordinary times, but they are not made for extraordinary times. And so, at that moment, we felt like we had to – we just had to color outside the lines and make some decisions.”<sup>8</sup>

Schmitt said it this way:

The exception, which is not codified in the existing legal order, can at best be characterized as a case of extreme peril, a danger to the existence of the state, or the like. But it cannot be circumscribed factually and made to conform to a preformed law.

It is precisely the exception that makes relevant the subject of sovereignty, that is, the whole question of sovereignty. The precise details of an emergency cannot be anticipated, nor can

---

<sup>7</sup> Sheri Fink and Mike Baker, “It’s Just Everywhere Already...”

<sup>8</sup> Interview with Helen Chu, “Coexisting with COVID-19: No Really, Are We There Yet??,” University of Washington Office of Public Lectures, Jan 26, 2021. Quotation located 30:00-32:00. [https://www.youtube.com/watch?v=lavu-uxV1Co&list=PLZvWtyoll-zSQ9m9K8\\_vl-8Lnxqj5uMLs&index=2](https://www.youtube.com/watch?v=lavu-uxV1Co&list=PLZvWtyoll-zSQ9m9K8_vl-8Lnxqj5uMLs&index=2)

one spell out what may take place in such a case, especially when it is a matter of extreme emergency and of how it is to be eliminated.<sup>9</sup>

Chu is not the type one would expect in the Schmittian narrative. She is a non-political actor, an academic tucked away in a lab. Not only that; she exemplifies good conduct within the liberal governmentality of medicine. “As a physician,” she says, “you are really really good at following rules... And I think about that a lot, because I am a rule follower. I am a person who does not park in the 30-minute spots, and I don’t cut in line. Things like that.”<sup>10</sup> But there is a distinction to be made between rules and conduct. While Chu broke the rules, she firmly adhered to a tacit code of conduct – unwritten, but fundamental to her professional bearing. Perceiving the likelihood of an emergency, Chu and her team asked themselves what a “reasonable person” would do.<sup>11</sup> Their decision, which looked nothing like a totalitarian coup, revealed the ascendancy of a pastoral code beyond the legal order. They did not frame it by an appeal to some natural law, some higher reality against which human laws are measured. They applied a faintly utilitarian cost-benefit analysis to the problem: the whole population might be saved by sacrificing the consent of a few. Their thinking was well-intended, but it was free to maneuver only within a financialized, calculating bio-logic – the logic that built the frame of their research more generally. That frame, housing conduits of local and global data, made a sovereign decision permissible by making it possible. In other words, the decision itself was conducted by the pastoral power conducting Chu.

---

<sup>9</sup> See Carl Schmitt, *Political Theology: Four Chapters on the Concept of Sovereignty*, trans. George Schwab (Cambridge, MA: MIT Press, 1985), 6.

<sup>10</sup> Chu, “Coexisting with COVID-19”

<sup>11</sup> As recounted by Bill Gates, *How to Prevent the Next Pandemic* (New York: Alfred A. Knopf, 2022), 74. My use of Gates as a resource is justified, as will be clear later.

The Informatic Biopolis.

This chapter sheds light on Chu’s decision by looking at the digital economy of our life together. How can we theorize this strange new form of pastoral sovereignty? And how can we theorize the selfhoods it produces? What forms of subjectivity are at work in and around us? These questions point to the question at the top of my study: how does consent form? And I will now add another: how might consent formally signify its own void, its own potential nullification? The general landscape for my survey is the *bios* – that is, the biological formation of the political, or the political formation of the biological. There is perhaps no broader category; as we will see, the digital *bios* amounts to a panoptics of everything.

We live in a bewildering new evolution of the *oikonomia*, a mode of political economy yet to be named. Shoshanna Zuboff calls it surveillance capitalism; Yannis Varoufakis, techno-feudalism. Whatever we call it, this informatic biopolis fosters an impression that the whole of reality is codifiable. The main reason for that vision, arguably, is money – which can seem like a bold claim until we consider the groundwork laid by governments in the 1980s. Social scientist Jathan Sadowski observes that under neoliberal governance, finance capital is borderless. Its transnational pathways allow for the capture, flow, and accumulation of data beyond the gaze of the state. In other words, “a company could collect the personal information of Americans, store the data in Taiwan, and sell it in Europe.”<sup>12</sup> And many state officials count that as a good thing. Carl Bildt, the former prime minister of Sweden, said in a piece for the *Financial Times* that “barriers against the free flow of data are, in effect, barriers against trade.”<sup>13</sup> Data, as some have said, is the new oil.

Along with that shift, techniques of consent have evolved. Consider the Apple Watch, now built with a heart monitor capable of detecting cardiac arrhythmias. To prove its utility as a medical

---

<sup>12</sup> Jathan Sadowski, “When Data is Capital,” *Big Data & Society* Vol. 6, No. 1 (January 1, 2019).

<sup>13</sup> Sadowski, “When Data is Capital,” quoting Bildt, “EU Should Resist the Urge to Rig the Rules of Cyberspace,” *Financial Times*, May 3, 2015, <https://www.ft.com/content/5d626a4e-f182-11e4-88b0-00144feab7de>.

device, Apple conducted a study of 419,297 people, all of whom used an iPhone app to consent to monitoring.<sup>14</sup> Participation was voluntary, but the consent process – known as e-consent – was guided by the app, eliminating the need for a large frontline of research workers. Enrollment lasted eight months, meaning that the study averaged more than 1,500 new recruits per day – more than one per minute. Numbers like that were unimaginable only a few years ago, when a consent form was a paper document. And they are only the first wave in a rising tide, as Apple and other companies pioneer a “clinic on the wrist” with sensors capable of monitoring glucose, blood pressure, blood oxygen, blood alcohol, hydration, and body temperature.<sup>15</sup> In a recent interview, Apple executive Tim Cook said that the company’s greatest contribution to humanity would be in the realm of health.<sup>16</sup>

Health, in this picture, is the control of life by numbers. It aspires to a “quantified self” disciplined by daily exercises (working out, counting calories, tracking sleep, and so on).<sup>17</sup> More broadly, it fulfills what Donna Haraway said five years before the human genome was sequenced, almost a decade before the internet went public: “Communications sciences and modern biologies are constructed by a common move – *the translation of the world into a problem of coding*, a search for a common language in which all resistance to instrumental control disappears and all heterogeneity can be submitted to disassembly, reassembly, investment and exchange.”<sup>18</sup> In the 1980s, computation was fast becoming the dominant language of the life sciences. Older methods of trained judgment, like the art of taxonomy, were now coherent only as inputs of data science.<sup>19</sup> And because that was so, an advanced information system had begun to coalesce between fields of data once far apart from each

---

<sup>14</sup> Marco V. Perez et al., “Large-Scale Assessment of a Smartwatch to Identify Atrial Fibrillation,” *The New England Journal of Medicine* No. 381 (Nov 2019), 1909-1917.

<sup>15</sup> “Rockley Photonics Press Release,” March 2021, <https://rockleyphotonics.com/wp-content/uploads/2021/03/Rockley-Photonics-Press-Release-2021-03-19.pdf>.

<sup>16</sup> Lizzy Gurdus, “Tim Cook: Apple’s greatest contribution will be ‘about health’,” CNBC.com, Jan 8, 2019, <https://www.cnbc.com/2019/01/08/tim-cook-teases-new-apple-services-tied-to-health-care.html>.

<sup>17</sup> See the “quantified self” blog, <https://quantifiedself.com/>, co-founded by *Wired* editors Gary Wolf and Kevin Kelly.

<sup>18</sup> Donna Haraway, “A Cyborg Manifesto,” *Manifestly Haraway* (Minneapolis: University of Minnesota Press, 2016), 34. Italics original to Haraway.

<sup>19</sup> See Lorraine Daston and Peter Gallison, *Objectivity* (Brooklyn: Zone, 2007), 191-361.

other. Biology would soon be financialized in new ways, and finance biologized following the same patterns of thought.

Almost thirty years on, Haraway's observation retains its sharpness. (Consider the developing field of neurofinance, which uses brain scans and behavioral science to look at trends in consumer decision making.<sup>20</sup>) But her brilliance does not simply derive from an ability to see the cutting edge; it comes from her grasp of an old, protracted logic. Ever since Newton's calculus, the sciences have bent themselves to the image of a unified code. The story of modern science, told in the starkest terms, is one of computational enclosure – not simply an enclosure of minds but of lands and peoples, reflected in the colonial urge to impose uniformity. It results in what Miranda Fricker identifies as “epistemic injustice,” which robs its subjects of recognizable agency.<sup>21</sup> As Vandana Shiva points out, “It assumes there are ‘experts’ with ‘objective’ knowledge, who are separate from, and superior to, ordinary men, women, peasants, workers, and experts of other knowledge traditions.”<sup>22</sup> That mindset, a problem Shiva calls “the mechanical mind,” has only gained momentum in what Kate Crawford calls “the Great Houses of AI,” which are “explicitly attempting to capture the planet in a computationally legible form.”<sup>23</sup>

Both Crawford and Shiva worry that if we do not develop another way of seeing and wanting, the age of big data will lead to catastrophe. Lithium mines, extracting a supposedly green resource for electric cars and cell phones, are rumored to be running dry, fated to last another generation at best.<sup>24</sup>

---

<sup>20</sup> Ewa A. Miendlarzewska et al., “Neurofinance,” *Organizational Research Methods* Vol. 22, No. 1 (2019), 196-222.

<sup>21</sup> Miranda Fricker, *Epistemic Injustice: Power & the Ethics of Knowing* (Oxford: Cambridge University Press, 2007). A similar concept was taken up in the 1980s by Gayatri Spivak, “Can the Subaltern Speak?: Speculations on Widow Sacrifice,” *Marxism and the Interpretation of Culture*, ed. Cary Nelson and Lawrence Grossberg (London: Macmillan, 1988).

<sup>22</sup> Vandana Shiva with Kartikey Shiva, *Oneness vs. the 1%* (White River Junction, VT: Chelsea Green Publishing, 2020), 41.

<sup>23</sup> Kate Crawford, *Atlas of AI* (New Haven: Yale, 2021), 11, 20.

<sup>24</sup> Dan Runkevicius, “As Tesla Booms, Lithium is Running Out,” *Forbes*, Dec. 7, 2020, <https://www.forbes.com/sites/danrunkevicius/2020/12/07/as-tesla-booms-lithium-is-running-out/?sh=6660db191a44>.



And beyond the rumors, lithium mining verifiably devastates nearby impact zones. An article in *Wired*, already five years old, began a story on lithium like this: “Here’s a thoroughly modern riddle: what links the battery in your smartphone with a dead yak floating down a Tibetan river?”<sup>25</sup> Such consequences, obscured from public view, have prompted a growing movement of people to recognize that “the cloud” is material. It creates a toxic rain, so to speak, which has already led to unthinkable downstream effects.

These worries are not new. The problem with a coded world is precisely its unthought consequences. No code will ever anticipate all possibilities, as Carl Schmitt understood from a legal point of view. Eric Voegelin, who radically opposed the Schmittian political vision, nevertheless agreed that a code for everything was a fantasy, a fabrication hanging in the background of modern science. The typical scientist, he said, adheres to three deceptive dogmas that form a “scientific creed.”

(1) the assumption that the mathematized science of natural phenomena is a model science to which all other sciences ought to conform; (2) that all realms of being are accessible to the methods of the sciences of phenomena; and (3) that all reality which is not accessible to the sciences of phenomena is either irrelevant or, in the more radical form of the dogma, illusionary.<sup>26</sup>

The scientific creed corresponds to what Weber called disenchantment, reducing the world to the calculable. Of course, its dogmas have always been contested; the iron cage of calculation has always had its exiles.<sup>27</sup> Some, like Voegelin, fled literally from its totalitarian establishment in Germany. Nazi control depended on a front of scientific authority – *scientificality*, Arendt calls it – but its production cohered with a mindset that went far beyond the borders of Germany.<sup>28</sup> Voegelin published the above essay just three years after the fall of Hitler, watching from the United States as Europe reconstructed its cities and laws. He worried that western society had not yet reckoned with

---

<sup>25</sup> Amit Katwala, “The Spiralling Environmental Cost of Our Lithium Battery Addiction,” May 8, 2018, <https://www.wired.co.uk/article/lithium-batteries-environment-impact>.

<sup>26</sup> Eric Voegelin, “The Origins of Scientism,” *Social Research* Vol. 15, No. 4 (Dec 1948), 462, 484-485.

<sup>27</sup> Jacques Maritain and Michael Polanyi, contemporaries of Voegelin, critiqued scientism in likeminded ways.

<sup>28</sup> Hannah Arendt, *On the Origins of Totalitarianism* (New York: Houghton Mifflin Harcourt, 1976), 345-346.

the factors that brought the world to war. Every one of them, he saw, took place against a backdrop painted by Newton. Not only had the calculus made a certain sense of the cosmos; it gave engineers a way to model systems in motion, thus giving rise to a new paradigm of industrial control. That paradigm, in turn, led to new concentrations of wealth, triggering instabilities among those who relied on the industrial apparatus to survive. Large industries had gained unprecedented access to populations, markets, and raw materials, causing tensions between nations now fully in the thrall of a mechanized political economy. It was not simply the will to power that led the world to war. The fear of scarcity, at once determined and diagnosed by industrial mathematics, prompted Germany's conquest and America's bomb. The war was over, but the anxious spirit of technical power had won. And the tensions it produced, Voegelin believed, would only continue if left to the mechanical mind of modernity.

All of this leads me back to Haraway, who saw the world becoming a giant problem of coding, a meta-problem framing all possible problems in a quest for mathematical control. It is no surprise that SimCity, the computer game that turned players into civilization coders, began development in 1985, the year Haraway published her essay. The game was a test of managerial calculation: so many powerplants, so many roads, so many sectors of industry – all of them installed and maintained to achieve a healthy society. Later versions of the Sim world focused on domestic life, allowing for experiments in social health at every scale. From the most global to the most granular, the games evoked the problematics named by Haraway, turning the world into a program of instrumental control.

With the advent of Google – its Earth, its interactive maps, its intensive profiling of user behavior – the mechanical mind has reached a new phase of pastoral power. Recently, MIT professor Alex Pentland suggested that big data can bring us closer to SimCity-like control. “If we had a ‘god’s eye,’ an all-seeing view,” he writes, “then we could potentially arrive at a true understanding of how

society works and take steps to fix our problems.”<sup>29</sup> The call for a god’s eye view – a post-Babel litany of the same old ambition: *Come, let us build* – is the origin myth we must now consider. The image of a single, informatic language has risen to govern the sciences, and I want to see what that means for the production of consent. If life itself is a codifiable reality, what are we to make of free will?

### The Will to Pastoral Power.

As I see it – and as I think Foucault sought to see it – the human will is not merely determined by causes beyond itself. My will is mysteriously mine. It eludes, or really transcends, the explanatory power of empirical methods. Erwin Schrödinger, winner of the Nobel Prize in physics, understood that modern science has nothing to say about such a reality. Like a stencil, objectivity hides as much as it reveals, because it obscures the subjectivity of the scientist. “I actually do cut out my mind when I construct the real world around me,” he wrote. “And I am not aware of this cutting out. And then I am very astonished that the scientific picture of the real world around me is very deficient.”<sup>30</sup> Schrödinger points to the masquerade of unsituated knowledge, the scientific production that keeps the knower behind a curtain. With the inner life of the knower cut out of the frame, the experience of free will is impossible to study, because it does not exist “out there” in the world of mathematical phenomena. Or else, in the empirical frame, it appears to be a falsifiable concept, as Richard Dawkins argued in the 1970s. Humans, he said, are “survival machines – robot vehicles programmed to preserve the selfish molecules known as genes.”<sup>31</sup> Really, his image does little more than present another mythology, a mechanical model opposing the old image of the soul. Schrödinger took a humbler approach, coming from the same cast of mind as Voegelin, who likewise understood that empirical

---

<sup>29</sup> Alex Pentland, *Social Physics: How Good Ideas Spread—The Lessons from a New Science* (New York: Penguin, 2014), 11.

<sup>30</sup> Erwin Schrödinger, *Nature and the Greeks in Nature and the Greeks and Science and Humanism* (Cambridge: Cambridge University Press, 1996), 95.

<sup>31</sup> Richard Dawkins, *The Selfish Gene* (Oxford: Oxford University Press, 2006), xxi.

science cannot author a total vision of reality. Science, to quote Schrödinger, “knows nothing of beautiful and ugly, good or bad, God and eternity.” To that list, we can add consciousness, mind, and free will, all of which persistently refuse to be cornered in the lab of quantifiable phenomena.

I believe that free will is a mysterious power of the soul, better revealed in a cathedral or an ashram than a brain scan. Not that I think science and religion are incompatible; on the contrary, the presumption of their incompatibility is a damaging sort of fundamentalism. Under its banner, the lab is made to signify a closed material system, where the school of B.F. Skinner treats us like lab animals, testing our reactions to stimuli, decoding free will in a grand algorithm of biological and environmental determinants. But even there, a secular theology commands belief. Its imprint comes from the deterministic theologies of Luther and Calvin, which Skinner himself picked up in the teaching of Jonathan Edwards.<sup>32</sup> Behaviorism is a pastoral knowledge of causes, an empirical study of the machine once called the soul.

On the door to Skinner’s lab, a sign once read *God is a VI* – a variable interval, connoting an irregular pattern of behavioral rewards.<sup>33</sup> The term is important, because VI programming shapes one of the most common urges of our generation: the compulsion to check our phones. Social media platforms are expressly designed to hook users into a rhythm of insecurity, anticipation, and feedback. When a user posts content, the app withholds notifications until, at the perfect moment, it delivers Likes in a large burst.<sup>34</sup> Mimicking a drug hit, the algorithm generates an addictive ratio of anxiety and positive feedback, pulling users into a loop of predictable behavior. That loop is what anthropologist Natasha Dow Schüll calls “the machine zone.”<sup>35</sup> Her book, *Addiction by Design*, explores the world of

---

<sup>32</sup> Interview with B.F. Skinner, “Operant Conditioning and Free Will,” Youtube video, Jun 18, 2009, <https://www.youtube.com/watch?v=yhvaSEJtOV8>.

<sup>33</sup> Shoshanna Zuboff, *The Age of Surveillance Capitalism: The Fight for a Human Future at the Frontier of Power*. New York: Public Affairs, (2019), 368.

<sup>34</sup> Anderson Cooper interviewing Tristan Harris, “What is ‘brain hacking’? Tech insiders on why you should care,” 60 Minutes, Apr 9, 2017, <https://www.cbsnews.com/news/brain-hacking-tech-insiders-60-minutes/#app>.

<sup>35</sup> Natasha Dow Schüll, *Addiction by Design* (Princeton: Princeton University Press, 2012).

machine gambling in Las Vegas, where the casino industry has been hacking users for decades. Tristan Harris of the Center for Humane Technology sees a direct parallel with app development. “If you want to maximize addictiveness,” he writes, “all tech designers need to do is link a user’s action (like pulling a lever) with a variable reward. You pull a lever and immediately receive an enticing reward (a match, a prize!) or nothing. Addictiveness is maximized when the rate of reward is most variable.”<sup>36</sup>

A recent study found that Americans check their phones an average of 344 times per day. Over half of us cannot endure 24 hours without checking, and 75% of us are uneasy leaving our phones at home.<sup>37</sup> To put the matter bluntly, whoever can effectively code VI can predict and produce human behavior. The phrase *God is a VI*, like a scripture of the mechanical mind, evokes the beatific vision of modern pastoral power. It squares with the project of a god’s-eye view, a tower of Babel from which a group of engineers can see the totality, controlling it with a unified code. The wry hubris of the sign has drastic ramifications, because it might as well say *God is an AI*. Yuval Noah Harari has rightly identified this as the main dilemma for the coming age. “For we are now at the confluence of two immense revolutions,” he observes.

Biologists are deciphering the mysteries of the human body, and in particular of the brain and human feelings. At the same time computer scientists are giving us unprecedented data-processing power. When the biotech revolution merges with the infotech revolution, it will produce Big Data algorithms that can monitor and understand my feelings much better than I can, and then authority will probably shift from humans to computers. My illusion of free will is likely to disintegrate as I daily encounter institutions, corporations, and government agencies that understand and manipulate what was until now my inaccessible inner realm.<sup>38</sup>

---

<sup>36</sup> Tristan Harris, “The Slot Machine in Your Pocket,” *Spiegel International*, Jul 27, 2016,

<https://www.spiegel.de/international/zeitgeist/smartphone-addiction-is-part-of-the-design-a-1104237.html>.

<sup>37</sup> Trevor Wheelwright, “2022 Cell Phone Usage Statistics: How Obsessed Are We?” *Reviews.org*, Jan 24, 2022,

[https://www.reviews.org/mobile/cell-phone-addiction/#:~:text=re%20not%20alone,-\\_On%20average%2C%20Americans%20check%20their%20phones%20262%20times%20per%20day,ve%20fallen%20into%20our%20screens](https://www.reviews.org/mobile/cell-phone-addiction/#:~:text=re%20not%20alone,-_On%20average%2C%20Americans%20check%20their%20phones%20262%20times%20per%20day,ve%20fallen%20into%20our%20screens).

[\\_On%20average%2C%20Americans%20check%20their%20phones%20262%20times%20per%20day,ve%20fallen%20into%20our%20screens](https://www.reviews.org/mobile/cell-phone-addiction/#:~:text=re%20not%20alone,-_On%20average%2C%20Americans%20check%20their%20phones%20262%20times%20per%20day,ve%20fallen%20into%20our%20screens).

<sup>38</sup> Yuval Noah Harari, *21 Lessons for the 21<sup>st</sup> Century* (New York: Random House, 2019), 49-50.

What, *really*, is my inner realm? Is it measurable? Is it metaphorical? More importantly, *who knows*? If, as Harari says elsewhere, “organisms are algorithms,” then data is dominance.<sup>39</sup> Whoever holds my data – whoever can assemble the real me from my health history, my browsing history, my daily commute, my credit score, my criminal record and so on – will have the deepest insight into my being. Companies are now dedicating billions of dollars to such a prospect. As Donna Haraway predicted, fields of data once far apart from each other continue to merge in vast systems of hidden knowledge.

#### Dark Patterns.

In late 2019, *The Wall Street Journal* broke a story about Project Nightingale, a secret collaboration between Google and one of the nation’s largest health systems, Ascension Health. Exploiting a legal loophole, Google collected the health information of millions of people across 21 states, none of whom agreed to the transfer.<sup>40</sup> The goal was “to create an omnibus search tool to aggregate disparate patient data and host it all in one place.”<sup>41</sup> According to the report, the tech giant and the health system had parallel financial motives. Google would accumulate data; Ascension would get organized. And despite a public outcry, there has been no report of the project’s discontinuation. It is possible, even likely, that the story simply dropped from the news cycle as the coronavirus spread in early 2020. As I write this, we are three years past the beginning of the outbreak, and Project Nightingale is a completely unreported subplot, likely amassing billions of data points on the virus. This is not out of character for Google. The company operates in a well-rehearsed cycle of

---

<sup>39</sup> Juval Noah Harari, *Homo Deus: A Brief History of Tomorrow* (New York: HarperCollins, 2017).

<sup>40</sup> Christophe Olivier Schneble et al., “Google’s Project Nightingale highlights the necessity of data science ethics review,” *EMBO Molecular Medicine*, Vol. 12, No. 3 (March 6, 2020), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7059004/>.

<sup>41</sup> Rob Copeland, “Google’s ‘Project Nightingale’ Gathers Personal Health Data on Millions of Americans,” *The Wall Street Journal*, November 11, 2019, <https://www.wsj.com/articles/google-s-secret-project-nightingale-gathers-personal-health-data-on-millions-of-americans-11573496790>.

dispossession, as Shoshanna Zuboff notes while discussing Street View on Google Maps. “The incursion itself, once unthinkable, slowly worms its way into the ordinary. Worse still, it gradually comes to seem inevitable. New dependencies develop. As populations grow numb, it becomes more difficult for individuals and groups to complain.”<sup>42</sup>

Google’s main product is really an advanced form of pastoral knowledge, existing cleverly beyond regulations by proving useful to public agencies.<sup>43</sup> Three years before Project Nightingale, Google engaged in a similar partnership with the National Health Service of England.<sup>44</sup> At the time, Google’s artificial intelligence company, DeepMind, was creating a platform called Patient Rescue, a predictive algorithm for spotting health trends unnoticed by human statisticians. The goal of DeepMind was to answer questions like *Who is prone to bipolar disorder? How about a heart condition? How about cancer?* The algorithm would also recognize effective treatment pathways, leading to greater success rates across the system. Of course, one can easily imagine more nefarious queries: *What demographic is likely to be noncompliant with medication? Who will cost the system more money? Who is worth treating?* A cold financial logic is never outside the picture: it is the genuine focal point.

As fields of data coalesce, we can expect some outcomes to be disciplinary, relegating some people to what Virginia Eubanks calls the digital poorhouse.<sup>45</sup> But the feeling for many will be a different kind of imprisonment: inescapable *access*. Take Amazon for example, a company whose supply chain captivates users with convenience. Whole Foods, an Amazon subsidiary, has begun piloting a shopping experience that begins with a digital palm reading. Scanning your palm at the

---

<sup>42</sup> Zuboff, *Surveillance Capitalism*, 139.

<sup>43</sup> The stated mission of Google is “to organize the world’s information and make it universally accessible and useful.”

<sup>44</sup> Hal Hodson, “Revealed: Google AI has access to huge haul of NHS patient data,” *New Scientist*, April 29, 2016, <https://www.newscientist.com/article/2086454-revealed-google-ai-has-access-to-huge-haul-of-nhs-patient-data/>.

<sup>45</sup> See Eubanks, *Automating Inequality* (New York: St. Martin’s Press, 2017), 13.

turnstile, you can walk in, grab what you want, and walk out. Cameras and sensors will create a digital shopping cart matched to your profile, then bill your account later.<sup>46</sup>

Like Apple and Google, Amazon is also looking for ways to extend its architecture into the domain of health. Amazon now offers primary care through One Medical, a telehealth service linking user data to medical histories. Amazon Clinic, another service offering low-cost messaging with clinicians, allows users to obtain prescriptions without the burden of an office appointment. The online agreement authorizes Amazon to re-disclose patient information, meaning that health data can be linked to browsing and purchase information, sold to advertisers, and stored as a resource to train Amazon's algorithms. The company is legally required to make the agreement voluntary, but the consent form is what some call a "dark pattern," an architecture guiding users to a single button labeled "Continue."<sup>47</sup>

"Alexa," you can say to your smart speaker, "refill my prescription." The digital assistant – now authorized to keep track of health information – will order your medications from Amazon Pharmacy, where Prime members pay less and get free shipping. So far, Alexa's role as a medical assistant is limited to clerical work, but her programming subtly reads audio signals for the sake of sales. She responds to the sound of coughing and sniffing, rapidly hawking products like cough drops.<sup>48</sup> Added to that, she can recognize vocal tones linked to complex emotional states like depression, boredom, and stress.<sup>49</sup> An obvious fact bears mentioning here: the Amazon assistant is not confined to smart speakers. She is sensitized through smart glasses, earphones, light switches, soap

---

<sup>46</sup> Cecelia Kang, "Here Comes the Full Amazonification of Whole Foods," *New York Times*, Feb. 28, 2022, <https://www.nytimes.com/2022/02/28/technology/whole-foods-amazon-automation.html>.

<sup>47</sup> See Geoffrey A. Fowler, "To become an Amazon Clinic patient, first you must sign away some privacy," *Washington Post*, May 1, 2023, <https://www.washingtonpost.com/technology/2023/05/01/amazon-clinic-hipaa-privacy/>. For more on dark patterns, see <http://deceptive.design>.

<sup>48</sup> Amazon Technologies, Inc, 2018, "Voice-based Determination of Physical and Emotional Characteristics of Users," US Patent 10,096,319 B1, October 9, 2018.

<sup>49</sup> Market listing for Amazon Halo Band, accessed February 11, 2022, <https://www.amazon.com/Amazon-Halo-Fitness-And-Health-Band/dp/B07QKPCQKW>.



dispensers, microwaves, vacuum cleaners, fire alarms, door locks, and security systems. What are we to expect as she acquires new skills, interlinking medical histories with her own readings of user behavior? An essay from the Hastings Center makes the following assessment.

As AI evolves, we must also consider Alexa's future role as a diagnostic and prescribing agent. Whether partnering with care providers or replacing them directly, Alexa's interpretation of patient data will likely extend beyond the scope of the business associate agreement. We have yet to understand how we would regulate technology as a provider; the closest analogy we have today may be telemedicine, where a provider communicates with a patient through a device. However, this analogy breaks down if and when the device becomes the doctor.<sup>50</sup>

The essay does not mention what I find most perilous. Not only might the device become a doctor; the sales representative might become a prescriber. More concerning still, a centralized algorithm might serve as a kind of GPS for life in total. Interactions with Alexa have been designed to be smooth and subtle, positioning her as a white, female assistant. But her positionality is a clever act of misdirection, hiding an expanding architecture of pastoral power. It is true that her structure is not authoritarian. She is not Big Brother, an avatar of political violence. She is Big Data, an avatar of consumer choice, designed to lull us into her services, to conduct our purchasing behavior, and to do it from every conceivable angle.<sup>51</sup>

The Consent of the Governed.

In the liberal tradition, consent is the basis of political assembly. But in the digital age, it is the basic tool of our disassembly. By consent, our life is broken into bits, then reassembled in hidden movements of investment and exchange. Biometric data like fingerprints, facial and vocal features, even breathing and sleep patterns have become raw material for extraction, available to industry players who crowd the market with smart devices. Take the Sleep Number smart bed, built to connect

---

<sup>50</sup> Adriana Krasniansky, "Diving Deeper into Amazon Alexa's HIPAA Compliance," The Hastings Center, Oct 2019, <https://www.thehastingscenter.org/diving-deeper-into-amazon-alexa-hipaa-compliance/>

<sup>51</sup> Zuboff, *Surveillance Capitalism*, 376.

users to an expanded digital knowledge of their sleep quality. The company touts its “proprietary, dynamic algorithm,” gathering “billions of longitudinal biometric and sleep data points from real-world sleepers.”<sup>52</sup> Data points include heart rate, breathing and movement patterns, even audio signals like snoring, all of which sync to an app called SleepIQ.<sup>53</sup> The app can link to other devices too, like fitness trackers and thermostats, offering the most thorough set of sleep analytics on the market. Third-party sharing is written into the data model, permitting companies like Google and Amazon to acquire information tracked by the app, thus profiling users in connection to their online behavior. If users are unaware of this, it is because they have opted for what Shoshanna Zuboff calls the “quick join” procedure, avoiding the burdensome task of reading the fine print.

Under surveillance capitalism, we do not consent to what we know; we consent to what we do not know. And much of the time, we consent without knowing it. Of course, users are not entirely naïve to this. As Zuboff perceives, every smart object seems to emit a cloud of suspicion. “What does a smart product know,” she asks, “and whom does it tell? *Who knows? Who decides? Who decides who decides?*”<sup>54</sup> Behind that set of questions is another: *Do I know? Do I decide? Do I decide who decides?* The answer, clearly, is no. Early in her book, Zuboff discusses the ubiquitous Agree button, which is key to the whole architecture.

Online “contracts” such as terms-of-service or terms-of-use agreements are also referred to as “click-wrap” because, as a great deal of research shows, most people get wrapped in these oppressive contract terms by simply clicking on the box that says “I agree” without ever reading the agreement. In many cases, simply browsing a website obligates you to its terms-of-service agreement even if you don’t know it. Scholars point out that these digital documents are excessively long and complex in part to discourage users from actually reading the terms, safe in the knowledge that most courts have upheld the legitimacy of click-wrap agreements despite the obvious lack of meaningful consent.<sup>55</sup>

---

<sup>52</sup> “SleepIQ Technology,” Sleepnumber.com, accessed February 7, 2022, <https://www.sleepnumber.com/pages/sleep-technology>.

<sup>53</sup> Zuboff, *The Age of Surveillance Capitalism: The Fight for a Human Future at the Frontier of Power* (New York: Public Affairs, 2019), 235; “Sleep Number’s smart bed stops you from snoring,” YouTube video, January 8, 2017, <https://www.youtube.com/watch?v=zo6Er9BuxB8>.

<sup>54</sup> Zuboff, *Surveillance Capitalism*, 237.

<sup>55</sup> Zuboff, *Surveillance Capitalism*, 48-49.

Zuboff does not define “meaningful consent,” but she demonstrates what it is not. Citing legal scholar Margaret Radin, she argues that once-sacred concepts like “agreement” and “promise” have devolved into a process automated to capture and exploit users. A 2008 study showed that if people had to read all the privacy policies they encountered in a year, it would take “76 full workdays at a national opportunity cost of \$781 billion.”<sup>56</sup> The numbers have likely doubled since then. What is worse, companies routinely sneak dubious clauses into agreements, riding the line of illegality by designing choice architectures with only one door. The only way to use most apps is to acquiesce, to comply, to submit to data capture.

Jaron Lanier, an early prophet from the wilderness of Silicon Valley, calls this “soft blackmail.”<sup>57</sup> His 2013 book, *Who Owns the Future*, put words to the cornered feeling shared by many users: “The reason people click ‘yes’ is not that they understand what they’re doing, but that it is the only viable option other than boycotting a company in general, which is getting harder to do.”<sup>58</sup> Boycotting, once a core tactic of the Civil Rights movement, no longer functions to bring about substantial change, because civil society can no longer mediate between the forces of capital and the state.<sup>59</sup> Capital has innovated the game of pastoral power, creating a system of capillary domination that goes beneath and beyond the optics of a government by the people. In the new regime, we are users before we are citizens. And as Vandana Shiva puts it, “A ‘user’ is a consumer without choice in the digital empire.”<sup>60</sup>

If the liberal subject is a research subject, the user is an evolved form of the same subjectivity, studied and governed by global firms. Mark Zuckerberg himself once said that Facebook operates as

---

<sup>56</sup> Zuboff, *Surveillance Capitalism*, 50. The study cited is Aleecia M. McDonald and Lorrie Faith Cranor, “The Cost of Reading Privacy Policies,” *Journal of Policy for the Information Society* Vol. 4, No. 3 (2008), 543-568.

<sup>57</sup> Jaron Lanier, *Who Owns the Future* (New York: Simon and Schuster, 2013), 314.

<sup>58</sup> Lanier, *Who Owns the Future*, 314.

<sup>59</sup> See Hardt and Negri, *Empire*, 328-329.

<sup>60</sup> Shiva, *Oneness vs. the 1%*, 180.

a kind of government. “We have this large community of people,” he said, “and more than other technology companies we’re really setting policies.”<sup>61</sup> His remark came to a point in January of 2021, when he banned President Trump from the platform. Beneath the obvious question of who governs whom, there lies the more compelling question of how government works. Does Facebook represent the continuity or the discontinuity of prior modes of governance? Zuboff believes that Google and Facebook have established a radically new form of power. She calls it “instrumentarianism,” casting it as the new enemy of the liberal order.<sup>62</sup> Like totalitarianism, it reveals a lust for total domination, but it operates through the market rather than the state. Zuboff can find no historic precedent for this, which is why in her thinking, the current situation calls for greater governmental control.<sup>63</sup> But Foucault, notably absent from her book, poses a challenge to her formula: Google and Facebook have adopted the very governmentality of the liberal order, advancing “techniques of conduct” to produce willing and docile subjects.<sup>64</sup> Developing new technologies, they count their flock and track their sheep, constraining and smoothing user behavior with highly calculated choice models.<sup>65</sup> Their research is guided by a single question: what programming will get users to conduct themselves profitably? Zuboff does not consider the ways in which liberalism originated that very question, shaping the subjectivity of *homo oeconomicus*.

---

<sup>61</sup> Franklin Foer, “Facebook’s War on Free Will,” *The Guardian*, September 19, 2017, extracted from Foer’s book, *World Without Mind: The Existential Threat of Big Tech*, <https://www.theguardian.com/technology/2017/sep/19/facebooks-war-on-free-will>.

<sup>62</sup> Zuboff, *Surveillance Capitalism*, 399.

<sup>63</sup> Zuboff, *Surveillance Capitalism*, 50. Also see Zuboff, interviewed by Kara Swisher, “Google and Facebook have become ‘antithetical to democracy,’ says The Age of Surveillance Capitalism author Shoshanna Zuboff,” *Vox*, February 20, 2019, <https://www.vox.com/2019/2/20/18232469/shoshana-zuboff-age-surveillance-capitalism-book-google-facebook-privacy-data-kara-swisher>.

<sup>64</sup> Foucault, *Security, Territory, Population*, 307. His translator, Graham Burchell, had a good sense of what he meant: “To govern individuals is to get them to act and align their particular wills with ends imposed on them through constraining and facilitating models of possible actions.” See Burchell, “Peculiar Interests: Civil Society and Governing ‘The System of Natural Liberty,’” *The Foucault Effect: Studies in Governmentality*, ed. Graham Burchell, Colin Gordon and Peter Miller (Chicago: University of Chicago Press, 1991), 119.

<sup>65</sup> Graham Burchell, “Peculiar Interests: Civil Society and Governing ‘The System of Natural Liberty,’” *The Foucault Effect: Studies in Governmentality*, ed. Graham Burchell, Colin Gordon and Peter Miller (Chicago: University of Chicago Press, 1991), 119.

Still, one can read Zuboff as the unknowing historian of pastoral power in the new millennium. She has given us a new dystopian image, one that rises not from the *polis* but from the *oikonomia*. The older dystopian “surveillance state” tends to conjure the Orwellian image of Big Brother, the avatar of a government with total access to the private lives of citizens. That image is now more distracting than helpful. It is too simple, too violent, too flashy a decoy for the mode of surveillance that now moves between commerce and government. Aldous Huxley, author of *Brave New World*, had a much better sense of the coming age. He wrote to Orwell that “the lust for power can be just as completely satisfied by suggesting people into loving their servitude.”<sup>66</sup> But even Huxley worried about state power consolidating corporate interests.<sup>67</sup> Neither he nor Orwell expected what has come, which is effectively the opposite phenomenon: corporate interests have reconstructed state power.

#### The New Surveillance State.

We do not live in the authoritarian state of Huxley’s *Brave New World*, what with its engineered caste system and its abolition of literature. Nor do we live under the watch of Orwell’s Big Brother, whose stern face humanizes surveillance while mechanizing the surveilled. We live in cyberspace, a realm “not truly bound by terrestrial laws,” as Eric Schmidt says in *The New Digital Age*.<sup>68</sup> Schmidt, the chief Google executive from 2001 to 2011, oversaw the expansion of the company after the World Trade Center fell. It was during his tenure that the present order took shape, emerging in what Zuboff calls “a unique historical deformity: *surveillance exceptionalism*.”<sup>69</sup> The perceived threat of terrorism justified the expansion of the U.S. government’s emergency powers, which in turn sanctioned the

---

<sup>66</sup> Aldous Huxley, “A Letter to George Orwell,” *Brave New World and Brave New World Revisited* (New York: HarperCollins, 2004), in Postscript, p. 13.

<sup>67</sup> Aldous Huxley, *Brave New World Revisited* in *Brave New World and Brave New World Revisited*, 252.

<sup>68</sup> Eric Schmidt and Jared Cohen, *The New Digital Age: Transforming Nations, Businesses, and Our Lives* (New York: Vintage, 2014), 3.

<sup>69</sup> Zuboff, *The Age of Surveillance Capitalism*, 115.

unregulated development of Google’s surveillance technology. Zuboff details a number of exchanges between Google and the National Security Administration during the years that followed the attacks – most significantly, a contract with Google for a program that could search up to 15 million documents in 24 languages.<sup>70</sup> “Surveillance exceptionalism,” she says, created “an environment in which Google’s budding surveillance practices were coveted rather than contested.”<sup>71</sup>

When Edward Snowden blew the whistle on the National Security Agency in 2014, the scope of his work came as a complete shock to the public. As a contractor with Booz Allen Hamilton, he and thousands like him were granted access to personal data from every major company in the tech industry.<sup>72</sup> In effect, users were searchable without a warrant, transparent to the state without due process.<sup>73</sup> The story was reported as an overreach of governmental power, but we ought to see it as a case study of the rising capitalist pastorate.

In what Naomi Klein calls the shock doctrine, the War on Terror shaped new conduits for the flow of public funds to the private sector. This was a new state of exception, a “global war fought on every level by private companies.”<sup>74</sup> Engineered by officials like Donald Rumsfeld, who for twenty years led pharmaceutical and tech firms, the War on Terror subjugated all things to corporate interest. “The United States will use this moment of opportunity to extend the benefits of freedom across the globe,” reads a letter from President Bush. “We will actively work to bring the hope of democracy, development, free markets, and free trade to every corner of the world.”<sup>75</sup> Together with a Republican majority in congress, Bush and Rumsfeld made a new business of war. Companies like Burger King

---

<sup>70</sup> Zuboff, *The Age of Surveillance Capitalism*, 117.

<sup>71</sup> Zuboff, *The Age of Surveillance Capitalism*, 120

<sup>72</sup> *Citizen Four*, directed by Laura Poitras (Praxis Films, 2014), 1:07. <https://watchdocumentaries.com/citizenfour/>

<sup>73</sup> Shortly after the Snowden leak, NBC News stated that there were “854,000 contractors with top-secret clearance working for the federal government.” See “Edward Snowden: A Timeline,” May 26, 2014, <https://www.nbcnews.com/feature/edward-snowden-interview/edward-snowden-timeline-n114871>.

<sup>74</sup> Naomi Klein, *The Shock Doctrine: The Rise of Disaster Capitalism* (New York: Henry Holt, 2007), 12.

<sup>75</sup> George W. Bush, letter from the White House, Sep 17, 2002, <https://georgewbush-whitehouse.archives.gov/nsc/nssall.html>.

and Pizza Hut fed the troops; the security firm Blackwater saw active combat. And the NSA became a governmental shell where private sector contractors monitored private sector data. In 2007, the agency began collecting information from tech company servers, entering into a paid agreement with Microsoft. Yahoo, Google, and Facebook were soon to follow, and they were later joined by a number of others including YouTube and Apple.<sup>76</sup> Workers like Snowden had access to all the raw data, using a search function modeled by Google. Even if some information was classified, there were no technical barriers put in place; the contractor in the cubicle was functionally above the law.<sup>77</sup>

The government program behind it all, known as PRISM, built millions of profiles by mapping subjects on a grid of their social networks, their physical locations, and their online habits.<sup>78</sup> The technique resembled contact tracing in epidemiology, looking for symptoms of extremism and treating them as contagious. To prevent the contagion from spreading, the NSA tracked “flocks” of likeminded people.<sup>79</sup> The pastoral power of the program was unprecedented, and its overlap with epidemiology was not incidental. Arguably, the modern *bios* is nothing but a complex map of contagions; pastoral power seeks to understand what goes viral, whether in the social or biological field. The whole point is to predict what spreads – or better, to shape and profit from it.

---

<sup>76</sup> Glenn Greenwald and Ewan MacAskill, “NSA program taps in to user data of Apple, Google and others,” *The Guardian*, June 7, 2013, <https://www.theguardian.com/world/2013/jun/06/us-tech-giants-nsa-data>; Brian Fung, “The NSA paid Silicon Valley millions to spy on taxpayers,” August 23, 2013, <https://www.washingtonpost.com/news/the-switch/wp/2013/08/23/the-nsa-paid-google-and-facebook-millions-to-spy-on-taxpayers/>.

<sup>77</sup> In a Q&A with *Guardian* readers online (“Edward Snowden: NSA whistleblower answers questions,” June 17, 2013), Snowden wrote this: “...in general, the reality is this: if an NSA, FBI, CIA, DIA, etc analyst has access to query raw SIGINT databases, they can enter and get results for anything they want. Phone number, email, user id, cell phone handset id (IMEI), and so on—it’s all the same. The restrictions against this are policy based, not technically based, and can change at any time. Additionally, audits are cursory, incomplete, and easily fooled by fake justifications. For at least GCHQ, the number of audited queries is only 5% of those performed.” See <https://www.theguardian.com/world/2013/jun/17/edward-snowden-nsa-files-whistleblower#block-51bf2e06e4b03725b2ebf323>.

<sup>78</sup> See Zuboff, *The Age of Surveillance Capitalism*, 117-118.

<sup>79</sup> See Jeff Nesbit, “Google’s true origin lies partly in CIA and NSA research grants for mass surveillance,” *Quartz*, December 8, 2017, <https://qz.com/1145669/googles-true-origin-partly-lies-in-cia-and-nsa-research-grants-for-mass-surveillance/>.

Before 2001, “biosecurity” was a veterinary term for techniques preventing disease in livestock.<sup>80</sup> The term was forever changed a few weeks after September 11, when five letters containing anthrax arrived at the offices of two U.S. senators and several news outlets. The letters killed five people and infected seventeen others, adding up to the worst biological attack in U.S. history.<sup>81</sup> The threat of bioterrorism led to the formation of BARDA, the Biological Advanced Research and Development Authority. Set up to run like a venture capitalist firm, the agency would divert tax money to biotech and pharmaceutical groups working in the biosecurity space, creating an incentive structure that placed the public good in the hands of private interest.

It was BARDA that served as the funding apparatus for the COVID vaccine, creating a super company of Moderna, whose vaccine recipe is still proprietary.<sup>82</sup> Innovators at Moderna had seen the viral sequence posted by Chinese researchers – the code that prompted Helen Chu’s decision – and their process was ideally suited to the situation. Unlike standard inoculations, the Moderna vaccine was not developed using a physical specimen of the virus. The company looked at the virus like a software problem, designing a strand of synthetic RNA to recode the body’s production of protein. By generating a protein structure that mimicked the virus, the Moderna shot goaded white blood cells into creating antibodies for the real thing. The concept, while not new, was never brought to market before the pandemic, being notoriously difficult to perfect. But thanks to government funding, a fast-tracked review process, and a suspension of normal research regulations, the Moderna vaccine cracked

---

<sup>80</sup> Jennifer Terry, *Attachments to War: Biomedical Logics and Violence in Twenty-First Century America* (Durham, NC: Duke University Press, 2017), 147.

<sup>81</sup> Terry, *Attachments to War*, 141.

<sup>82</sup> BARDA Funding Tracker, *Public Citizen*, July 5, 2020, <https://www.citizen.org/article/barda-funding-tracker/>. “BARDA’s Expanding COVID-19 Medical Countermeasure Portfolio, <https://www.medicalcountermeasures.gov/app/barda/coronavirus/COVID19.aspx>. “Moderna Posts Billions in Profit from COVID-19 Vaccine but Won’t Share Technology,” *Doctors Without Borders*, Nov 4, 2021, <https://www.doctorswithoutborders.org/latest/moderna-posts-billions-profit-covid-19-vaccine-wont-share-technology>.



the code, earning the company billions in revenue.<sup>83</sup> Across a complex system of coded virality, the vaccine shaped a management structure for disease in yet another state of exception.

This brings me back to Haraway's oracle. Modern biology is, perforce, *the translation of the world into a problem of coding*. Because Moderna began with data from genomic surveillance, they could see the pandemic as a kind of computer virus. The same logic governed the decision of Helen Chu, who acted not for profit but solely in the public interest. In both cases, the biopolitical economy encouraged a method for coding subjects as viral objects. One can imagine how such knowledge, if paired with behavioral data, could lead to novel techniques of conduct. The new patterns of pastoral power can operate across multiple fields of contagion, overlapping extremist ideologies with the spread of chemical agents, tracing airborne diseases with trends in vaccine compliance. In many cases, the map is made without our knowing, all to bring about the control of life by numbers. Already, geneticist George Church expects that sensors on our phones will soon "sip the air," allowing genomic apps to alert us to pathogens in the room.<sup>84</sup> But with real-time genomics added to the index of our digital self-knowledge, we will no doubt find ourselves repeating Zuboff's questions: *Who knows? Who decides? Who decides who decides?*

#### Digital Contagion.

Until Facebook, behavioral contagion was difficult to study. A first attempt was made by Gustave Le Bon, best known for his book *The Crowd: A Study of the Popular Mind*. Le Bon lived in the

---

<sup>83</sup> Catherine Elton, "The Untold Story of Moderna's Race for a COVID-19 Vaccine," *Boston Magazine*, Jun 4, 2020. <https://www.bostonmagazine.com/health/2020/06/04/moderna-coronavirus-vaccine/>; Jon Gertner, "Unlocking the Covid Code," *New York Times Magazine*, Mar 25, 2021. <https://www.nytimes.com/interactive/2021/03/25/magazine/genome-sequencing-covid-variants.html>; Will Brothers, "A Timeline of COVID-19 Vaccine Development," *Biospace*, Dec 3, 2020. <https://www.biospace.com/article/a-timeline-of-covid-19-vaccine-development/>; Laura Blackburn, "RNA vaccines: an introduction," PHG Foundation, University of Cambridge, Oct 2018.

<sup>84</sup> Gertner, "Unlocking the Covid Code," *New York Times Magazine*

same century as Louis Pasteur, when germ theory had just gained widespread acceptance. He thus drew an apt comparison: “Ideas, sentiments, emotions, and beliefs,” he said, “possess in crowds a contagious power as intense as that of microbes.”<sup>85</sup> What Le Bon lacked was an equivalent to the Pasteurian lab; there was no way to subject a crowd to highly controlled experimentation. Hence the groundbreaking reality of Facebook. Like a Pasteurian lab, it finally allowed for the discovery and manipulation of contagious behavior in a controlled environment. Facebook is what MIT professor Alex Pentland calls a living lab, recording “every facet and dimension of behavior, communication, and social interaction among its members.”<sup>86</sup> Living labs like Facebook are equipped with a whole new instrumentation. If the microscope revolutionized biology, and if the telescope revolutionized astronomy, “*socioscopes* in living labs will revolutionize the study of human behavior.”

A working socioscope has always been the holy grail of propagandists. It represents the evolution of a technique Edward Bernays called “the engineering of consent.”<sup>87</sup> Bernays, remembered as the father of public relations, was the nephew of Sigmund Freud, and like his uncle, he understood that crowds were best moved libidinally, below the level of conscious awareness. His firm in New York made a practice of gathering data from focus groups, sometimes taking months to analyze a population’s wants and worries. Marketing was an exact science, he believed, and it demanded the employment of “consent engineers” who made up “an invisible government which is the true ruling power of our country.”<sup>88</sup> This, he said, revealed “the very essence of the democratic process, the freedom to persuade and suggest.”<sup>89</sup>

---

<sup>85</sup> Gustave Le Bon, *The Crowd: A Study of the Popular Mind* (New York: MacMillan, 1896), 128.

<sup>86</sup> Alex Pentland, *Social Physics*, 9-10. Italics my own.

<sup>87</sup> Edward Bernays, “The Engineering of Consent,” *Annals of the American Academy of Political and Social Science* Vol. 250, No. 1 (March 1947), 114.

<sup>88</sup> Edward Bernays, *Propaganda* (New York: Liveright, 1928), 9.

<sup>89</sup> Edward Bernays, “The Engineering of Consent,” 114.

Clearly, such a freedom goes beyond the typical outline of the democratic process. Or else it shows that the outline is not what we think; as in Agamben's provocation, it might truly manifest an inner solidarity with totalitarianism.<sup>90</sup> Joseph Goebbels, chief propagandist for the Nazi party, relied heavily on the methods of Bernays.<sup>91</sup> The consent of the German people was engineered with posters, radio broadcasts, and carefully choreographed rallies caught on film. A more recent comparison with Bernays emerged when Christopher Wylie, cofounder of Cambridge Analytica, revealed the persuasion technologies behind the Trump election. His small consulting firm had built a data mine staggering in scale, a digital open pit more than 16 times the population of New York City, Los Angeles, and Chicago combined. "We bought data from every vendor we could afford to pay – from Experian to Axiom to Infogroup," explains Brittany Kaiser, another whistleblower. "We bought data about Americans' finances, where they bought things, how much they paid for them, where they went on vacation, what they read. We matched this data to their political information (their voting habits, which were accessible publicly) and then matched all that again to their Facebook data (what topics they had 'liked')." <sup>92</sup> The Like button – a new kind of voting mechanism – became a new instrument for hacking the vote.

The Facebook data came from a personality quiz designed by Alexandr Kogan, a psychology researcher at Cambridge University. The quiz had the allure of self-knowledge, and it seemed harmless enough.<sup>93</sup> But, knowingly or not, quiz takers allowed the app to scrape their profiles for more information – in particular, their Likes and their friend network. For every quiz taken, the app crawled over hundreds of other profiles, effectively functioning as a Trojan horse, entering through the gates

---

<sup>90</sup> Agamben, *Homo Sacer*, 13.

<sup>91</sup> Edward Bernays, *Biography of an Idea: The Founding Principles of Public Relations* (New York: Open Road Integrated Media, 2015), e-book, chap. 55.

<sup>92</sup> Brittany Kaiser, *Targeted* (New York: HarperCollins, 2019), 78.

<sup>93</sup> *The Great Hack*, directed by Karim Amer and Jehane Noujaim (The Othrs, 2019), 41:10.

of a click-wrap agreement. In a matter of months, 270,000 users took the quiz, and during that time, the app grabbed data from another 87 million.<sup>94</sup>

When Kogan delivered the information to Cambridge Analytica, they gave each user an OCEAN score, determining behavioral triggers across five categories: Open, Conscientious, Extroverted, Agreeable, and Neurotic.<sup>95</sup> Using a trademarked process called “behavioral microtargeting,” the firm worked to remodel the conscious reality of a precise user group. In Wylie’s words, “We exploited Facebook to harvest millions of people’s profiles. And built models to exploit their inner demons.”<sup>96</sup> Kaiser explains: “The bulk of our resources went into targeting those whose minds we thought we could change. We called them *the persuadables*... Our creative team designed personalized content to trigger those individuals. We bombarded them through blogs, websites, articles, videos, ads – every platform you can imagine – until they saw the world the way we wanted them to. Until they voted for our candidate.”<sup>97</sup> No one can really say just how effective they were, but Trump’s victory upset every major prediction, and the firm took credit for steering the election in his favor. Importantly, the content they created went far beyond the framework of advertising. They created a reality, an online world where everything pointed in the same direction. Moreover, they used friend networks to propagate the content, letting it spread organically by Likes, refining it in real-time by monitoring feedback data. They engineered a potent formula that they injected “into the

---

<sup>94</sup> Matthew Rosenberg and Gabriel J.X. Dance, “‘You are the Product’: Targeted by Cambridge Analytica on Facebook,” *New York Times*, April 8, 2018, <https://www.nytimes.com/2018/04/08/us/facebook-users-data-harvested-cambridge-analytica.html>.

<sup>95</sup> In another leak, videos were released showing the different advertising approaches taken for each of the OCEAN scores. See Jeremy B. Merrill, “These are the Political Ads Cambridge Analytica Designed for You,” Yahoo! News, January 10, 2020, <https://www.yahoo.com/video/political-ads-cambridge-analytica-designed-090027392.html>.

<sup>96</sup> Quoted by Alexandra Ma and Ben Gilbert, “Facebook understood how dangerous the Trump-linked data firm Cambridge Analytica could be much earlier than it previously said. Here’s everything that’s happened up until now,” *Business Insider*, August 23, 2019, <https://www.businessinsider.com/cambridge-analytica-a-guide-to-the-trump-linked-data-firm-that-harvested-50-million-facebook-profiles-2018-3>.

<sup>97</sup> *The Great Hack*, 41:20.

bloodstream of the internet,” as their managing director put it.<sup>98</sup> Their content spread like a genetically engineered virus. Without any official branding, it was unattributable, untraceable, and irresistible. Contagion became the watchword, kept from public discussion as users were conducted by a new technique. Through the bloodstream of the internet, the capillary movements of pastoral power infused the consent of the governed.

After Wylie came forward, Mark Zuckerberg was summoned to his first-ever congressional hearing. In his opening remarks, he admitted that Facebook had not taken “a broad enough view” of their social responsibility, promising that they would get to the bottom of what Cambridge Analytica had done.<sup>99</sup> The subtext was clear: Facebook would police itself, requiring no intervention from the government. Furthermore, Cambridge Analytica was the bad actor, not Facebook. What Zuckerberg did not say was that Facebook, by its very architecture, was built for mass manipulation.

During the 2010 mid-term elections, Facebook researchers had partnered with psychologists and political scientists to experimentally manipulate the homepages of nearly 61 million users – a population almost as large as the United Kingdom. Of that population, two groups saw messages encouraging them to vote, featuring an “I Voted” button. The first group saw pictures of friends who had clicked it, where the second group saw none. Facebook reported that the users in the first group were two percent more likely to click the button. That may sound like a marginal shift in behavior, but researchers demonstrated the enormity of its effects. The banner with pictures created what they called a “social contagion,” leading to an increased turnout of some 340,000 voters.<sup>100</sup> Elections have

---

<sup>98</sup> Channel 4 News, “Cambridge Analytica: Under Cover Secrets of Trump’s Data Firm,” YouTube Video, 9:24, March 20, 2018.

<sup>99</sup> House of Representatives, Committee on Energy and Commerce, “Facebook: Transparency and Use of Consumer Data,” April 11, 2018, <https://docs.house.gov/meetings/IF/IF00/20180411/108090/HHRG-115-IF00-Transcript-20180411.pdf>.

<sup>100</sup> Robert M. Bond et al., “A 61-million-person experiment in social influence and political mobilization,” *Nature* Vol. 489 (September 13, 2012), 295-298. Cited in Zuboff, *Surveillance Capitalism*, 298.

been decided by far fewer, as the researchers noted: George W. Bush won the presidency from Al Gore by 537 votes.

The researchers believed they could engineer a social contagion to promote social health, but they succeeded only in proving that Facebook was designed for social programming. Jonathan Zittrain, a Harvard law professor, worried that the study would lead to “digital gerrymandering,” seeing that Facebook now had the power to tilt elections.<sup>101</sup> Meanwhile, Adam Kramer, Facebook’s lead social psychologist, was moving forward with a new study of emotional contagion. Manipulating the newsfeeds of over half a million users, he tested “whether exposure to emotions led people to change their own posting behaviors.”<sup>102</sup> The study was methodologically simple: Kramer trained AI to sort content into positive and negative categories of emotional expression. Then, in two parallel experiments, he turned off just one of those categories, pulling down positive or negative content from the targeted newsfeeds. As expected, users conducted themselves in a manner akin to what they engaged, posting and reacting in a kind of emotional resonance chamber. “The results show emotional contagion,” concluded the authors simply.

Once again, the public response was one of alarm. “If Facebook can tweak emotions and make us vote, what else can it do?” asked Charles Arthur of *The Guardian*, adding a related concern: “Facebook users were chosen, without their knowledge (or explicit consent) to be emotional lab rats.”<sup>103</sup> A statement was soon issued by the journal that published the study, explaining that Facebook, as a private company, was exempt from the Common Rule governing other researchers.<sup>104</sup> The

---

<sup>101</sup> Jonathan Zittrain, “Engineering an Election,” *Harvard Law Review Forum* Vol. 127 (June 20, 2014), 335-341.

<sup>102</sup> Adam D.I. Kramer et al., “Experimental Evidence of Massive-Scale Emotional Contagion Through Social Networks,” *Proceedings of the National Academy of Sciences* Vol. 111, No. 24 (June 17, 2014), 8788-8790.

<sup>103</sup> Charles Arthur, “If Facebook can tweak emotions and make us vote, what else can it do?” *The Guardian*, June 30, 2014, <https://www.theguardian.com/technology/2014/jun/30/if-facebook-can-tweak-our-emotions-and-make-us-vote-what-else-can-it-do>. Quoted in part by Zuboff, *Surveillance Capitalism*, 301.

<sup>104</sup> Inder M. Verna, “Editorial Expression of Concern: Experimental Evidence of Massive-Scale Emotional Contagion Through Social Networks,” *Proceedings of the National Academy of Sciences* Vol. 111, No. 29 (July 3, 2014), 10779.

Common Rule, a standard of ethics for research on human subjects, stipulates the practice of informed consent. But because experimental manipulation was part of the Facebook business model, their research both extended from and produced an alternate governmentality.

### The Business of Self-Knowledge.

A recent column in the *New York Times* reported that TikTok, the Chinese social media giant, has gathered over a billion users to its platform – a population more than three times the size of the United States.<sup>105</sup> With all that data, the company has trained its algorithm to develop a new kind of X-ray vision, monitoring user activity by the millisecond. Every time a user hesitates or rewatches a video, the app responds in real-time, shepherding them to one of its many “sides,” feeding them content based on massive stores of tracked behavior. The whole point is to keep users using, drawn down a customized rabbit hole, their attention sold to advertisers along the way. People often describe their experience as both intensely addictive and uncanny. “The TikTok Algorithm Knew My Sexuality Better Than I Did,” reads one of many similar headlines.<sup>106</sup>

One might call TikTok the panopticon of the attention economy. Foucault saw that pastoral power “cannot be exercised without knowing the inside of people’s minds, without exploring their souls, without making them reveal their innermost secrets.”<sup>107</sup> The soul, he said, was a kind of information technology. It came into being through the penitential system of the Church, and penitentiaries were its outcome, imprisoning the body while targeting “the secret souls of criminals.”<sup>108</sup> The panopticon of Bentham signified the fantasy: if the body is governed properly, the soul will

---

<sup>105</sup> Ben Smith, “How TikTok Reads Your Mind,” *The New York Times*, Dec. 5, 2021, <https://www.nytimes.com/2021/12/05/business/media/tiktok-algorithm.html>.

<sup>106</sup> By Amalie MacGowan on *Repeller*, July 8, 2020, <https://repeller.com/tiktok-algorithm-bisexual/>.

<sup>107</sup> Foucault, “The Subject and Power,” 333.

<sup>108</sup> Foucault, *Discipline and Punish: The Birth of the Prison*, trans. Alan Sheridan (New York: Random House, 1977), 25.

behave. As Nancy Fraser puts it, modern power “gets hold of its objects at the deepest level – in their gestures, habits, bodies and desires.”<sup>109</sup> Foucault recognized that self-knowledge, as such, was brought into captivity by techniques of power. The soul of the subject was known to itself only by the refractory gaze of penitence, then the penitentiary, then the procedures of population science. But in claiming that the soul exists, he did not imagine a real metaphysical nature transcending culture.<sup>110</sup> There was not, as the Marxists of his generation believed, a human essence to be liberated from technological oppression.<sup>111</sup> Instead, as Weber argued from another angle, the scrutiny of one’s soul was part of the capitalist machinery. The soul did not exist beyond the mechanism; it was a thing to be monitored and trained for profitable use, kept on task with ascetic rigor and vigilance.<sup>112</sup>

Unlike Foucault, I believe that the soul is more than a social construct. I believe it essentially exists across cultures and history, though social structures may rise to obscure it. I also assume that free will, defined as the soul’s power to choose one thing over another, is trainable. Moreover, it *only* exists in training; it is identifiable insofar as it can be educated and governed. So in a sense, the soul is culturally conceived. There is no state of nature, no naked form of life in which the soul is free of a social context. But a conscientious way to recall its history, one I think Foucault nearly reached in his work on the Stoics, begins with a sense of our inheritance. The soul is like a vineyard, at once natural

---

<sup>109</sup> Nancy Fraser, “Foucault on Modern Power,” *Praxis International* No. 3 (1981), 278.

<sup>110</sup> Paul Veyne refers to him as a nominalist in *Foucault: His Thought, His Character*, trans. Janet Lloyd (Cambridge: Polity Press, 2010), 19. And Foucault, beginning his lectures in 1979, says: “I start from the theoretical and methodological decision that consists in saying: Let’s suppose that universals do not exist. And then I put the question to historians: How can you write history if you do not accept a priori the existence of things like the state, society, the sovereign and subjects? It was the same in the question of madness... The method consisted in saying: Let’s suppose madness does not exist. If we suppose that it does not exist, then what can history make of these different events and practices which are apparently organized around something that is supposed to be madness?” From *The Birth of Biopolitics: Lectures at the College de France, 1978-1979*, trans. Graham Burchell (New York: Palgrave MacMillan, 2008), 3.

<sup>111</sup> See Michael Behrent, “Foucault and Technology,” *History and Technology* Vol. 29, No. 1 (2013), 54-104.

<sup>112</sup> See Max Weber, *The Protestant Ethic and the “Spirit” of Capitalism, and Other Writings*, trans. Peter Baehr and Gordon C. Wells (New York: Penguin, 2002), 8-11, 105ff.



and cultural.<sup>113</sup> While it grows from the ground of our being, we know its nature only by our entanglement with its past management. At no time can we know it by disentangling ourselves from tradition; but neither should we assume it has ceased to be. The question, which I take up in later chapters, cannot be reduced to a debate over the soul's existence. The question is not *Does the soul exist?* but rather: *By what materials do we know what the soul is or is not?*

Weber saw that capitalism gained ascendancy as the modern soul trained itself to be productive. Older forms of self-knowledge were lost to the commodity of labor, driving the soul to see itself in units of time per volume of output. Such methods are with us still; intensified in the digital *bios*, they appear in the “quantified self” known through fitness trackers, which offer an array of performance metrics to keep us focused, motivated, healthy, and productive. But under the paradigm of surveillance capitalism, another logic has come to shape our identity, one vastly more powerful than the first: we are users being used. Far more than the ascetic training of active labor, passive use drives profitability.

The shift occurred some two decades ago, when Google introduced its current business model. Even though Google and its subsidiaries sell devices like phones and computers, what they really sell is user attention, and they assure their real customers – advertising firms – that they will do “whatever it takes to transform the natural obscurity of human desire into scientific fact.”<sup>114</sup> The devices Google sells are not just products; they are tiny portable factories endlessly dredging and milling data.<sup>115</sup> Surveillance capitalism thus goes beyond the cycle of abstraction that Marx foresaw, because tech firms like Google have discovered a way to sell one means of production directly to another – the instrument to the raw material. And users, being a new class of raw material, also

---

<sup>113</sup> Catherine of Siena, *The Dialogue*, trans. Suzanne Noffke, O.P. (New York: Paulist Press, 1980), 24. I return to this in the final chapter.

<sup>114</sup> Zuboff, *Surveillance Capitalism*, 82.

<sup>115</sup> Zuboff, *Surveillance Capitalism*, 93,

constitute a new class of unpaid and strangely passive labor. The anomaly of our existence is only compounded by the fact that we pay Google for the devices that use us.

I find it telling that the whole endeavor began with a search tool. Even if one denies the existence of the soul, there is no denying that we humans are a searching species. We search for knowledge, clothing, jobs, experiences, relationships. Above all, we search for a stable feeling of who we are in the world, and social media has extended that desire into an endless scroll for meaning. Our devices, like handheld mirrors, seem to grant us private moments of self-appraisal: *Am I likable? Who likes me?* We are always hungry to know. But on the other side of the looking glass, supercomputers learn our every move, and they are exponentially more powerful than the IBM that finally beat a human chess master in the 1990s. Their endgame is twofold: to keep our attention and profit from our desires and fears. Our most dysregulated passions are the raw material they exploit, drawing us out of self-awareness into a compulsive loop of scrolling, refreshing, and clicking.

All such techniques can be traced to the moment when Google founders Larry Page and Sergei Brin violated their principled refusal to sell ads. They had built their company with money from investors, and the pathway to profit had been slow. Bankruptcy loomed, and the redemption of their debts became their core profit motive. Marx, in this case, foresaw their situation perfectly: a negative balance led to a ferocious new method of abstraction, value production, and accumulation.<sup>116</sup> By developing a targeted ad service based on user data, Page and Brin made an exception to the rule they initially set for themselves. While not exactly a sovereign decision above the law, their decision was already beyond legal definition; no law was conceived for their situation. They exemplified a rising form of “capitalist sovereignty,” to borrow a term from Hardt and Negri, a form of corporate power beyond the gaze of the state.<sup>117</sup> A compatible term is “technolibertarianism,” coined by Frank Pasquale

---

<sup>116</sup> See David Harvey, *Marx, Capital and the Madness of Economic Reason* (London: Profile, 2017), 44.

<sup>117</sup> Michael Hardt and Antonio Negri, *Empire* (Cambridge, MA: Harvard University Press, 2000), 325.

in *The Black Box Society*.<sup>118</sup> Rather than existing in a legal state of exception, Google was crafting a mode of pastoral power beyond regulation. Without a legal norm, Google never transgressed the rule of law. But in *creating* the norm of panoptical profit, they adopted a mode of pastoral power that continued to exceed legality. Surveillance capitalists now employ a tremendous workforce of lobbyists, acting to ensure that no legislation impinges upon their power. “Code is law for Google now,” as Zuboff says. “If new laws were to outlaw extraction operations, the surveillance model would implode.”<sup>119</sup>

### Pastoral Philanthropy.

Recall the story of Helen Chu, the Seattle flu researcher praised by the *Times*. Her own subjectivity sits on the other side of a two-way mirror, gathering data for the sake of population management. Though her work does not share the profit model of Google, she takes part in the same logic. Her suspension of the norm made sense in the same digital environment, where the surveillance of life means that code is law. Whether her choice was an act of civil disobedience or a sovereign decision, a global architecture of data made her decision for her. To handle an emergency – much as Google founders Page and Brin handled their debt crisis – she did as Donna Haraway predicted, translating the world into a problem of coding.

Let me draw the curtain back further. Chu’s research money comes from the Gates Foundation, chaired by the tech billionaire whose philanthropy has shaped the agendas of researchers all over the world. For over a decade, Bill Gates has turned his attention to global health, delivering a TED talk in 2015 called “The Next Outbreak? We’re Not Ready.”<sup>120</sup> In his adopted role as spokesman for emergency preparedness, Gates has gradually become an *éminence grise* in world policymaking, a fact

---

<sup>118</sup> Frank Pasquale, *The Black Box Society: The Secret algorithms that Control Money and Information* (Cambridge, MA: Harvard, 2015), 196.

<sup>119</sup> Zuboff, *Surveillance Capitalism*, 105.

<sup>120</sup> Bill Gates, “The Next Outbreak? We’re Not Ready,” *TED*, April 2015, [https://www.ted.com/talks/bill\\_gates\\_the\\_next\\_outbreak\\_we\\_re\\_not\\_ready?language=dz](https://www.ted.com/talks/bill_gates_the_next_outbreak_we_re_not_ready?language=dz)

made plain during the pandemic, when President Trump ended U.S. support for the World Health Organization. The Gates Foundation became the WHO's biggest funder – and likely its biggest influence due to earmarked money. The story was first reported by *The Times of India*, which conveyed the concern felt by many Indians. “Countries large and small built the WHO through their contributions,” said Mukesh Kapila, an Indian-born professor of global health at the University of Manchester. “There is general anxiety about unaccountable billionaires... Not just his investment in the WHO, but also in the various global funds and organizations, it is as if Gates has colonized the global health system.”<sup>121</sup>

To say the least, Gates is a controversial figure among Indians like Kapila. His vision of philanthropy ties itself to free enterprise at the largest of scales, and because of his investments in groups like Monsanto-Bayer and Microsoft India, his moves directly affect the lives of locals. In addition to financing medical efforts and drug research, Gates and his foundation have invested in seed patents and databased farming methods, purporting to solve shortages in the global food supply – but effectively confirming that they see the world as working like a game of SimCity.<sup>122</sup> Microsoft India, the second largest of the corporation's headquarters, recently signed a contract with the government to develop a “digital ecosystem for agriculture.”<sup>123</sup> As part of an effort to clean up India's land records, Microsoft will act as a ministry of government, sending representatives to some 100 villages for the personal and financial information of farmers. The effort will let the government calculate subsidies at “an almost individual level,” according to a ministry secretary. When asked why

---

<sup>121</sup> Rema Nagarajan, “Gates Foundation Now WHO's Biggest Funder,” *The Times of India*, June 2, 2020, <https://timesofindia.indiatimes.com/world/us/gates-foundation-now-whos-biggest-funder/articleshow/76145069.cms#:~:text=NEW%20DELHI%3A%20With%20President%20Donald,biggest%20funder%20of%20the%20organisation.>

<sup>122</sup> Nicole Aschoff, “Tech Billionaires Think SimCity is Real Life,” *Jacobin*, May 22, 2019, [https://jacobin.com/2019/05/future-cities-tech-giants-alphabet-toronto.](https://jacobin.com/2019/05/future-cities-tech-giants-alphabet-toronto)

<sup>123</sup> Department of Agriculture and Farmer Welfare (DACFW), Government of India, “Standard Operating Procedure (SOP) for verifying Farmer's Database (100 Villages),” accessed Feb 3, 2023, [https://drive.google.com/file/d/146TcaGm1BGjpJxsXbWoMK2iGHiEkr5fn/view.](https://drive.google.com/file/d/146TcaGm1BGjpJxsXbWoMK2iGHiEkr5fn/view)

Microsoft was chosen for the task, the secretary said, “We simply do not have the means to collect and analyze what is in all probability petabytes of big data. Microsoft does.”<sup>124</sup>

Traditional Indian farmers, whose local knowledge is unreadable to the pastoral gaze of big finance and big agriculture, now find themselves bereft on the land they often sharecrop under the watch of farming conglomerates. With many farmers already drowning in debt from the high cost of chemical monocropping, hundreds of thousands have taken their own lives.<sup>125</sup> And Gates has arguably done more to exacerbate than to heal the cause of their misery. Regarding the situation, activist Vandana Shiva does not mince words: “Gates has created global alliances to impose top-down analysis and prescriptions for health problems. He gives money to define the problems, and then he uses his influence and money to impose the solutions. And in the process, he gets richer. His ‘funding’ results in an erasure of democracy and biodiversity, of nature and culture. His ‘philanthropy’ is not just philanthrocapitalism; it is philanthroimperialism.”<sup>126</sup> Shiva’s words recall those of Agamben, showing that the western *bios* always entails *zoē*. Life worth living always entails the erasure of life not worth living. Back when that schematic was only in the hands of sovereign power, it entailed the right to punish – to “take life or let live.” But now, in the numbers game of modern biopower, it entails the right to “make live and to let die.”<sup>127</sup> Gates, by constituting the *bios* using empirical measures and investment solutions, virtually exterminates whatever life might live another way.

Of course, none of that implies ill will on his part. It means he represents a new, quasi-monarchic yet hyper-mundane expression of biopolitical leadership: the liberal billionaire, working to

---

<sup>124</sup> Sashwata Saha, “Why Microsoft’s role in digitizing India’s land records is worrying farmer groups,” *NewsLaundry*, June 2, 2021, <https://www.newsLaundry.com/2021/06/02/why-microsofts-role-in-digitising-indias-land-records-is-worrying-farmer-groups>.

<sup>125</sup> Shiva, *Oneness vs the 1%*, 69; Deeptiman Tiwary, “NDA, UPA Failed to Curb Farmer Suicides,” *The Times of India*, Aug 3, 2014, <https://timesofindia.indiatimes.com/india/NDA-UPA-failed-to-curb-farmer-suicides/articleshow/39501676.cms>.

<sup>126</sup> Shiva, *Oneness vs the 1%*, quote is from the new epilogue, 205.

<sup>127</sup> Foucault, *Society Must Be Defended*, 241.

make informed, technocratic decisions about threats to large populations.<sup>128</sup> Led by the will to pastoral power, he conducts his thinking within fields of mathematically predictable, preventable, and solvable problems. Hence his choice to fund the Seattle Flu Study – which, despite its name, tracked the spread of twenty-six different pathogens.<sup>129</sup> From his experience monitoring the African Ebola crisis, Gates knew that surveillance technologies were needed in the arsenal of emergency preparedness. He knew, moreover, that airborne illness was tremendously difficult to monitor, given its invisibility and rapid spread. The Spanish flu of 1918 had killed over 30 million people, triple the number of Ebola victims, because it was an airborne pathogen. Another such virus would likely pose a worse threat, given the patterns of human travel in the twenty-first century. As Gates put it in his 2015 TED talk, “If anything kills over 10 million people in the next few decades, it’s most likely to be a highly infectious virus rather than a war. Not missiles, but microbes.”<sup>130</sup>

Despite that distinction, Gates went on to say that the best way to prepare was to emulate the methods of war. “We need a medical reserve corps,” he said, “lots of people who’ve got the training and background who are ready to go, with the expertise. And then we need to pair those medical people with the military, taking advantage of the military’s ability to move fast, do logistics and secure areas. We need to do simulations, germ games, not war games, so that we see where the holes are. The last time a germ game was done in the United States was back in 2001, and it didn’t go so well.”<sup>131</sup> What Gates did not say was that in 2001, after the collapse of the World Trade Center, the threat of bioterrorism justified a massive expansion of government powers. In fact, Gates said nothing about the U.S. government *per se*. The collective *we* of his talk was global, reflecting a menace to the world. But his manner of thinking assumed the same pastoral logic as the United States, appealing to a future emergency that ought to recode norms of the present.

---

<sup>128</sup> Recall that the archetype of “billionaire” is only a century old, starting when oil magnate John D. Rockefeller made headlines in the early 1900s. “Tech billionaire” is a new archetype, and Gates has given it definition

<sup>129</sup> Gates, *How to Prevent the Next Pandemic*, 67.

<sup>130</sup> Gates, “The Next Outbreak?...”

<sup>131</sup> Gates, “The Next Outbreak?...”

As Foucault might say, Gates dreamt of the state of plague. However subconsciously, that dream led him to conduct his ventures in light of the coming emergency, discussing his philanthropy in terms of war. It led him to finance the Seattle Flu Study, seeing its potential not only in terms of its stated aim – to track seasonal sickness – but as an arms race against the coming enemy. And even when the pandemic began to sweep across the globe, the dream of another plague guided his thinking, causing him to puzzle over the command and control of life in future outbreaks. Invited back to the TED stage in 2022, he sketched a plan to make COVID-19 the last pandemic in history. His main proposal was a group called GERM – Global Epidemic Response and Mobilization. “Their only priority is pandemic prevention,” he said. “It’s made up of a diverse set of specialists with a lot of different realms of expertise: epidemiologists, data scientists, logistics experts.” Estimating that 3,000 people would be on the team, he stressed that every position would be dedicated to stopping outbreaks before they spread.

“The work,” Gates concluded, “would be coordinated by the WHO.”<sup>132</sup> During outbreaks, the WHO has always maintained an incomplete form of emergency power, advising governments without intervening in local situations. GERM would change that, muscling up the WHO’s power to manifest the global exception. That may sound like an obvious solution to an obvious problem, but when it comes to framing problems – let alone solving them – the WHO’s track record is mixed. Their predictive models reflect the bias of datasets that sometimes fail in application. For example, when SARS broke out in 2002, Chinese researchers developed a new, seemingly exhaustive method of disease surveillance by forcibly quarantining patients.<sup>133</sup> Their technique led to a model of outbreak progression that the WHO deployed in 2009, when they decided that H1N1 had reached pandemic

---

<sup>132</sup> Bill Gates, “We can make COVID-19 the last pandemic,” TED talk, Apr 2022, [https://www.ted.com/talks/bill\\_gates\\_we\\_can\\_make\\_covid\\_19\\_the\\_last\\_pandemic](https://www.ted.com/talks/bill_gates_we_can_make_covid_19_the_last_pandemic).

<sup>133</sup> Lesley A. Jacobs, “Rights and Quarantine during the SARS Global Health Crisis: Differentiated Legal Consciousness in Hong Kong, Shanghai and Toronto,” *Law & Society Review* Vol. 41, No. 3 (2007), 511-553.

status. The virus, known as swine flu in the states, made headlines across the country with semi-apocalyptic calls for preparedness. But the apocalypse never came. The predictive model failed, leading sociologist Cindy Patton to reflect on how the real situation, while vastly different from the model, had paradoxically manifested its reality: “from the moment an epidemic is declared, until it is declared over, the hypothesized norm functions as the real.”<sup>134</sup> Patton realized that in a state of emergency, there is no line between the real and the foretold: the epidemic is both. It is the invisible enemy, made present by a decision on the exception. If Gates manages to launch his idea, GERM will create such emergency decisions from surveillance data, realizing the norms of its digital ecosystem in ways no one can really predict.

#### The State of Contagion.

The exception, says Schmitt, cannot be codified by the existing legal order. True as that is, contagion managers draw power from a vision of the future exception. The vision for GERM demonstrates how the existing order is always coded by the anticipation of a crisis. It corresponds to the old panoptic dream of the plague, the dream of perfect control in the face of disorder. In the Gates model of philanthropy, a pending emergency programs everyday work, shaping a paradigm for research and policymaking: the normal thing to do is prepare for war. As I near the end of this chapter, I suggest that Gates can offer no truly groundbreaking solutions along these lines. He does not represent a paradigm shift so much as he advances an old paradigm. Existentially, he suggests that the abnormal constitutes the normal; pathology constitutes health; the enemy constitutes friendship.<sup>135</sup>

---

<sup>134</sup> Cindy Patton, “Pandemic, Empire and the Permanent State of Exception,” *Economic and Political Weekly*, Vol. 46, No. 13 (2011), 105.

<sup>135</sup> I take this from Georges Canguilhem, Foucault’s doctoral advisor (*The Normal and the Pathological*, trans. Carolyn R. Fawcett [New York: Zone, 1989], 243): “The abnormal, as ab-normal, comes after the definition of the normal, as its logical negation. However, it is the historical anteriority of the future abnormal which gives rise to a normative intention... Consequently it is not paradoxical to say that the abnormal, while logically second, is existentially first.”



Again, none of that is new. Health, in the frame of modern biomedicine, is not only the control of life by numbers; it is an attachment to war.<sup>136</sup>

Consider how the microbe, when it was first unveiled in Pasteurian labs, was included in the *bios* precisely to be excluded; it was conceived as *microζοε*, not *microbios*. Bruno Latour recalls the appearance of microbes from the standpoint of Pasteurian hygienists: “Are they human or nonhuman? Nonhuman. What do they want? Evil. What do they do? They lie in wait. Since when? Since the beginning of time. What has happened? An event: they have become visible.”<sup>137</sup> Microbes were thus revealed by the declaration of an emergency, existing in the sort of politics outlined by Carl Schmitt’s friend-enemy grouping.<sup>138</sup> Some forty years later, the advent of penicillin offered us a line of microbial friends, but it served only to strengthen the same political framework. Penicillin was a friend because of the enemy, coded as *bios* because of a pathogenic *ζοε*.

Examples of the microbial enemy are legion, occurring at every scale. Anthropologist Celia Lowe observes that airborne diseases tend to “circulate in a kind of multispecies cloud, where legibility depends on affixing an animal host species name – bird, pig, horse, human – to the designation of the virus.”<sup>139</sup> In the course of Lowe’s field work, the virus known as bird flu threatened to extinguish the life of Indonesian sandpipers. That is, it threatened to make them legible as bare life, killed with impunity for the sake of population health. The same schematic easily hardens political relations, as it did when Donald Trump identified COVID-19 as the Chinese Plague and Kung Flu.<sup>140</sup> His rhetoric

---

<sup>136</sup> This is true in numerous ways I cannot elaborate here. For an account of how the war industry leads biomedical advancement, see Jennifer Terry, *Attachments to War: Biomedical Logics and Violence in Twenty-First-Century America* (Durham, NC: Duke University Press, 2017). For an account of how the language of war sets up our medical framework, see Lorenzo Servitje, *Medicine is War: The Martial Metaphor in Victorian Literature and Culture* (Albany: SUNY Press, 2021).

<sup>137</sup> See Bruno Latour, *The Pasteurization of France*, trans. Alan Sheridan and John Law (Cambridge, MA: Harvard University Press, 1988), 10.

<sup>138</sup> Carl Schmitt, *The Concept of the Political*, trans. George Schwab (Chicago: University of Chicago Press, 2007), 29.

<sup>139</sup> Celia Lowe, “Viral Clouds: Becoming H5N1 in Indonesia,” *Cultural Anthropology* Vol 25, No 4 (2010), 630.

<sup>140</sup> Robin Kurilla, “‘Kung Flu’ – The Dynamics of Fear, Popular Culture, and Authenticity in the Anatomy of Populist Communication,” *Media Governance and the Public Sphere*, Vol. 6 (2021).

suggested something like a national biome, which is a trope dating back at least to the last century. In a history of syphilis written between world wars, William Pusey said this: “The Italians called it the Spanish or the French disease; the French called it the Italian or the Neapolitan disease; the English called it the French disease; the Russians called it the Polish disease; the Turks called it the French disease.”<sup>141</sup> Before receiving its universal name, syphilis was any number of national enemies. At the extreme end of that imaginary, Hobbes appears to be right: the state of nature is war. Whether microbial warfare occurs between nations or not, it licenses a continual state of exception. The social contract drawn up in such a state is governed by a threat. The terms to which one consents are, in effect, the consent to a common enemy. As Carl Schmitt puts it, “Fear brings atomized individuals together.”<sup>142</sup>

Bill Gates does not identify as a Hobbesian, let alone a Schmittian. But when he turned his attention to philanthropy at the end of the 1990s, a friend-enemy grouping guided the instruments of his mind, opening conduits of capital for the likes of Helen Chu. Those conduits, being more than mere pipelines of cash, generated a flow of data that functionally made up Chu’s mind for her. As Foucault said of power, “It operates on the field of possibilities in which the behavior of active subjects is able to inscribe itself. It is a set of actions on possible actions; it incites, it induces, it seduces, it makes easier or more difficult; it releases or contrives, makes more probable or less.”<sup>143</sup> Chu, guided by the probability model of the Gates foundation, was free to act as she saw fit. And that is precisely why she made a predictable decision. She almost certainly understood that Gates, the *éminence grise* of pandemic preparedness, would back her choice.

---

<sup>141</sup> William Allen Pusey, *The History and Epidemiology of Syphilis* (Springfield, IL: Charles E. Thomas, 1933), 8.

<sup>142</sup> Carl Schmitt, *The Leviathan in the State Theory of Thomas Hobbes*, trans. George Schwab (1938; Chicago: Univ. of Chicago Press, 2008), 33.

<sup>143</sup> Foucault, “Subject and Power,” 341.

“Although the decision generated some blowback from government regulators,” Gates would later write, “I felt (and still feel) that they did the right thing.”<sup>144</sup> Might Chu represent a new thesis of biopolitical sovereignty, winning acclaim from above and below, from the billionaire and the press? Did the coronavirus, in the form of code, reveal the ascension of its namesake – not as *Deo coronatus*, acclaimed by God and the faithful, but as *Data coronatus*, acclaimed by Gates and the *Times*? The phenomenon is without an obvious precedent, because biopolitical information has never traveled or accumulated like this. Contagion managers can now sequence a genome overnight, using a process far cheaper and more accurate than it was even a few years ago.<sup>145</sup> They can decide on the exception without our knowing it, maneuvering beyond existing legal frameworks to shape and predict our actions. On the face of it, Chu represents the public good in a manner far different from Adam Kramer, Facebook’s lead social psychologist. But together with the contract workers exposed by Snowden, they are aligned to the same scope of work: they monitor contagion, using data to determine the conduct of a population.

To be sure, a *Data coronatus* may not always retain a position above the law. After giving a few interviews, Chu returned to her work in the lab. But the story of her brief ascension reveals that sovereign decisions may in fact be clandestine, quiet, and for that reason, habit-forming. Their effects, however massive, may never be obvious to the masses. In Chu’s case, the opposite was true: her decision was publicized and praised, and it represents a fairly obvious, newly permanent state of exception. The pandemic has led to a full reconfiguration of bioethics and medical law, collapsing all customary distinctions between clinical ethics, research ethics, and the ethics of public health.<sup>146</sup> Chu typifies the collapse, repurposing swabs collected for research to make diagnoses and shut down public

---

<sup>144</sup> Bill Gates, *How to Prevent the Next Pandemic*, 74.

<sup>145</sup> Gertner, “Unlocking the Covid Code,” *The New York Times Magazine*.

<https://www.nytimes.com/interactive/2021/03/25/magazine/genome-sequencing-covid-variants.html>.

<sup>146</sup> Susan M. Wolf, “What Has Covid-19 Exposed in Bioethics? *Four Myths*,” *Hastings Center Report* (May-June 2021), 3-4.

space. Her decision, made against regulations and without the consent of her subjects, reflects a precedent still taking shape. If Chu's act reflects the new normal, one can only imagine the scope and scale of a new surveillance architecture rising from the collapse of the above categories. What will "informed consent" mean in a decade? And more importantly, who will decide?

I leave those questions for speculation. To me, a more pressing and fundamental problem lies in the very notion of informed consent. I turn to that problem in the next chapter, recalling my own experience as a research worker. Informed consent is an ethic designed for the information age; it has led us directly into the online architecture outlined above, where click-wrap agreements pay shallow tribute to an old notion of free will, forming our subjectivity as users.

The goal of this chapter, broadly speaking, was to survey the scene where consent is now engineered. I have offered little in terms of hope, but I believe a structure for hope exists in what I have said. The structure is little more than a temporary shelter, marking off the site where an excavation must proceed to deepen a counter-memory of human freedom. We can stake its framework on the following observations. First, no code will ever anticipate its own exception, as Carl Schmitt understood; the world refuses to be translated into a problem of coding. Second, our very attempts to code the world have resulted in a strange new form of exceptional power, a *Data coronatus* who sees the world as if from above. That second observation does not invite hope, but a third point does, drawn from an implication of the first: life continues to elude the gaze of informatic power. Every one of our lives has been coded, but not finally; there is always a remainder, an exception to the rule. Therein lies the hope that leads me to the final chapter of this work. True hope, aware of exceptions to the coded order, is not bound to sovereign decisions rooted in fear. It cultivates a form of self-government rooted in discretion, courage, and love. It helps us see that the exception is not finally an emergency to be controlled. The exception is an opening for the creative work of the *logos*, whose advent is always beyond the grasp of mere reason.

I began this chapter by suggesting that the call for a God's eye view is perilous. Babel stands as a sign, warning us that human calculation is confused and incomplete. Babel is the first dystopian legend, the first time a technological utopia goes wrong. Unlike the modern dystopias of Huxley and Orwell, the specific problem of Babel is not its oppressive tendencies (though they are not far from view; the city exists in the legacy of Cain, the first murderer). Instead, the story emphasizes the danger that always underlies oppressive regimes: the project of a unified language, a naming of reality without consent to the mystery of divine names. In the mystical legacy of the west, God may be called Goodness, Wisdom, Justice, Mercy, Life, Love. There is no shortage of names for the One. But the One reality so named is beyond the final capture of human thought; communion with the One surpasses every architecture coded by the lust for control. Jacques Ellul, whose postwar critiques of technology are still instructive, wrote this of Babel: "A humanity capable of communicating has in its possession the most terrible weapon of its own death: it is capable of creating a unique truth, believed by all, independent of God. By the confusion of tongues, by noncommunication, God keeps man from forming a truth valid for all men. Henceforth, man's truth will only be partial and contested."<sup>147</sup> The next chapter elaborates the same point, working from below to decode the research practices of modern pastoral power.

---

<sup>147</sup> Jacques Ellul, *The Meaning of the City*, trans. Dennis Pardee (Grand Rapids, MI: Eerdmans, 1970), 19.

## Chapter 3.

### Informatic Consent.

In the last chapter, I looked at the production, flow, and accumulation of data through the conduits of our surveillance economy. Those conduits are designed to form users, not citizens, meaning that the governmentality of consent now disassembles and reassembles what used to be civil society. To demonstrate how that happens, I described the power of contagion managers, who act beyond the law to impose rule and accrue profit. Under their surveillance, a contagion is basically a trend in data, and there is no final reason to distinguish its being social from its being biological. Just the opposite: incentives drive the pastoral gaze to plot the two fields together. As biotech and infotech converge, the social and the biological meld into a single, financialized code of life, following Donna Haraway's forecast in the 1980s. Crucially, information is no longer the stuff we gather when studying nature; *it is nature*, synonymous with genetic sequences, behavioral patterns, economic trends and so on. Nature itself is regarded as a computational object – a “standing reserve,” in the words of Heidegger, “orderable as a system of information.”<sup>1</sup>

Jean-François Lyotard said as much in the late 1970s, writing in parallel with Foucault's lectures on pastoral power. His book, *The Postmodern Condition: A Report on Knowledge*, contains a statement that now seems as quaint as it is prescient. “Data banks are the Encyclopedia of tomorrow... They are ‘nature’ for postmodern man.”<sup>2</sup> At the time, data banks were field-specific, not yet coalescing in the manner predicted by Haraway. Numerous fields of professional and technical expertise had developed since World War II, gradually resetting the educational priorities long prized in the liberal

---

<sup>1</sup> Martin Heidegger, *The Question Concerning Technology*, trans. William Lovitt (New York: Harper and Row, 1977), 23.

<sup>2</sup> Jean-François Lyotard, *The Postmodern Condition: A Report on Knowledge*, trans. Geoff Bennington and Bryan Massumi (Minneapolis: University of Minnesota Press, 1984), 51.

arts model of learning. Lyotard observed that universities were no longer asking *Is it true?* but instead *What use is it?* “This question,” he said, “is equivalent to: ‘Is it saleable?’ And in the context of power-growth: ‘Is it efficient?’”<sup>3</sup> The pairing of those two metrics – marketability and efficiency – gave information its value. In a process Hardt and Negri call postmodernization, the labor market was undergoing a massive shift, transitioning from industrial modes of production to a service model of abstract expertise. The shift came roughly a century after modernization, when farming and mining jobs first moved to manufacturing. In the new era – which has since given rise to surveillance capitalism – jobs were created to offer services through “knowledge, information, affect and communication.”<sup>4</sup>

This chapter is about the formation of consent in the world of postmodernized labor. What does consent mean in the informational economy? Here I mark the real beginning of my excavation, digging into the subsurface of our language. We have this lexical artifact, consent, inherited from the liberal theory of a social contract. Our ethical, legal, and political structures depend on the word to mean something. The Agree button fails to honor its meaning, as Zuboff tells us, though she herself says little about what the word really means.<sup>5</sup> In this chapter, I begin to probe the sedimented layers of its historic use, where its meaning is not as straightforward as one might suppose. Following the insights of Wittgenstein, I look at the word as a tool. Who uses it, and to do what?

Its contemporary usage comes mainly from the discourse of bioethics, which gave us the concept of “informed” consent. As a field of moral expertise, bioethics has always been a project of liberal pastoral power. It was first developed in the 1960s by theologians and scientists until, in the 1970s, it was claimed for policymaking by the U.S. Department of Health, Education, and Welfare.<sup>6</sup>

---

<sup>3</sup> Lyotard, *Postmodern Condition*, 51.

<sup>4</sup> Hardt and Negri, *Empire*, 285.

<sup>5</sup> Zuboff, *Surveillance Capitalism*, 48-49.

<sup>6</sup> See John H. Evans, *The History and Future of Bioethics: A Sociological View* (Oxford: Oxford University Press, 2012), chs. 1-2.

Anyone acquainted with Foucault will see that the field has always been marked by the familiar cross-pattern of religious, medical, and state authority. There is no small irony in the fact that “biopolitics” entered Foucault’s language at the very moment U.S. commissioners met to formulate the ethical principles for research on human subjects.<sup>7</sup> No commissioner questioned whether human subjects ought to be studied; the question, under liberal governmentality, was how to conduct studies. It was as if, on this side of the Atlantic, a new discourse was emerging, while on the other side, it was undercut by a deeper account of its rationale. Bioethics, on that reading, is a discipline of the biopolitical state, a managerial discourse producing a new kind of expertise on the conduct of conducting research.<sup>8</sup>

Furthermore, the discourse of bioethics developed in a postmodernizing labor market, taking shape in the informational economy of the 1970s. I have direct experience with its implementation, because for two years, I worked in clinical research. The path I took to get there, however, was anything but direct, and it serves to demonstrate the point about the new economy of knowledge. My bachelor’s degree is in ancient languages and philosophy, giving me a vestigial sense of the education once customary in western universities. My education also gave me a skillset difficult to plug into the job market. I had worked in homecare as a college student, and I followed that with three years of hospital work, putting myself through grad school as a nursing aide. By the time I was hired to coordinate trials in cardiology, I had accrued six years of experience in care work. That, combined with the mere fact of a degree, got me the job. As we will see, clinical research is an expanding sector of employment. My boss, short on workers, was only too glad to fill the role, hiring me alongside several others. It was during my training that I first learned the history of research ethics, the

---

<sup>7</sup> The U.S. commission that drafted the Belmont Report met in February of 1976, and Foucault first used “biopolitics” in March of the same year. See *“Society Must Be Defended”*: Lectures at the Collège de France 1975-1976, trans. David Macey (New York: Picador, 1997), 243.

<sup>8</sup> Foucault, “The Subject and Power,” 341.



background of the regulatory system in place today. But on my first day, before a word was said about ethics, I was initiated into a far less obvious code of conduct.

My boss treated me to coffee in a large, clattery food court – one of five dining areas in a blockwide hospital complex – to go over some preliminary expectations. “Dress code is business casual,” she said. I was thrilled at that; for three years, I had been confined to burgundy scrubs. “And you’ll want your lab coat,” she went on. “You should wear it whenever you’re meeting with patients or doctors, really whenever you’re in a clinical space.” *The lab coat*. Even more thrilling. I felt I had somehow bypassed medical school, as if I had stealthily received a credential that made me look more powerful than I was. But in a way, the look itself *was* the credential; the look itself *was* the power. By a rite of investiture, namely employment, I had received the system’s credit. Many people would now identify me as an authority, seeing that I wore the mantle of expertise. My boss recommended I purchase two. “It’s important for you to identify yourself,” she said, “especially when you’re consenting patients.” The way she said consent was peculiar, as if “consenting” was my action upon patients, not theirs in response to me. Although I accepted the phrase as a bit of workplace jargon, I now see it as part of an authorized language. The lab coat belonged to the same semiotic space, the same system of figures, giving me what Pierre Bourdieu calls symbolic capital – a form of power endorsed by a trusted institution.<sup>9</sup>

This chapter is centered there, as I try to comprehend the biopolitical economy that clothed me in white, casting me as an expert in a lab coat. Better put, this chapter is an effort to make sense of why I found that strange; or better still, it is an effort to estrange myself from the sense it made. I am attempting to get free of myself, as Foucault said, to resignify and resign the institutional mindset that coded me. I am helped in the attempt by theorists like Bourdieu and Lyotard, both of whom were

---

<sup>9</sup> Pierre Bourdieu, “Social Space and Symbolic Power,” *Sociological Theory* Vol 7, No 1 (Spring 1989), 14-25.

affected by Wittgenstein's insight: "to imagine a language means to imagine a form of life."<sup>10</sup> What form of life made it possible for me to "consent patients," coding me as a doctor's avatar? *To what form of life was I consenting?* In chapter one, I suggested that a social contract exists where there is a common language. *Who speaks for me*, I asked, *and for whom do I speak?* In this chapter, the stakes of my question begin to emerge in a more pronounced way, preparing the ground for the next chapter, where I deepen my account of John Locke's English.

### Informatic Consent.

My reflections on my work history are born of my trouble with a grammar I call *informatic* consent. Consider the following sentence, taken from an article in a well-regarded medical journal: "All patients were consented with written document."<sup>11</sup> The phrase "patients were consented" is a convention of the genre, having emerged over the last decade or so as a kind of shorthand. While intended to report adherence to an ethical standard, it badly violates a grammatical one. Not only is the verb converted to the passive voice; its mechanics have been totally rebuilt. Officially, consent is intransitive, meaning it does not transfer action directly to an object (as when someone kicks a ball, shakes a hand, or drives a car). Its action is modeled on verbs like *agree*, expressing an indirect relation to the object (the subject consents *to* something or someone). In its new form, however, consent has gone transitive, functioning more like *enroll* or *recruit*. And with that transformation, the agent of consent has become the object of it. The patient does not consent; the patient is consented.

Uncoupled from its old requirements, consent has run off like a locomotive without its freight, straying further and further from standard attributions of voluntariness. For example: "Thirteen

---

<sup>10</sup> Wittgenstein, *Philosophical Investigations*, §19

<sup>11</sup> T. Nakase, J. Moroi and T. Ishikawa, "Anti-inflammatory and antiplatelet effects of non-vitamin K antagonist oral anticoagulants in acute phase of ischemic stroke patients," *Clinical Translational Medicine* Vol. 7, No. 2 (2018).

infants were consented, randomized, treated, and completed this study.”<sup>12</sup> A second example is even more bizarre: “Foreskins were collected only from patients who were consented prior to delivery.”<sup>13</sup> Of course, readers are expected to make a sensible assumption – adults gave consent on behalf of their children – but the grammar obscures all agency, revealing only passive subjects of science. Consent is simply the mechanism, the means by which they are put into production. Who conducts the procedure? Presumably the research team, but again, the picture of agency is vague. The verb is an agentless passive. Consent is simply done, as if by no one, evoking an automated system.

We have thus unearthed a strange tool: a transitive, agentless, passive form of consent. While it exists in violation of a grammatical standard, it belongs to a language game with a strong if silent set of rules. We can discern those rules by digging further, following the insights of Wittgenstein. “In the use of words,” he said, “one might distinguish between a ‘surface grammar’ and a ‘depth grammar.’”<sup>14</sup> I read his statement alongside the depth psychology of Freud, Jung, and Adler – contemporaries of his who studied the unconscious mind. *Surface grammar* is the diagrammable syntax of conscious thought, the obvious mechanism of nouns, verbs and so on. *Depth grammar* is not its opposite but its interior, where the system of language is not so easy to see or pull apart. Depth grammar has to do with how we actually operate words, or rather, how words prove operable in a given form of life. “Scalpel” is a noun, for example, but it may issue forth as an order from a surgeon. Its meaning depends on who is using it, with whom, in what setting, and to do what. Informatic consent is embedded in a similar set of rules. What can we find in the depths of a grammar where agency is invisible, subjects are objects, and consent is a transitive verb?

---

<sup>12</sup> C. Morgan, I. Novak, R.C. Dale, N. Badawi, “Optimising motor learning in infants at high risk of cerebral palsy: a pilot study.” *BMC Pediatrics* Vol. 15, No. 30 (2015)

<sup>13</sup> E. Wolf Horrell, J. D’Orazio, “UV-independent induction of beta defensin 3 in neonatal human skin explants.” *F1000 Research* Vol. 3, No. 288 (2014)

<sup>14</sup> Wittgenstein, *Philosophical Investigations*, §664. Also see Marie McGinn, “Grammar in the *Philosophical Investigations*,” *Oxford Handbook of Wittgenstein*, ed. Oskari Kuusela and Marie McGinn (Oxford: Oxford University Press, 2012).

Let me start with an obvious point. In the publication of science, authors tend to use the passive voice.<sup>15</sup> The agency of the author is stylistically unnecessary, even unwanted. A journal for technical writers once proved this point by publishing an excerpt from *Science* with every passive verb changed to the active. The phrase, “Cells were placed in a thin chamber” became “I placed cells in a thin chamber”; “The coverslips were siliconized” became “I siliconized the coverslips”; and so on.<sup>16</sup> The active voice, if indeed more direct, was tedious and distracting, because it drew attention from objects of interest to the droning authorial ego. This gets at an important idea: the agentless passive belongs to the grammar of objectivity, allowing the author to appear to disappear. As if by magic, it clears away the clutter of human interference with reality. “To be objective,” as Daston and Gallison write in their history of the notion, “is to aspire to knowledge that bears no trace of the knower – knowledge unmarked by prejudice or skill, fantasy or judgment, wishing or striving.”<sup>17</sup> The point is to get out of the way, to let the facts happen. It is to speak without a subjective accent, as if from anywhere and nowhere.

Objectivist pictures of nature rely on a contradiction, because they eliminate yet require an observer. As long as that discrepancy remains beyond critique, science can parade its images of nature without culture, its matters of fact without value, and indeed, its deterministic laws without human agency. “So in brief,” wrote Schrödinger in the early 1950s, “we do not belong to this material world that science constructs for us. We are not in it, we are outside. We are only spectators... It allows you to imagine the total display as that of a mechanical clockwork, which for all that science knows could go on just the same as it does, without there being consciousness, will, endeavour, pain and delight

---

<sup>15</sup> This is not without contest. See Rupert Sheldrake, “Personally Speaking,” *New Scientist*, July 21, 2001, <https://www.newscientist.com/article/mg17123005-200-personally-speaking/>. Sheldrake has posted the essay without a paywall here: <https://www.sheldrake.org/research/experimenter-effects/personally-speaking>.

<sup>16</sup> A.M. Wilkinson, “Jargon and the Passive Voice: Prescriptions and Proscriptions for Scientific Writing,” *Journal of Technical Writing and Communication* Vol. 22, No. 3 (1992), 323.

<sup>17</sup> Daston and Galison, *Objectivity*, 17.

and responsibility connected with it – though they actually are.”<sup>18</sup> The clock, as an icon of Newtonian science, elicits the pursuit of a totalizing code, a deterministic calculus of all causes and effects. As I noted in the last chapter, it also drives a model of industrial control, separating humans from the material world in a process of mathematical abstraction, efficiency, and mechanization. And to return to my point here, it prevails upon the grammar of agentless passivity, as if reality itself is an automation with a deterministic set of laws. Schrödinger, an esteemed physicist, knew better than to allow that grammar to rule his vision of the world. He was open to a cosmos that included the experience of consciousness and will, mysteries without a real place in the clockwork model.

The postmodern condition arose near the end of Schrödinger’s life, when the sense of an authorless truth began to collapse. Scientific knowledge, wrote Lyotard, takes part in a language game that always involves the dramatic performance of a story. “A crude proof of this: what do scientists do when they appear on television or are interviewed in the newspapers after making a ‘discovery’? They recount an epic of knowledge that is in fact wholly unepic. They play by the rules of the narrative game; its influence remains considerable not only on the users of the media, but also on the scientist’s sentiments.”<sup>19</sup> The postmodern skeptic, if not exactly dubious about the *utility* of science, doubts the metanarrative of its *truth*. That is, the postmodern mind is incredulous about the unsituated knower, the universal metasubject institutionalized by the university, the state, and so on. “The state spends large amounts of money to enable science to pass itself off as an epic,” noted Lyotard; “the State’s own credibility is based on that epic, which it uses to obtain the public consent its decision makers need.”<sup>20</sup> A set of examples came to the surface during the coronavirus pandemic, when science and the state coauthored a whole new domain of social policies. The agentless passive wraps itself up in

---

<sup>18</sup> Schrödinger, *Nature and the Greeks*, 95-96.

<sup>19</sup> Lyotard, *The Postmodern Condition*, 28.

<sup>20</sup> Lyotard, *The Postmodern Condition*, 28.

the same game, legitimating the epic of progressive discovery and development. In other words, its grammar binds people in a social contract, consenting them into a system of pastoral power.

In the new millenium, the epic of modern progress fails to exert the power it once did. The postmodern condition has taken hold, generating skepticism at both ends of the political spectrum. Still, postmodernized labor deploys the same agentless affect, because information, abstracted from the material world, is a resource to be accumulated, bought, and sold. There may be no grand narrative, no real metasubject of Reason or Progress, but markets have multiplied to increase the use value of data. The affect of an agentless reality has therefore evolved – not in service to the true but to the useful. It continues to elicit consent to pastoral power, and it still entails some kind of marketable salvation story, especially in the domain of health. In the deep logic of its grammar, consent is not agential; it is procedural, ensuring that every decision is both cost-effective and useful. Let me offer another example to illustrate the point.

#### Consented Data.

Lynn Bry is a pathologist. She studies the gut microbiome of mice and humans, specifically the bacteria that protect the *bios* from pathogens like E. Coli. Also, and almost by accident, Bry has become a leading figure at the cutting edge of a new field.<sup>21</sup> She took her first steps into it during medical school, when for a pastime, she learned to set up a web server and write code. That was in the early 1990s, when computers were something of a household luxury and, for most doctors, not a workplace need. In Bry's world, however, computing and medicine were like magnetic poles, drawn together as if by necessity. They finally connected at Brigham and Women's Hospital, where Bry, now a research fellow, noticed a problem: colleagues needed more blood samples than they had time to

---

<sup>21</sup> Nancy Volkens, "Answering Biomedical Questions with Information Technology," *Science Magazine*, July 30, 2010, <https://www.sciencemag.org/careers/2010/07/answering-biomedical-questions-information-technology>.

obtain. Demand exceeded supply, presenting them with a textbook scenario in economics. Instinctively, Bry looked at the problem more like a data scientist than a biologist, which led her to consider a solution that would change both domains. She could write a program to scan the records of Harvard's biorepository, where thousands of samples already lived in cold storage. If the program worked, it would be one of the most elegant fixes in the history of medical research. Bypassing the time-consuming process of patient recruitment and consent, it would grant researchers access to an immense pool of data, allowing them to query it for whatever they needed. In other words, it would do more than solve the supply problem. It would fulfill what Marx called the "necessary tendency of capital," automating production to increase the rate of supply at a lower cost in labor.<sup>22</sup> Bry wrote the program, and when it worked, she found herself among the first experts in a field that was barely named.

*Bioinformatics.* In its early days before Bry, the term referred to the physiology of an organism – the "information system" of, say, a cell.<sup>23</sup> That usage has since fallen by the wayside, though the model of organism-as-computer is now more common than ever. (We have lately been reminded that viruses "program" cells, and that vaccines, in turn, "reprogram" the body's immunity.) In any case, bioinformatics now designates the field Bry helped pioneer, which is not a redefinition so much as an expansion of the same idea. Life, at its most basic level, is seen to be a computational object. Bioinformatics deals in its acquisition, storage, analysis, and distribution as data. The bioinformatic gaze drifts habitually toward genomics, where the deep code of life is thought to exist, but the field

---

<sup>22</sup> "The increase of the productive force of labour and the greatest possible negation of necessary labour is the necessary tendency of capital, as we have seen. The transformation of the means of labour into machinery is the realization of this tendency." Karl Marx, *Grundrisse: Foundations of the Critique of Political Economy (Rough Draft)*, trans. Martin Nicolaus (New York: Penguin, 1993), 693.

<sup>23</sup> As seen, for example, in the proceedings from a late-1980s symposium in Japan: *Bioinformatics: Information Transduction and Processing Systems from Cell to Whole Body* (Netherlands: Elsevier Science Publishers, 1989).

more broadly signifies the realization of the trend Haraway observed in the 1980s. In the science of life, information has become both the instrument and the object of study.

Bry now oversees Crimson, a computer program she codesigned with a software firm near Harvard. Every day for over a decade, Crimson has collected data from around 5,000 samples in the Harvard health network – Brigham and Women’s, Massachusetts General and elsewhere – to build a central archive for a stockpile of around twenty million specimens. Crimson does the kind of work we have come to expect since the advent of Google. It is a library, a search tool, a statistics generator. And, to support its operation, Crimson is a bookkeeper, invoicing research groups for the samples they access. The program’s financial side highlights the efficiency of its overall operation. Studies that once exceeded the limits of feasibility, costing around a quarter billion dollars, have dropped below the median cost of a home. What would have taken fifty years now takes five. It comes as no surprise that Crimson has also given birth to a startup, iSpecimen, branded as an Amazon-like platform for researchers. The company works with biobanks and blood centers to catalogue and manage a global supply chain of samples, meeting a demand that has steadily grown since the human genome was sequenced.<sup>24</sup>

Bry and her team have also found a way to streamline the consent process. “Most of our samples are consented,” she explains. “That is, the patient is in a clinical trial or has consented to be in a clinical trial.”<sup>25</sup> Her language puts consent in a basic binary: samples are either consented or not. When they are, their value increases, because they provide a great deal more information to researchers. It bears mentioning that without consent, researchers can still use limited datasets from deidentified samples. But in such cases, the data falls into a shrinking legal category – a kind of

---

<sup>24</sup> “Helping to Overcome Biospecimen Procurement Challenges,” iSpecimen website, accessed March 9, 2022, <https://www.ispecimen.com/company/ispecimen-marketplace/>; “Christopher Ianelli – iSpecimen – Radio Entrepreneurs Full Interview Video,” Radio Entrepreneurs Youtube video, March 24, 2019, <https://www.youtube.com/watch?v=XWuOXtKBv8>.

<sup>25</sup> Volkers, “Answering Biomedical Questions...”



informatic bare life, pertinent to the *bios* but excluded from the register of human agency.<sup>26</sup> The history of bioethics reads as a cautionary tale about that category; research without consent is a dangerous game, which is why consented samples obtain such a high value. Essentially, their value comes from a collective sense of past wrongdoing.

One famous story is about Henrietta Lacks, a cancer patient in the 1950s whose cervix was biopsied for research without her consent. Her cells were anomalous; rather than dying outside her body, they multiplied when incubated, doubling in number every day. They soon became a standing reserve of clinical material – *the* human cell line used in labs around the world. Known on the market as HeLa, they were the first test subjects for the polio vaccine, later allowing researchers to map the human genome. Lacks, who descended from enslaved tobacco workers, was subtly exploited by the same economic logic as her ancestors, her body instrumentalized without permission or compensation. As her biographer puts it, “HeLa was a workhorse: it was hardy, it was inexpensive, and it was everywhere.”<sup>27</sup> The western conscience has since changed around its use, but the genie is out of the bottle. A compensatory ethic thus holds, ensuring that researchers will not repeat the same mistake. Regulators tend to require consent in more and more cases, and the same is true for granting bodies, who sometimes require it ahead of regulators.<sup>28</sup>

The ethic itself is meant to protect the autonomy of subjects, but in effect, the legal and financial frameworks form an incentive structure. Consent itself is a commodity, a valuable datapoint to obtain as efficiently as possible. The Vanderbilt health system, for example, developed a vast genomic repository using the opt-out method. On the standard “consent to treatment” form, patients

---

<sup>26</sup> “Exemptions (2018 Requirements),” Common Rule, U.S. Department of Health & Human Services, accessed March 16, 2022, <https://www.hhs.gov/ohrp/regulations-and-policy/regulations/45-cfr-46/common-rule-subpart-a-46104/index.html>.

<sup>27</sup> Rebecca Skloot, *The Immortal Life of Henrietta Lacks* (New York: Crown, 2010), 97.

<sup>28</sup> For example, the National Institutes of Health no longer fund unconsented studies of genomic data. See NIH Genomic Data Sharing Policy, August 27, 2014, <https://grants.nih.gov/grants/guide/notice-files/NOT-OD-14-124.html>.

were asked to check a box if they did *not* want to participate. The choice architecture was shrewdly designed, making consent the default position for access to healthcare. Its underpinning logic, while never voiced as such, sounds like this: consent is inefficient, a procedure to be smoothed, hastened, or even bypassed when possible. On that ground, the history of bioethics looks like a string of test cases: *What can be done without consent?* The question is a purely economic one, and it remains unchanged by ethical discourse, which does little more than add new elements to the calculus: *In this case and that case, consent must be obtained.* The calculus, being thus refined, only stimulates the development of new techniques to obtain the commodity at the lowest cost in time and labor.

Because regulators and granting bodies may soon clamp down on the opt-out method, a more secure route for obtaining consent is a separate form for research. At most biobanks, the standard consent form outlines a *carte blanche* of potential studies. “We plan to do many types of biological and genetic research with your samples,” reads the form at Brigham and Women’s. “For example, we may conduct research on heart disease, cancer, diabetes, mental illness, or any other disease or medical condition.”<sup>29</sup> The consent form efficiently creates unlimited prospects for researchers, though the task of obtaining consent still comes at a cost to time and effort. Researchers who need big datasets may not have the budget or workforce to consent patients at the scale of greatest impact. In such cases, the old economics problem repeats itself: demand yet again exceeds supply.

That is why in 2016, Bry and her team reran her old play, automating production to provide greater access to a standing reserve of data. Not long after Crimson came online, they began soliciting consent with e-mails to patients before appointments. Every message contained a link to a portal where patients could click an Agree button to have their blood and tissue stored for research.<sup>30</sup> Not

---

<sup>29</sup> Taken from a Massachusetts General / Brigham and Women’s Consent form, dated 1/17/2022, <https://biobank.massgeneralbrigham.org/form/consent-form-en.pdf>.

<sup>30</sup> Natalie T. Boutin *et al.*, “Implementation of Electronic Consent at a Biobank: An Opportunity for Precision Medicine Research,” *Journal of Personalized Medicine* Vol. 6, No. 17 (2016).

surprisingly, the online platform generated more consents than the team could obtain in person. While their in-person success rate was higher, they could only cast so wide a net. The online approach massified the process, meaning that while its rate of success was lower, its netted number was higher. The evolution was akin to fishing operations: workers, when casting nets by hand, pull up far fewer fish than they do with largescale trawlers scraping the seafloor. As we saw with the Apple Heart Study in the last chapter, e-consent resolves the time-labor problem by altogether removing the need for human interaction. Apple consented almost half a million subjects, a number sure to rise in future studies. The ethic protecting patient autonomy therefore results in new forms of autonomous *technology*. Ideally, the process runs itself, requiring as little management from humans as possible.

However, as Jacques Ellul recognized, efficiency techniques work best “without raising storms of protest.”<sup>31</sup> For that reason, plenty of studies still require a human labor force, just as factories did in the nineteenth and twentieth centuries. But the principle of automatism holds, as I experienced firsthand. My lab coat might have given me symbolic capital, but it did not make *me* special. It made me instrumental to the informatic production line, a consenter of the consented, the operating agent of an agentless grammar.

Commensuration.

As I have said, informed consent was codified with the rise of the information age. Drawn from the liberal vocabulary of the United States, it coincided with the defeat of Nazism and the ensuing Cold War, both of which demanded new articulations of democracy amid rapid developments in science and industry. By the 1970s, theorists like Macpherson saw that the competition between east and west could not be won technologically.<sup>32</sup> The space race had led to the lunar landing, but the U.S.

---

<sup>31</sup> Jacques Ellul, *The Technological Society*, trans. John Wilkinson (New York: Vintage Books, 1964), 388.

<sup>32</sup> C.B. Macpherson, *Democratic Theory: A Retrieval* (Oxford: Clarendon Press, 1973), 3.

victory was soon challenged by the first-ever space station, put into orbit by the U.S.S.R. The west, concluded Macpherson, would have to win *morally*, demonstrating that its freedoms granted a superior form of life.<sup>33</sup>

Such theorizing was put to the test when the Associated Press broke a story about the Tuskegee Syphilis Study.<sup>34</sup> What happened, to quote Emilie Townes, was “a microcosm of what *can* happen when an economically depressed, Black community encounters a skewed understanding of health care.”<sup>35</sup> The study was designed by the U.S. Public Health Service to track the progression of untreated syphilis, beginning about a decade before penicillin was found to cure the disease. In 1932, some 600 Black men were recruited to the study, most of them illiterate sharecroppers from a region of Alabama known for its high rate of infection. Researchers confirmed the presence of syphilis in roughly two thirds of the men, but they did not inform them, telling them instead that they were being treated for “bad blood” – a colloquial term referring to anything from anemia to indigestion.<sup>36</sup> As the Associated Press reported, “the men were promised free transportation to and from hospitals, free hot lunches, free medicine for any disease other than syphilis and free burial after autopsies were performed.”<sup>37</sup> Participants thought the study amounted to free healthcare. But fifteen years in, when penicillin became the standard treatment for their illness, researchers withheld the drug. The endpoint of the study had always been death, not life. Researchers followed the logic of biopower, letting their subjects die in order to study the natural history of the disease. The sharecroppers achieved peak value when objectified as *zōē*, producing knowledge for the *bios* under the gaze of pastoral power.

---

<sup>33</sup> Macpherson, *Democratic Theory*, 22.

<sup>34</sup> The study was first reported by Jean Heller of the Associated Press. See Heller, “Syphilis Victims in U.S. Study Went Untreated for 40 Years,” *New York Times*, July 26, 1972.

<sup>35</sup> Emilie Townes, *Breaking the Fine Rain of Death: African American Health Issues and a Womanist Ethic of Care* (Eugene, OR: Wipf and Stock, 2006), 88.

<sup>36</sup> James H. Jones, *Bad Blood: The Tuskegee Syphilis Experiment* (New York: The Free Press, 1993), 73.

<sup>37</sup> Heller, “Syphilis Victims...”

News of the study spread in the heat of the civil rights movement, leading to a series of governmental responses that culminated in the Belmont Report of 1976. The report identified three principles to guide medical research going forward: respect for persons, beneficence, and distributive justice. Up to that point, the notion of consent had been affixed to the principle of beneficence, but the report affixed it to the first principle, which was soon parsed as respect for *autonomy*.<sup>38</sup> That meant researchers could no longer choose what was best for subjects to know, nor could they deploy the technique of “benevolent deception.” Subjects had a right to know what was going on, and to decide for themselves if they wanted to proceed. Today, informed consent is said to be a key measure in protecting autonomy, and autonomy is sometimes thought to be the key principle of bioethics.<sup>39</sup> It reiterates Macpherson’s point about liberal freedom, which is thought to grant a form of life superior to cultures where individual rights are unobserved.

In effect, the canonical principles of bioethics function like a shared currency. As sociologist John Evans explains, “the principles were created to enhance calculability or, in more common language, to simplify bioethical decision-making.”<sup>40</sup> They create a uniform metric for diverse moral values, a standard rate of exchange in a plural society. Evans continues: “Philosophers will immediately recognize *utility* as one such commensurable metric. Scientists will recognize *risk/benefit analysis*, which translates all of the information of a situation into a universal commensurable metric of pleasure or pain. And all of us of course recognize *money*, the most commensurable metric of all, where all sorts of objects and services can be put on one metric of value.”<sup>41</sup> In short, when looking at the principles

---

<sup>38</sup> Tom L. Beauchamp and James F. Childress, *Principles of Biomedical Ethics*, 6<sup>th</sup> Ed. (Oxford: Oxford University Press, 2008), 69. M. Therese Lysaught, “Respect: Or, How Respect for Persons Became Respect for Autonomy,” *Social Justice* No. 28 (2004), 665-680.

<sup>39</sup> Beauchamp and Childress, *Principles*, 121.

<sup>40</sup> Evans, *The History and Future of Bioethics*, 51-52.

<sup>41</sup> Evans, *The History and Future of Bioethics*, 51.

of bioethics, we must keep in mind what Marx said about cash value.<sup>42</sup> The rising bourgeoisie overcame feudalism by “stripping the halo” from lawyers, priests, and other venerated professions. All social relations, all obligations, were reducible to commerce: cash payment for goods and services.<sup>43</sup> The principles of bioethics are similar: they represent the common interest by making it calculable in standard units. Any value resisting liquidity is simply not relevant – or not even real – to the system.<sup>44</sup>

For regulators, the emphasis on *informed* consent promised to change the landscape of research, preventing abuses like the Tuskegee Study from recurring. But the ethic only built upon the governmentality that first made Alabama sharecroppers legible as a cohesive research population. Public health scholars Klaus Hoeyer and Linda Hogle point out that informed consent is “a one size fits all procedure,” a means of imposing uniformity upon individuals from dissimilar contexts.<sup>45</sup> Furthermore, it “builds on a set of assumptions about human agency as a matter of ‘information processing’ and ‘decision making’ that has been repeatedly questioned by anthropologists over the years.”<sup>46</sup> Recall the “mechanical mind” described by Vandana Shiva, who sees colonial governmentality separating “experts” from peasants, workers, and authorities of local knowledge traditions. Informed consent, having been routinized and globalized by the pharmaceutical industry, expands the reach of that mindset. In Africa, for example, the westernized model of power has been

---

<sup>42</sup> See Wendy Nelson Espeland and Michell L. Stevens, “Commensuration as a Social Process,” *Annual Review of Sociology* No. 28 (1998), 313-343.

<sup>43</sup> Karl Marx, *Capital Vol. I* (Moscow: Foreign Languages Publishing House, 1953), 592-593.

<sup>44</sup> Beauchamp and Childress, whose textbook on the principles has profoundly shaped the curriculum of western medicine, suggest that the principles reflect a universal morality. “In principle,” they say, “scientific research could either confirm or falsify the hypothesis of a universal morality. However, as with all empirical research, it is essential to be clear about the hypothesis being tested. Our hypothesis is simply that all persons *committed to morality* adhere to the standards that we are calling common morality.” See their *Principles of Biomedical Ethics*, 4. Also see Beauchamp, “Autonomy and Consent,” *The Ethics of Consent: Theory and Practice*, ed. Franklin Miller and Alan Wertheimer (Oxford: Oxford University Press 2009).

<sup>45</sup> Klaus Hoeyer and Linda F. Hogle, “Informed Consent: The Politics of Intent and Practice in Medical Research Ethics,” *The Annual Review of Anthropology* Vol. 43, No. 347 (2014), 348.

<sup>46</sup> Hoeyer and Hogle, “Informed Consent...,” 348.

described as “experimentality.”<sup>47</sup> The same term comes up in discussions about drug research in eastern Europe and Russia, where subjects are said to be accommodating and compliant; participating in clinical trials, they can receive western treatments they otherwise could not afford.<sup>48</sup> In all such contexts, informed consent is a tool of recruitment, making populations legible to the same pastoral paradigm as the one that first promised free healthcare to Alabama sharecroppers.

The irony is that the principles, in serving as a universal currency, have allowed researchers to elude conversations about another important tenet of liberalism. Exactly what sort of rights do research subjects have? One way to answer that question is to show what they are denied: labor rights. Melinda Cooper and Catherine Waldby, sociologists who study the economy of medicine, advance what they call a “clinical labor theory of value.” Like others in this chapter, they recognize that the industrial model of factory work no longer defines much of the labor done in first-world economies. Information workers proliferate the job market, performing non-routine, non-physical tasks in front of a screen. Beneath those jobs, however, new forms of embodied labor have materialized at “the lower ends of the post-Fordist biomedical economy.”<sup>49</sup> Among such workers are “professional guinea pigs,” healthy people who volunteer for drug trials, for whom the term “volunteer” is something of a charade. A small but growing body of literature examines their work in Marxist terms, seeing it as an extractive, exploitative process that demands much and pays little.

---

<sup>47</sup> V.K. Nguyen, “Government-by-Exception: Enrolment and Experimentality in Mass HIV Treatment Programmes in Africa,” *Social Theory & Health* Vol. 7, No. 3 (August 2009), 196-217; P.W. Geissler, “Public Secrets in Public Health,” *American Ethnologist* Vol. 40, No. 1 (2013), 13-34.

<sup>48</sup> Adriana Petryna, “Experimentality: On the Global Mobility and Regulation of Human Subjects Research,” *Political and Legal Anthropology Review* Vol. 30, No. (2007), 288-304.

<sup>49</sup> Melissa Cooper and Catherine Waldby, *Clinical Labor: Tissue Donors and Research Subjects in the Global Bioeconomy* (Durham, NC: Duke University Press, 2014), 4.

## Guinea Pigs.

The prevailing ethical framework endorses low wages for human guinea pigs. At too high a wage, research is thought to be coercive, thus undermining the requirement that consent be voluntary. As Carl Elliot explains, “ethicists generally prefer that subjects take part in studies for altruistic reasons. Yet if sponsors relied solely on altruism, studies on healthy subjects would probably come to a halt. The result is an uneasy compromise: guinea pigs are paid to test drugs, but everyone pretends that guinea-pigging is not really a job.”<sup>50</sup> Another result is that clinical labor, kept under the blanket of volunteerism, is invisible to labor laws, keeping guinea pigs trapped in a cycle of poverty. Money is labeled “compensation,” not “wages,” a terminological sleight of hand evoking reimbursement for something like jury duty. For obvious reasons, clinical labor is far more precarious, and for many laborers, it is a full-time job.

In a regulatory environment that supposedly prevents exploitation, guinea pigs put their health at risk, often without insurance coverage. Their lack of coverage is all the more concerning given that phase one drug trials – the most lucrative for guinea pigs – are by far the most dangerous. Such trials investigate the safety, not the efficacy, of future treatments. Many are toxicology studies, meaning that they look not for how a drug fights illness but how it might damage health. “Healthy volunteers” are therefore in a double bind. They must possess health to sell it *as* labor, yet they must risk its loss with every sale. The work of a guinea pig is strange and fragile, which is why regulators call it something else. For one thing (the reasoning goes), it would be unjust to *employ* a working class of guinea pigs, and for another, it would be unreasonable to see guinea pigs as doing *work*. “Guinea pigs do not do things in exchange for money so much as they allow things to be done to them,” remarks Elliot. “There are not many other jobs where that is the case.”<sup>51</sup>

---

<sup>50</sup> Carl Elliot, *White Coat, Black Hat: Adventures on the Dark Side of Medicine* (Boston: Beacon Press, 2010), 20.

<sup>51</sup> Elliot, *White Coat, Black Hat*, 22.



As we saw in the last chapter, surveillance capitalism has in fact massified the logic of which Elliot speaks. The user is a passive, unpaid worker, generating data for the profit of tech firms. The agentless passivity of clinical research operates on the surface of the same depth grammar: it facilitates the underpaid labor of guinea pigs, making them non-agentic objects of study. While the rise of modern bioethics promised to protect human agency, it made free will commensurable to a metric that, in the end, supports the extractive operations of big pharma. Subjects find themselves under “an exceptional regime of labor,” say Cooper and Waldby, “one that justified various exemptions from the standard protections of twentieth-century labor law.”<sup>52</sup> Bioethics, they conclude, is “internal to the political economy of the life sciences.”<sup>53</sup>

In the discourse of late capitalism, consent is deployed to *produce* things. In effect, as Cooper and Waldby argue, “informed consent plays much the same role that Marx ascribed to the doctrine of the ‘free’ wage contract under classical liberalism.”<sup>54</sup> The worker signs a contract to secure an income; this is the standard practice of the market. While a consent form is not a labor contract, it is the closest thing a guinea pig has to one: it outlines the rights and responsibilities of study subjects, and without a signature, there is no money. Informed consent thereby functions to bind clinical labor to its own exploitation, so that guinea pigs cannot resist, let alone gain visibility as an organization of workers. “The worker,” wrote Marx in *Wage and Capital*, “cannot leave the whole class of buyers, i.e., the capitalist class, unless he gives up his existence.”<sup>55</sup> To put it more squarely in the words of John Locke, a proprietor holds power “by the consent of the poor man, who preferred his being subject to starving.”<sup>56</sup> Informed consent, at least in some cases, functions according to the same dynamic.

---

<sup>52</sup> Cooper and Waldby, *Clinical Labor*, 8.

<sup>53</sup> Melinda Cooper and Catherine Waldby, *Clinical Labor: Tissue Donors and Research Subjects in the Global Bioeconomy* (Durham: Duke University Press, 2014), 14.

<sup>54</sup> Cooper and Waldby, *Clinical Labor*, 14.

<sup>55</sup> Karl Marx, *Wage Labor and Capital*, trans. Frederick Engels (1891), chapter 2, accessed at marxists.org April 14, 2022, <https://www.marxists.org/archive/marx/works/1847/wage-labour/ch02.htm>.

<sup>56</sup> John Locke, *Two Treatises of Government* (New Haven: Yale University Press, 2009), IV, §43

In 1996, the *Wall Street Journal* broke a story about Eli Lilly & Co., who built their business by consenting unhoused people for drug trials. The company's reputation had spread by word of mouth through homeless shelters and prisons, attracting a steady migration of jobless people to its Indianapolis test site. Meanwhile, local shelter directors kept quiet, since the Lilly Endowment made regular contributions to their work. With no small hint of irony, the *Journal* called the recruitment of unhoused people a "mutually beneficial" arrangement. "For Lilly, it is efficient and limits the risk that subjects will sue if harmed by an experiment... As for subjects, they get several weeks or months of free room and board, and in interviews they express voluble gratitude for what they often call 'easy money.'"<sup>57</sup> As one local official admitted, the company had effectively produced a "shadow economy."

The same economy repeats itself globally, casting its shadow across old networks of colonial power. In his book *Biocapital*, anthropologist Kaushik Rajan discusses a private hospital in the heart of Mumbai. Owned by Piramal, a conglomerate of pharma, finance, and real estate companies, Wellspring Hospital does not treat patients. They run clinical trials for companies like Pfizer, looking at drug responses in genetically profiled groups. Their technique, called pharmacogenomics, elevates toxicology studies to a new level. Rajan explains: "If patients can be stratified based on their likelihood of developing an adverse response to a drug, then it might be possible to market a drug only to that segment of the patient population who are *not* adverse responders. This could save millions of dollars for pharmaceutical companies, who might otherwise see drugs like Pfizer's Trovan fail to come to, or stay on, the market altogether..."<sup>58</sup> Rather than asking which drugs are more effective for certain groups, pharmacogenomics investigates which drugs are more damaging. Wellspring Hospital, in the center of a city known for its genetic diversity, offers drug companies an ideal study population. As

---

<sup>57</sup> Laurie P. Cohen, "Lilly's 'Quick Cash' to Habitues of Shelters Vanishes Quickly," *The Wall Street Journal*, Nov. 14, 1996, <https://www.wsj.com/articles/SB847923261820633500>.

<sup>58</sup> Kaushik Rajan, *Biocapital: The Constitution of Postgenomic Life* (Durham, NC: Duke University Press, 2006), 94-95.

one board member said proudly to Rajan, “If they want Caucasians, we’ll give them Caucasians; if they want Negroids, we’ll give them Negroids; if they want Mongoloids, we’ll give them Mongoloids.”<sup>59</sup>

The hospital was built in a place once known for its textile industry, where business has disintegrated over the last three decades. Unlike most private hospitals, Wellspring sits in the heart of jobless poverty.<sup>60</sup> Its location is “almost certainly not accidental,” Rajan comments. Recruits come from a huge population of unemployed millworkers. The hospital, devoted exclusively to research, turns them into milled workers, extracting data from them without the protection of labor laws. As Marx understood, capital has always done this, demanding unpaid or underpaid labor to create more capital.<sup>61</sup> Factory workers have always existed at the recognizable center of that process, but as Cooper and Waldby note, they have lately been joined – even displaced – by guinea pigs. “Clinical labor sustains some of the most patent-intensive sectors of the post-industrial economy,” they write, “yet most of its workforce intersects with the lowest echelons of informal service labor.” Workers belong to “classes marginalized by the transition from Fordist mass manufacture to post-Fordist informatic production.”<sup>62</sup> They are the consented, the agentless passive, held in place by the depth grammar of the biopolitical economy.

#### Bureaucracy and Mythology.

If the consented are obscure members of the working class, the consenters are obscure members of the professional class. On my lab coat, embroidered below my name, were the words *Clinical Research Coordinator*. What exactly did that mean? The job was difficult to explain, especially to friends outside healthcare. I worked at a hospital, but my role did not neatly correspond to any of its

---

<sup>59</sup> Rajan, *Biocapital*, 95.

<sup>60</sup> Rajan, *Biocapital*, 96.

<sup>61</sup> Karl Marx, *Capital Vol. IV* (Moscow: Progress Publishers, 1863), III.6, <https://www.marxists.org/archive/marx/works/1863/theories-surplus-value/>.

<sup>62</sup> Cooper and Waldby, *Clinical Labor*, 9.

well-known archetypes. I was not a decisionmaker like a doctor, nor was I a caretaker like a nurse, nor was I an administrator. Aspects of my job mirrored all three, which sometimes made me feel unplaced, acting in a role not my own. In retrospect, I see that I was simply a part of what Max Weber called “the staff” (in German, *Stab* – literally a mace or rod).<sup>63</sup> Which is to say, I was an instrument of bureaucratic power. I extended the reach of a complex pastoral system, gathering data for the production of statistical knowledge.

In a hospital, as in every bureaucracy, the staff is somewhat amorphous, open to a reformulation of jobs and workflows. At the same time, it always takes the form of a hierarchy. Its dual dynamic makes bureaucracy one of the most durable forms of governance in human history. “Rule through knowledge,” Weber observes; “this is its specific rational character.”<sup>64</sup> Its mode of operation is meant to be so efficient, so well-measured and calculated that no personality controls it. It tends toward automation, producing goods or knowledge under “the rule of formal impersonality.”<sup>65</sup> To what end? Profit, typically.<sup>66</sup> To be sure, bureaucratic systems operate in all sorts of non-profit and governmental spaces, but their existence in those domains originates with a model built by commercial interest. Hospitals, in fact, tend to represent the concurrence of all three – corporate, governmental, and non-profit bureaucracies – and my job was a case in point.

Officially, I worked for a non-profit health system, but the system contracted with drug and device companies who conducted their research under the oversight of the FDA. I was hired to stand at the exact point where all three interfaced with patients. Without me, the health system would not receive industry money, nor would industry sponsors receive data, nor would either party check the

---

<sup>63</sup> Max Weber, *Economy and Society*, trans. Keith Tribe (Cambridge, MA: Harvard University Press, 2019). On the term *Stab*, see 347, 478.

<sup>64</sup> Max Weber, *Economy and Society*, trans. Keith Tribe (Cambridge, MA: Harvard University Press, 2019). On primitive bureaucracies, see p.354. On the ideal-typical (modern) form, see p.343.

<sup>65</sup> Weber, *Economy and Society*, 353.

<sup>66</sup> “The need for constant, firm, intensive and calculable administration was created historically by capitalism – not entirely by capitalism, but undeniably primarily – and cannot exist without it.” Weber, *Economy and Society*, 351.

needed regulatory boxes. Research coordinators, despite being a recent addition to the health sector, have become essential to its operation, with some 30,000 coordinators employed nationwide.<sup>67</sup>

My role was conceived sometime in the 1990s as a lateral move for nurses. A single cause for its appearance is unknown, but the standard way to explain it is to start with the history I learned when I was hired.<sup>68</sup> The story begins at Nuremberg, where Nazi physicians were tried for crimes against humanity. At Dachau and other camps, they had run experiments on prisoners to promote the survival of German troops, testing the limits of human mortality with techniques of measured murder. Freezing temperatures and high altitudes were only some of the conditions the physicians investigated; they mutilated subjects with bone graft experiments and tested drugs for military application. But their field of research was not medicine, U.S. prosecutors claimed; it was *thanatology* – “the science of producing death.”<sup>69</sup> The Nuremberg Code was written to identify the difference. Drafted in the summer of 1947, the Code was the first serious attempt at a universal ethics of medical research. It joined the ancient line of Hippocrates to modern human rights, and its language has since seeded the field of bioethics.<sup>70</sup> Its opening words remain the most important: “The voluntary consent of human subjects is absolutely essential.”<sup>71</sup>

I heard some version of that story several times a year, especially at conferences and large meetings. It had the effect of a liturgical remembrance, and it rarely exceeded the bounds of a sketch like this: *The Nazis conducted horrifying experiments without consent.* The sketch never came apart from its

---

<sup>67</sup> “Research Coordinator Demographics and Statistics in the U.S.,” Zippia, <https://www.zippia.com/research-coordinator-jobs/demographics/>, accessed May 29, 2023.

<sup>68</sup> See Mary-Rose Mueller and Laura Mamo, “The Nurse Clinical Trial Coordinator: Benefits and Drawbacks of the Role,” *Research and Theory for Nursing Practice* Vol. 16, No. 1 (2002), 35.

<sup>69</sup> *Trials of War Criminals before the Nuremberg Military Tribunals: Vol 1, The Medical Case*, (Washington, DC: U.S. Government Printing Office, 1949), 38.

<sup>70</sup> Evelyne Shuster, “Fifty Years Later: The Significance of the Nuremberg Code,” *The New England Journal of Medicine* Special Issue (Nov 13, 1997), 1436-1440.

<sup>71</sup> *Trials of War Criminals before the Nuremberg Military Tribunals under Control Council Law No. 10, Vol. 2* (Washington, D.C.: U.S. Government Printing Office, 1949), 181-182.

implied moral: *We must always obtain consent.*<sup>72</sup> The Tuskegee Study, part two of the same confessional past, reiterated the same moral. Together, they supplied what Lyotard calls a “phrase regimen.”<sup>73</sup> Say *Tuskegee* or *Nuremberg* in a room full of research personnel, and everyone will take you to mean much more than a place name. The phrase rehearses a whole story, embedded in a series of normative links that make other stories legible in the same network (*i.e.* “it was like *Tuskegee*”). Some of those stories might become prominent nodes of the network – usable phrases in their own right (*Henrietta Lacks*, for example). In that way, the regimen of consent is open to expansion, but only by its own logic. It is open as a totality, a cosmos of legibility. “For every phrase regimen,” says Lyotard, “there corresponds a mode of presenting a universe.”<sup>74</sup>

The universe presented by *Nuremberg* was a place where humans had been exploited, and where it was our job – my job – to protect them. Tragedy was the genre composing our history; it set up the ethical aspect of our work. At the same time, the tragic chapters of the past were seen to lie behind us, having been translated by another genre – the technical. A strong sense of *the code* framed and contained the tragic, routinizing an ethics that kept science from slipping into past barbarity. Informed consent is precisely what made my job seem so special, so connected to history, so adherent to the principles of the liberal order that defeated Nazism.

I recall a newly hired coordinator speaking reverently about “the moment of consent.” She said those words as if a quiet beam of light had shone on something generally hidden by shadows, as if the subject had stood in the light long enough to say yes with confidence and purity – as if, for a moment, all institutional trappings were cast off to reveal free will in a state of nature. According to

---

<sup>72</sup> For instance, see Felix A. Khin-Maung-Gyi and Matthew Whalen, “Ethics and Human Subjects Protection,” *Responsible Research: A Guide for Coordinators*, ed. Carol A. Fedor, Philip A. Cola and Christine Pierre (London: Remedica, 2005), 36.

<sup>73</sup> Jean-François Lyotard, *The Differend: Phrases in Dispute*, trans. Georges Van Den Abbeele (Manchester: Manchester University Press, 1983).

<sup>74</sup> Lyotard, *The Differend*, 128.

Nuremberg's first principle, patients are to be "so situated as to be able to exercise free power of choice, without the intervention of any element of force, fraud, deceit, duress, over-reaching, or other ulterior form of constraint or coercion..."<sup>75</sup> The coordinator was to be a detached presence, neutralizing all antigens to the patient's free choice. How to do it? The patient was to be *informed*, nothing more. *Information* had the power to preserve and illuminate the will.

Information is a modern metaphysics. It makes a paradoxical link between human agency and the agentless mechanism, creating an architecture for autonomous choice in the deterministic universe of science. The cosmos itself, in the wake of physicist John Wheeler, is "a big quantum computer, running the biggest possible computer game to generate our reality."<sup>76</sup> That architecture, while perhaps godless, has all the trappings of religion. As Michael Herzfeld argued in the early 1990s, modern bureaucracies have always cohered in something like a religious worldview.<sup>77</sup> Being symbolic systems (the lab coat as priestly vestment, for example), they are deeply devout organizations of power.<sup>78</sup> Herzfeld quotes Wittgenstein as saying that our language lays down a whole mythology, and he contends that bureaucratic modes of discourse are no exception.<sup>79</sup> Their rationalized, informatic structure mediates a great cosmological picture, and that picture coincides with a deliverance myth, a story of "the European spirit marching to the ultimate emancipation of intelligence from gross flesh."<sup>80</sup>

Think of Kant, whose philosophy of history laid the groundwork for Hegel and Marx. As the greatest modern theorist of autonomy, Kant believed that free will stemmed from an empirically unknowable cause. But despite the mystery of its origin, free will manifested as choices made in the

---

<sup>75</sup> *Nuremberg Trials Vol 2*, 181-182.

<sup>76</sup> Vlatko Vedral, *Decoding Reality: The Universe as Quantum Information* (Oxford: Oxford University Press, 2010), 22. For Wheeler's original claims about quantum information, see his paper "Information, Physics, Quantum: The Search for Links," *Proceedings III International Symposium on Foundations of Quantum Mechanics* (Tokyo, 1989), 354-368.

<sup>77</sup> Michael Herzfeld, *The Social Production of Indifference* (Chicago: University of Chicago Press, 1992), 5-10.

<sup>78</sup> See Dan W. Blumhagen, "The Doctor's White Coat," *Annals of Internal Medicine* Vol. 91 (1979), 111-116.

<sup>79</sup> Michael Herzfeld, *The Social Production of Indifference* (Chicago: University of Chicago Press, 1992), 20.

<sup>80</sup> Herzfeld, *The Social Production of Indifference*, 130.

world of phenomena. In that sense, it was determined by natural laws intelligible to the gaze of science. “History,” he said, “is concerned with giving an account of these phenomena, no matter how deeply concealed their causes may be, and it allows us to hope that, if it examines the free exercise of the human will *on a large scale*, it will be able to discover a regular progression among freely willed actions.”<sup>81</sup> In that hope, Kant supposed one might observe the steady but slow development of “man’s original capacities.”<sup>82</sup> What followed was nothing less than the salvation myth of modern pastoral power. By means of biopolitical data, one could derive the hidden logic of the masses, who were “unwittingly guided along a course intended by nature.”<sup>83</sup>

Thus marriages, births, and deaths do not seem to be subject to any rule by which their numbers could be calculated in advance, since the free human will has such a great influence upon them; and yet the annual statistics for them in large countries prove that they are just as subject to constant natural laws as are the changes in the weather, which in themselves are so inconsistent that their individual occurrence cannot be determined in advance, but which nevertheless do not fail as a whole to sustain the growth of plants, the flow of rivers, and other natural functions in a uniform and uninterrupted course.

The grand story of Kant may have collapsed under postmodern critique, but it has not failed to cast its image on the global market. In Kant, we find the old, protracted logic named by Donna Haraway, the translation of the world into a problem of coding. With comprehensive records and refined calculations, we can translate free will into a biopolitical phenomenon – an agentless passive object of empirical science. On one hand, says Kant, there must be autonomy; on the other, we can see its trends in statistics and predictive analytics. On one hand, free will; on the other, economic determinism. Informed consent supplies both, seeming to reduce the tension between them with a quasi-religious phrase regimen. The “moment of consent” my coworker mentioned, which took its meaning from a liturgical remembrance, could emerge only in a rationalized medical bureaucracy.

---

<sup>81</sup> Immanuel Kant, *Idea for a Universal History with a Cosmopolitan Purpose*, in *Political Writings*, ed. H.S. Reiss (Cambridge: Cambridge University Press, 2008), 41.

<sup>82</sup> Kant, *Idea for a Universal History*, 41.

<sup>83</sup> Kant, *Idea for a Universal History*, 41.



## The Origins of the Consent Industry.

The origins of my role were more economic than ethical. In truth, its origins had nothing to do with a response to Nazism and everything to do with neoliberalism. For most of the twentieth century, the government funded the majority of medical research in the United States. That changed in the 1990s, when the private sector met the government's financial watermark, virtually splitting the cost of all research endeavors.<sup>84</sup> During the same period, my role emerged, and the number of clinical trials went from 7,000 to 15,000. That number has since multiplied thirty times over, with the National Institutes of Health keeping financial pace with industry sponsorship.<sup>85</sup> At the government level, funding mechanisms plug into the business plan of drug companies, flagging specific areas for grants. Those areas, of course, come from acuties in population data, but funds are also triggered by the likelihood of global economic success. In the neoliberal paradigm, there is another story to tell about clinical research. If the first is a form of liturgical remembrance, the second is a business history.

A good way to tell it is to begin once again with penicillin, the first antibiotic. The drug catalyzes the story of informed consent – not only because it was withheld from study subjects, but because it led to a new paradigm of business in the pharmaceutical industry. In 1928, Alexander Fleming discovered the drug by accident, returning from vacation to find a strange mold eating a bacteria culture left in a Petrie dish. Fleming named the mold for the shape of its cells: *penicillus*, Latin for paintbrush.<sup>86</sup> Its production was scaled up by companies like Pfizer, who decades later went on to release a new generation of antibiotics with brand names like Zithromax. The new science of naming

---

<sup>84</sup> Mary-Rose Mueller and Laura Mamo, "Changes in Medicine, Changes in Nursing: Career Contingencies and the Movement of Nurses into Clinical Trial Coordination," *Sociological Perspectives* Suppl. (Winter 2007), S48.

<sup>85</sup> "Trends, Charts, and Maps," ClinicalTrials.gov, <https://clinicaltrials.gov/ct2/resources/trends#:~:text=ClinicalTrials.gov%20currently%20lists%20453%2C636,States%20and%20in%2021%20countries>; "Grants and Funding," NIH, <https://www.nih.gov/grants-funding>, accessed May 29, 2023.

<sup>86</sup> Alexander Fleming, *Penicillin: Its Practical Application* (London: Butterworth and Co, 1946).

had less to do with morphology than with marketing – less about the perception of form, more about the forming of perception. We today are subjects of that paradigm. Our prescribed path of wellness runs directly through the vast territory of the drug industry, where names are designed to capture us with a word. Lyrica, for example, is a treatment for nerve and muscle pain, and its name conjures impressions of music, rhythm, and flow. Pristiq, an antidepressant, evokes the feeling of purity and allure; Celebrex, the anti-inflammatory, appeals to a sense of joy, sexiness, and space-age power; Viagra (one of the greatest hits in marketing literature) evokes viability, cultivated land, and yes – the enduring force of Niagara Falls.<sup>87</sup> The list goes on, every name crafted to bring up a target mood in the user. “They can range from abstract ideas, tonality, strong sound or gentle sound,” explains Michael Quinlin, a manager of trademark development at Pfizer. “It can be imagery. You hear a word and it brings something positive to mind, or a nice association that isn’t a claim.”<sup>88</sup>

Brand names avoid making scientific claims like “Cure-all,” but they are nevertheless scientific in origin. Each one is born of data, going through a process of development parallel to the drug it identifies. Branding, in fact, may be the most important scientific process of the two. As Naomi Klein observed at the turn of the millennium, “The astronomical growth in the wealth and cultural influence of multinational corporations over the last fifteen years can arguably be traced back to a single, seemingly innocuous idea developed by management theorists in the mid-1980s: that successful corporations must primarily produce brands, as opposed to products.”<sup>89</sup> That is why, in the drug business, the creation of a brand is a science all its own. “Once a few names are selected, marketing researchers engage hundreds of paid volunteers,” writes Jeanette Wicke, a research pharmacist at the National Cancer Institute. “Prescribers write mock prescriptions so graphologists can analyze the

---

<sup>87</sup> Alex Frankel, *Wordcraft: The Art of Turning Little Words into Big Business* (New York: Crown, 2004), chapter 7.

<sup>88</sup> “Part 2: What’s in a Brand NAME? How Drugs Get Their Names,” Pfizer, accessed September 8, 2021. [https://www.pfizer.com/news/hot-topics/part\\_2\\_what\\_s\\_in\\_a\\_brand\\_name\\_how\\_drugs\\_get\\_their\\_names](https://www.pfizer.com/news/hot-topics/part_2_what_s_in_a_brand_name_how_drugs_get_their_names).

<sup>89</sup> Naomi Klein, *No Logo* (New York: Picador, 2009), 3.

potential for confusion. Experts listen to the way people from various areas pronounce the names. Clinicians and patients are asked to rate names for tonal quality and the impression they leave.”<sup>90</sup> Then, with all the data gathered, predictive analytics can help researchers determine what name will stick in the collective mind of users and prescribers.

If any drug ever deserved the name Cure-all, it was penicillin. It stopped a host of pestilences like meningitis, syphilis, blood and wound infections, and pneumonia. Of course, its long-term effects have been mixed; organisms evolve resistance to it, and superbugs now populate the biome. But before all that, the only problem with penicillin was the fact that it was not a brand. Like many technologies of the 1940s, it was a collective project of the war machine, its mass production crucial to the health of the allied forces. In a state of exception overseen by the U.S. government, competing manufacturers shared trade secrets with each other, working as allies to perfect new techniques like deep-tank fermentation.<sup>91</sup> This was a far different state of exception than the pandemic state of the 2020s, where vaccine makers received public money to compete with each other, holding trade secrets and earning billions in profit. The only rival was Hitler, whose machinery never got the production of penicillin up to scale.<sup>92</sup> After the war, as one might expect, the price of penicillin dropped. Without the war to generate demand, the miracle drug lost value. Companies turned back to the market of privatized knowledge, competing to create new medicines with the arsenal of techniques they had developed during the war. This was not a return to business as usual. The state of exception, if formally over, had created a new technological battleground for the bodies of consumers.

---

<sup>90</sup> Jeanette Y. Wick, “What’s In a Drug Name?” *Journal of the American Pharmacist’s Association* Vol. 44, No. 1 (Jan/Feb 2004), 14.

<sup>91</sup> Arthur Daemrich, “Pharmaceutical Manufacturing in America: A Brief History,” *Pharmacy in History*, Vol. 59, No. 3 (2017), 63-72.

<sup>92</sup> Milton Wainright, “Hitler’s Penicillin,” *Perspectives in Biology and Medicine* Vol. 47, No. 2 (Spring 2004), 189-98.

By the mid-1960s, it became clear to Pfizer and other companies that their main task was not the manufacture of drugs. It was the making and selling of *knowledge*.<sup>93</sup> More specifically, in the words of Hardt and Negri, it was the production of “knowledge, information, affect and communication.”<sup>94</sup> The postmodernizing turn of drug makers led to a substantially different market: they began to target prescribers, whom they “educated” with vacations to Hawaii. Then, by the 1980s, drug companies were zeroing in on the consumer, whom they “empowered” through advertising.<sup>95</sup> Alongside those advances came the blockbuster model of drug development. “The blockbuster model,” explains Carl Elliot, “encouraged companies to work on drugs for mild, chronic conditions that affected a large number of people, then market the drugs as frenetically as possible before the patents expired.”<sup>96</sup> From that model, the drug companies learned how to frame and treat conditions like high cholesterol, depression, arthritis, and asthma.

Today’s pharmaceutical researchers, whether in the space of biology or marketing, begin with the solution: drug sales. Working backward from that, they frame the problem to solve. This is how a drug like Viagra finds its mark with a name that creates a new *idea*, a solvable problem formulated by chemistry and marketing. Its origin story has become the stuff of legend. Researchers initially designed it to block a protein called PDE-5, expecting that the compound would cause blood vessels to dilate. If effective, they reasoned, it could help with problems like hypertension and chest pain (read: blockbuster issues). The results were not impressive in animal tests, but the molecule was safe, so Pfizer moved forward with human testing in the early 1990s. Research workers immediately noted the comical side effect. “When they went in, they found a lot of the men were lying on their stomachs,” recalls John La Mattina, then the head of research and development. “And a very observant nurse

---

<sup>93</sup> Samuel Mines, *Pfizer: An Informal History* (New York: Pfizer, 1978), 227-229.

<sup>94</sup> Hardt and Negri, *Empire*, 285.

<sup>95</sup> Richard Weinmeyer, “Direct-to-Consumer Advertising of Drugs,” *AMA Journal of Ethics: Virtual Mentor* Vol. 15, No. 11 (2013), 954-959.

<sup>96</sup> Carl Elliot, *White Coat, Black Hat: Adventures on the Dark Side of Medicine* (Boston: Beacon Press, 2010), 128.

reported this, saying that the men were embarrassed they were getting erections.”<sup>97</sup> A new study was soon designed to target the right population of men, and by 1998, results were published in the *New England Journal of Medicine*.<sup>98</sup> The drug that caused one group’s embarrassment was a cure for the embarrassment of another group.

The discovery of Viagra, like the discovery of penicillin, was serendipitous. But the industrial framework in which Viagra made its appearance was altogether different. The marketing of science – and the science of marketing – now determined the meaning of the discovery. And its meaning was culturally profound. “Few people missed out on the launch of *Viagra* – the word, if not the pill itself, was suddenly everywhere,” writes Alex Frankel in *Wordcraft: The Art of Turning Little Words into Big Business*. “Soon other names would invade Viagra’s territory and carve up its market share in advance of its sale as a generic drug. But Viagra owned its given window of time. A coined word, Viagra came to serve as an idea and tool that people were ready and willing to use in speech.”<sup>99</sup> Along with the word, Pfizer offered a new diagnostic term as a marketing springboard. Men were no longer *impotent*, suggesting a loss of power; they suffered from *erectile dysfunction*, suggesting a repairable glitch.<sup>100</sup>

The role of the clinical research coordinator was first conceived in the context of such innovations. By consenting patients, coordinators were to render human decisions commensurable to a universal metric of choice. Not only that; they were to advance the cultural coinage of the neoliberal drug market.

---

<sup>97</sup> Luke Timmerman and Meg Tirrell, interview with John La Mattina, STAT Signal Podcast, June 16, 2016, <https://www.statnews.com/2016/06/16/tylenol-drugs-signal-podcast/>

<sup>98</sup> Irwin Goldstein et al, “Oral Sildenafil in the Treatment of Erectile Dysfunction,” *The New England Journal of Medicine* 338 (1998), 1397-1404.

<sup>99</sup> Alex Frankel, *Wordcraft: The Art of Turning Little Words into Big Business* (New York: Crown, 2004), 17, Kindle edition.

<sup>100</sup> “Erectile dysfunction: the Viagra revolution,” Harvard Health Online, March 9, 2014, [https://www.health.harvard.edu/newsletter\\_article/Erectile\\_dysfunction\\_The\\_Viagra\\_revolution](https://www.health.harvard.edu/newsletter_article/Erectile_dysfunction_The_Viagra_revolution).

### The Neoliberal Choice Architecture.

What are the implications of such coinage? What does it mean that transnational corporations have become mints of our linguistic currency? Furthermore, what say do we have – we everyday users of language and things? Aspirin, cellophane, escalator, nylon: all of these words began as brands. Many others are still registered trademarks: Spandex, Dumpster, Kleenex, Velcro.<sup>101</sup> In a strange inversion of Orwell's *1984*, brand names are a kind of capitalist Newspeak. The programmers of our lexicon do not serve a totalitarian superstate but the forces of the free market, wed to the liberal doctrine of free will – the very doctrine Orwell feared to lose, having witnessed the rise of Stalin. Recall that in Orwell's dystopia, the state brands everything with one name: Victory Cigarettes, Victory Gin, Victory Mansions. We live in the future of a much different 1984. Economic freedom – as Reagan himself promised, speaking at the New York Stock Exchange – has expanded to its “full potential.”<sup>102</sup>

There is no way around capitalist Newspeak. The world is full of branded objects and ads, and they impose a strange, sometimes imperceptible limit to the freedoms of choice and speech. Few could name the problem until Naomi Klein published *No Logo* at the turn of the millennium, railing against the trademarked limits of human perception. As far back as she could remember, there was always the *other* world mediated by twentieth-century commercialism – a world alien yet somehow integral to hers: “gleaming, bulbous golden arches; impossibly smooth backlit billboards; squishy cartoon characters roaming fantastically fake theme parks.”<sup>103</sup> What would life be like outside this branded totality? An escape was hard to imagine, given that companies were in the very business of scripting one. Like Alice, denizens of the late twentieth century were drawn to the looking glass, where instead of Wonderland they saw Marlboro Country. “When I was growing up,” recalls Klein, “these strange

---

<sup>101</sup> Frankel, *Wordcraft*, 70.

<sup>102</sup> Associated Press, “Reagan Opens Day at NYSE, Says He’ll ‘Turn the Bull Loose,’” *L.A. Times* Mar 28, 1985.

<sup>103</sup> Klein, *No Logo*, 143.

creations awakened something in me that I've since come to think of as a deep longing for seductions of fake; I wanted to disappear into shiny, perfect, unreal objects."<sup>104</sup>

Klein's predicament points to the resulting mediations of surveillance capitalism, where the sale of user attention is all-determining. The same market logic has continued to shape our consciousness, offering an *other* world like the pharmatopia created by drug ads. Pharmatopian images, while not as cartoonish as the world of Disney and McDonald's, awaken the same deep longing for a painless, friction-free life: kayaking at sunrise, throwing a frisbee for the dog, potting plants, getting coffee, making love. Drugs, like designer jeans, are a lifestyle pitch. Klein was one of the first to put words on the problem: Marlboro Country is not a land of red rocks and roving cattle. It is a power nexus of multinational companies – which is indeed a wild west, extending beyond the jurisdiction of any one government. But the image of a cowboy is only partially right. A more fitting image is that of a coal baron whose company owns everything in town. The policies of the Reagan era, deregulating trade and lowering corporate taxes, created the conditions for the consent industry: a company town gone global, where clinical labor undergoes a process no less extractive than coalmining.

After several months in clinical research, I came to recognize my role for what it was. Research coordinators work at the tail end of product development, moving drugs and devices through bodies to the market. Not that I was surprised; the same model applies to most industries, from film to food. A product is trialed on a small set of subjects to determine its likely success among a larger set. My job was unique, however, in that it was supported by a liturgical memory. Free will, at the sacred center of the human subject, was a most important object of medical management. I was trained to assess it, to see first and foremost whether potential subjects would *comply* with a study (if, say, it required a regimen of medication and several follow-ups). The subject's will was the initial site of sponsor investment, and I was its technician. Informed consent – the ethical procurement of a subject's resolve

---

<sup>104</sup> Klein, *No Logo*, 143.

– was a way to lessen the risk of losing a full dataset. To consent a patient was to put them into production, and the greatest value was achieved when patients stayed committed to a study, thereby securing the company’s investment.

Before a typical encounter, I would look at a patient’s chart to assess whether they met enrollment criteria. Any number of identifiers might rule them out: age, diagnosis, medical history. Some were ruled out because they belonged to a “vulnerable population” like prisoners, non-English speakers, and children. I learned to assess all this in five minutes or less. Scanning psychological and behavioral histories, I also ruled out patients who might be uncooperative, resistant, or skeptical about the aims of research. It was an algorithmic process that became second nature to me.

Because I worked with cardiovascular patients, I timed my visits around their procedures. They had to be in good enough shape to listen, not too nervous or fatigued. When the moment was right, I would don my lab coat, walk to their room, and knock gently on their door. I always measured my words by my initial feeling of the room. With practice, I developed a variety of scripts, but I usually began by introducing myself as a colleague of the doctor (I worked *with* the doctor, not *under* him). I would then ask if the patient had a moment to consider participating in a study. If they said yes (and they rarely said no), I would explain the study’s activities in appropriate detail, endeavoring to make sense while holding their interest. I gave a concise review of risks and benefits. Most of the studies I ran were considered minimal risk – a fact I emphasized soberly. Sometimes they offered a stipend – a fact I emphasized casually. Sobriety and casualness, I thought, increased the credibility of our research priorities. My last remark was a word of reassurance: if the patient agreed to be part of the study but changed their mind, they could withdraw at any time. I then offered to leave a copy of the consent form in the room. “I’ve covered everything,” I would say, “but you should have a look at it yourself.” Quite often, the patient would be ready to sign up right then.



The entire process was productive, preventative, and performative. My job was to produce the right research subjects, which also meant ruling out the wrong ones. Likewise, I had to avoid being misunderstood or mistrusted. All these well-practiced measures became my specialization, producing well-consented subjects. We coordinators were often reminded that our abilities in this area were critical; we held a unique place at the frontline of the whole system. Consent, we were told, was the most important part of ethically conducted research. I grew to think of consent as a diamond at the center of a good candidate, one I was highly trained to procure. Of course, patients could say no, but in that case, they simply ceased to be good candidates. The diamond was simply not in the mine, and the sooner I deduced that the better, so as not to waste time.

As an information worker, I was operating on a binary system, looking ultimately for ones instead of zeros. On some level, I understood that I was translating the world into a problem of coding. I also knew that I was part of the code. Donning my lab coat, I represented a quasi-religious system, a rationalized universe mediated to patients by my very presence in the room. I was there to give them a choice, never to leave them out of the choice architecture. Even before saying yes, they were bound by tacit consent to a medical bureaucracy, to its sale of salvation and its depth grammar of agentless passivity.

I now see that the consent process corresponded to a vast cosmic picture, a universe presented by the phrase regimen of research. It went beyond the simple images of the good life played out in drug ads; those images assumed the strength of a greater promise, one bound up in the very meaning of “information.” The informatic universe has a kind of mystique, even a religious appeal. As I noted above, the physicist John Wheeler believed that the universe was *made* of information. One of his students went so far as to equate it with the doctrine that “Everything is created out of the Word.”<sup>105</sup>

---

<sup>105</sup> From a memorial reflection by Arch Davis, “Remembering John Wheeler,” *Community News* May 6, 2008, [https://www.communitynews.org/uncategorized/remembering-john-wheeler/article\\_2aa146c8-b265-55be-8b96-4f71e5f39beb.html](https://www.communitynews.org/uncategorized/remembering-john-wheeler/article_2aa146c8-b265-55be-8b96-4f71e5f39beb.html).

Information, however, does not evoke a measureless, transcendent Wisdom. To repeat Max Weber, it gives the impression that “there are no mysterious incalculable forces, but that one can, in principle, master all things by calculation.”<sup>106</sup> The pharmatopian dream rests on the informatic promise of control: by informatic knowledge, we can bring about the best, healthiest, happiest version of you.

### Informatic Mystique.

Weber, in naming the modern spirit that dispels mystery, also evoked a spirit that does the opposite. It is true that a sense of calculability has disenchanted the world, but the information age has simultaneously drawn us into a state of unknowing surrender. In the 1990s, sociologist Anthony Giddens picked up on Weber’s argument, writing about the faith we place in “expert systems.”<sup>107</sup> A list of such systems is inexhaustible, but it would include fields like medicine, sanitation, transportation, finance – to say nothing of the big tech firms that arose at the turn of the millennium. Immersed in expert systems, we are paradoxically outside them, agentless, unconscious of their inner workings. They direct us like traffic, and we trust their codes to keep our buildings stable, our planes in the air, and our food on the table. To quote Giddens, “trust in expert systems depends neither upon a full initiation into these processes nor upon a mastery of the knowledge they yield.”<sup>108</sup> The informatic universe therefore traffics in the mystery of expert systems, rendering us believers who tend to maintain our denial of mysterious, incalculable forces.

“Thus life is no longer a vitalistic force or the breath bestowed by a god upon every single creature,” writes Karin Knorr Cetina, whose book *Epistemic Cultures* investigates how labs produce knowledge. “It is suddenly at the disposal of the molecular biologist – provided he or she can decode

---

<sup>106</sup> Max Weber, “Science as a Vocation,” 117.

<sup>107</sup> Anthony Giddens, *The Consequences of Modernity* (Stanford, CA: Stanford, University Press, 1990), 17-18.

<sup>108</sup> Giddens, *The Consequences of Modernity*, 18.

the plan and decipher the molecule processes underlying the respective variations.”<sup>109</sup> In just that way, the informatic universe promises that we are in charge. We are but carbon-based processors, developing all sorts of plug-ins to maximize our use of nature’s information patterns. Our biological hardware, some believe, comes with the possibility of an upgrade beyond the limits of what we now call human nature. One day, in a great secular heaven, we may transcend our present biology, living indefinitely on some other plane of technologized consciousness. “There will be no distinction, post-Singularity, between human and machine or between physical and virtual reality,” says the transhumanist Ray Kurzweil. “If you wonder what will remain unequivocally human in such a world, it’s simply this quality: ours is the species that inherently seeks to extend its physical and mental reach beyond current limitations.”<sup>110</sup> The informatic mysticism of a Kurzweil goes beyond what many are prepared to accept, but it speaks to the fantasies made possible in the choice architectures of the present age.

For now, there are drugs like Viagra, which plot the informatic universe within a more acceptable pharmatopian dream. Transhuman or not, the dream of that other world sits next to the fantasy I discussed in the last chapter, namely the state of plague – the future exception that codes the norms of the present order. Both visions exist in the same neoliberal field of dreams: the one as promise, the other as threat. Oscillating between the two, pastoral power engineers consent by the seduction of material joy and the fear of material loss. Those two passions, in turn, define health for the *bios* of the twenty-first century. Hervé Juvin, who sits on the European Parliament, observes that blockbuster drugs have found their market niche by manufacturing a material hope, sustaining the old fantasy of eternal youth. “There is a gold mine awaiting health and well-being industrialists who can offer people over 65 or 70 the right products for their living conditions and their physical and moral

---

<sup>109</sup> Karin Knorr Cetina, *Epistemic Cultures* (Cambridge, MA: Harvard University Press, 1999), 140.

<sup>110</sup> Also see Ray Kurzweil, *The Singularity is Near: When Humans Transcend Biology* (New York: Penguin, 2006), 9.

state.”<sup>111</sup> But if a gold mine is to be found in the aging bodies of the first world, it requires a data mine found in the exploited bodies of the poor. Clinical labor, the underclass of the agentless passive, will find itself consented by the dominant salvation story – a story based on market research, its data collected from the upper classes of the same agentless passivity.

### Contemplation and Computation.

The cultural automations of our time promise wholeness, but arguably, they cause the opposite effect. The neighborhood doctor is now an expert at making referrals, serving as a gatekeeper for the many subspecialties of industrialized healthcare. No longer a generalist in private practice, she is employed by an expert system that, to quote Wendell Berry, “imitates disease in the way it isolates and parcels us out.” Berry goes on: “If, for example, intense and persistent pain causes you to pay attention only to your stomach, then you must leave home, community, and family and go to a sometimes distant clinic or hospital, where you will be cared for by a specialist who will pay attention only to your stomach.”<sup>112</sup> In short, the working body is a kind of machine, abstractable from its place for disassembly and repair. The gastroenterologist cares about the body’s history not as its neighbor but as its technician.

Berry suggests that an alternative form of life still exists in older practices of general knowledge, which require no specialization. General knowledge comes from what Berry calls “the world of love,” where the perception of wholeness reaches beyond the computational powers that govern “the world of efficiency.”<sup>113</sup> While it does not pursue specialization, general knowledge demands the mastery of many skills, shaping its possessors for the wellbeing of a place and its people.

---

<sup>111</sup> Hervé Juvin, *The Coming of the Body*, trans. John Howe (London: Verso, 2010), 26.

<sup>112</sup> Wendell Berry, “Health is Membership,” *The Art of the Commonplace*, ed. Norman Wirzba (Berkeley, CA: Counterpoint), 161.

<sup>113</sup> Berry, “Health is Membership,” 169.

Modern infrastructure has traded such knowledge for abstraction, producing a new way to see and desire health. The term “health” has come to represent an industry sector, its various service lines operating like those of energy and finance. Healthcare, in this frame, can thus appear highly connective and holistic. Networks and supply chains form new perceptions of what is whole, both at the level of the patient and the population. Likewise, extensive and detailed metrics form new perceptions of wholeness and wellness. But wellness, in the world of efficiency, is an apparition of industrial mythmaking – a thing to be branded and sold. Ads epitomize health in fragmentary images, capturing consumers in a loop of abstractions where they care little and know less about the earthly beginnings of what they buy. For thinkers like Berry, the tragedy is twofold. Not only is real health fractured; deceptive connections are engineered in its place.

A similar complaint is sometimes made about the modern university, where specializations have fragmented the general curriculum of the pre-industrial age. “To philosophy,” recounts MacIntyre, “there were added psychology and political economy, soon to be transformed into economics, to which were later added political science and sociology and anthropology. To mathematics and physics were added chemistry and biology. And within each of these particular disciplines, subdisciplines and later subdisciplines multiplied.”<sup>114</sup> At first, all such divisions were not directly annexed to industrial work. But by the 1970s, with the advance of the information age, many disciplines had taken shape around a growing class of “mental workers” – engineers, managers, statisticians and so on.<sup>115</sup> The STEM fields were then grouped as an educational priority after the tech boom of the 1990s, when the Human Genome Project began, the internet was commercialized, and Steve Jobs returned to Apple. Cyberspace obtained a new global reach, and with it spread the demand

---

<sup>114</sup> Alasdair MacIntyre, “The End of Education: The Fragmentation of the American University,” *Commonweal* (Oct 16, 2006), <https://www.commonwealmagazine.org/end-education>.

<sup>115</sup> Barbara Ehrenreich, “The Professional-Managerial Class,” ed. *Between Labor and Capital* (Boston: South End Press, 1979), 5-48.

to postmodernize labor and culture.<sup>116</sup> Information work, linking people from all over the world, relativized old forms of traditional knowledge, creating a new form of universality. Today's academic fields number in the hundreds, coexisting without the felt need of philosophical reunion. As long as they pursue revenue, it seems, the university is held together.<sup>117</sup> The image of a divine creation – a cosmos to be studied in diverse but unified disciplines – has passed into an age of global capitalism noted for its suspicion of grand narratives.

I rehearse all this to broaden the context of Donna Haraway's observation about the coming of the coded world. One way to write the story of late modernity is to look at sites of fracture. Another is to look at the computational ambitions now consolidating global resources. Computation, as a totalizing ethic, desecrates the forms of wholeness it finds incalculable. Better put, there is nothing it finds incalculable, and that is precisely the problem. It constructs a new world from false archetypes, encroaching on the forms of life it finds useless, removing or converting them in service to efficiency. A highway, on Berry's landscape, is an image of the cult.

It is a pure abstraction, built to serve the two abstractions that are the poles of our national life: commerce and expensive pleasure. It was built, not according to the lay of the land, but according to a blueprint. Such homes and farmlands and woodlands as happened to be in its way are now buried under it... Its form is the form of speed, dissatisfaction and anxiety. It represents the ultimate in engineering sophistication, but the crudest possible valuation of life in this world.<sup>118</sup>

It only makes sense that for Berry, the information superhighway is another form of the same problem. In "How to be a Poet," he writes:

---

<sup>116</sup> Hardt and Negri, *Empire*, 280; Jean-François Lyotard, *The Postmodern Condition: A Report on Knowledge*, trans. Geoff Bennington and Brian Massumi (Minneapolis: University of Minnesota Press, 1984).

<sup>117</sup> As Lyotard (*Postmodern Condition*, 4-5) recognized: "The old principle that the acquisition of knowledge is indissociable from the training (*Bildung*) of minds, or even of individuals, is becoming obsolete and will become ever more so. The relationship of the suppliers and users of knowledge to the knowledge they supply and use is now tending, and will increasingly tend, to assume the form already taken by the relationship of commodity producers and consumers to the commodities they produce and consume—that is, the form of value. Knowledge is and will be produced in order to be sold, it is and will be consumed in order to be valorized in a new production: in both cases, the goal is exchange. Knowledge ceases to be an end in itself, it loses its "use-value."

<sup>118</sup> Wendell Berry, "A Native Hill," *Art of the Commonplace*, 32.

Communicate slowly. Live  
 a three-dimensioned life;  
 stay away from screens.  
 Stay away from anything  
 that obscures the place it is in.<sup>119</sup>

Berry is a farmer who still plows his fields behind a mule. A self-confessed Luddite, his reaction to modern life is severe, but it grants him the rare power to see around the systems and disciplines that most of us unconsciously obey. His writing stems from a peculiar sort of chastity, in turn chastening the appetites and worries that dominate the modern field of vision. The engineers who designed the highway system, like those who designed the health system, intended to connect the world. Yet for Berry, their fields prohibit the contemplation of its existing wholeness. They were trained to recognize the world as a complex problem of coding, ultimately controllable in the unified language of mathematics. Not to say that mathematics itself is the problem, but neither is mathematics neutral. Really, there is no such thing as mathematics “itself,” removed from the world of human intention. As an elaboration of human desire, mathematics has the power to obscure as much as it illuminates. The question, whether asked or not, is always: what good do numbers do? If *that* good – the good that numbers do – can ultimately be quantified like income, then the translation of all things to code is not out of the question. If, on the other hand, there is always a remainder, some intuitive good beyond counting, then mathematics ought to serve it rather than attempting to convert it.

The dialectic, namely, is between contemplation and computation. What is the difference between a poem and an algorithm? If we take each to reveal a distinct hemisphere of human consciousness, the two must cooperatively signify a whole sphere. The modern problem has always been one of priority. Which hemisphere obtains a sharper view of the real world? Which is more

---

<sup>119</sup> Wendell Berry, “How to Be a Poet,” Poetry Foundation,  
<https://www.poetryfoundation.org/poetrymagazine/poems/41087/how-to-be-a-poet>.

powerful in its utility? Which is therefore the legitimating grammar, the real teacher of the other? The way we answer will strengthen our consent to the same horizon.

This chapter was an effort to get clear on the problematic horizon of postmodernized, agentless consent. I wanted to do that by getting free of myself – getting free, that is, of the coded form of myself in a lab coat. To continue that process, I now need to probe the grammar of consent another layer down, crafted by John Locke during the Enlightenment. It may be true that a general or comprehensive education was the norm before the industrial era, but as I said in chapter one, we must beware of nostalgia. Such an education was reserved for an elite among European men, and Locke the polymath does not yet reveal the ground on which our grammar ought to rest. Like others of his time, he devised the very problem of a coded world.



## Chapter 4.

### Properties of the Known World.

Informed consent is a technique of global capitalism, a means of extracting value from human subjects. In the last chapter, I traced its origins to the Nuremberg Code, the opening words of which remain the most important: “The voluntary consent of human subjects is absolutely essential.”<sup>1</sup> For mainstream bioethics, the Code appears to get it right. The ethic of consent holds the promise of moral clarity, even if its exact requirements prove difficult to parse. “When we speak of ‘consent,’ we mean more than that agents agree,” writes moral philosopher Malcolm Murray. “Their agreement must not be coerced, deceived, or manipulated. To avoid improper agreements, we demand that agents are competent and suitably informed, and have voluntarily consented.”<sup>2</sup> Such provisos seem to clarify the matter, but they do not hit upon a moral bedrock, at least not without kicking up more semantic problems. What exactly does *competent* mean? What about *suitably informed*? And who is authorized to say whether a subject meets those criteria? A dust cloud of fine points arises from the very term that was supposed to clear things up. The situation grows even murkier when philosophers like Murray use consent to make moral sense of every domain. “When proper consent among all concerned parties is in place,” he says, “it is not assault but a boxing match; it is not theft but the receipt of a gift; it is not rape but sex; it is not torture by tooth extraction but a visit to the dentist. In all cases of moral wrongdoing, someone did something to someone else without the latter’s consent.”<sup>3</sup> For Murray and others, moral arrangements are housed by an architecture of “proper” consent, which proves to be far more labyrinthine than first advertised.

---

<sup>1</sup> *Nuremberg Trials Vol 2*, 181-182.

<sup>2</sup> Malcolm Murray, *Morals and Consent: Contractarian Solutions to Ethical Woes* (Québec: McGill-Queen’s University Press, 2017), 5.

<sup>3</sup> Murray, *Morals and Consent*, 14.

Beyond all the fine points, what do we mean when we talk about consent? Is there a moral bedrock here? Is there a basic reality of agreement that contractarian thinkers like Murray have rightly intuited? Consent appears to be essential, just as the Nuremberg Code says it is. But what is consent *essentially*? This chapter looks at its moral architecture, continuing the excavation I have begun with the help of Wittgenstein. “When philosophers use a word,” he writes, “and try to grasp the *essence* of the thing, one must always ask oneself: is the word ever actually used this way in the language in which it is at home?”<sup>4</sup> Later he adds, “*Essence* is expressed in grammar.”<sup>5</sup> So how do we, in the city of our language, express the essence of consent? I ask this not in the manner of Murray, who prompts us to see the term as a moral panacea, but in the manner of Wittgenstein, who prompts us to see it as part of a language game. The rules of consent, thus discerned, belong to a grammar that may differ from the hypothetical provisions of a moral agreement. “Let the use of words teach you their meaning,” says Wittgenstein.<sup>6</sup>

If the meaning of consent is determined by its use, we might first recognize how the term identifies what it is said to prevent. Consent frames images of violence; the word primarily identifies what it forbids. Rarely would a happy couple recall a time when they consented to have sex. The word disappears in those cases. Instead, we find it in the context of the tragic, the controversial, the scandalous. We use the word in the shadow of loss or in view of a breach; our quest for its definition is already set up by a sense of its trespass, because it defines what is absent in “cases of moral wrongdoing,” to repeat Murray’s words. Hence the need for something like the Nuremberg Code. Written to indict Nazi physicians, the Code draws upon a grammar I have yet to consider in detail. I have explored the logic of accumulation behind the Agree button, and I have uncovered the logic of labor behind informed consent. I now turn to the liberal tradition of property ownership, unearthing

---

<sup>4</sup> Wittgenstein, *Philosophical Investigations*, §116.

<sup>5</sup> Wittgenstein, *Philosophical Investigations*, §371.

<sup>6</sup> Wittgenstein, *Philosophical Investigations, Philosophy of Psychology – A Fragment xi*, §303.

the language we have received from John Locke's theory of the social contract. There we find that the rules of consent are principally concerned with the prevention of trespass onto private property. Men who have property, says Locke, have a right to possess it; it cannot rightfully be used or taken "without their own consent."<sup>7</sup> That phrase, I believe, is key to the whole architecture, defining consent as what was missing in cases of unwelcome intrusion. Its use derives from a theory of its absence.

At the same time, the social contract sets forth a robust model of its presence. The social order, according to Locke, is determined by a natural law that precipitates agreements at every scale, whether between private parties or between citizens and the state. At the core of this chapter is a close examination of his grammar in the *Two Treatises of Government*, where I ask not what consent *is* but what it *does*. Following the method of the last chapter, I look at both the surface and the depth of the word's operation. Notably, consent almost never comes to Locke's mind as a verb. It is an object – normally an *indirect* object, a means of acting or being. For example: "*by consent* all were equal, till *by the same consent* they set rulers over themselves."<sup>8</sup> Because the grammatical subject does not consent (*per se*, in a phrase like "they consented"), the subject is seen to *use* consent. Consent is the instrument, the tool without which an action or state of being would not occur. It solidifies healthy social arrangements, and in its absence, the laws of nature demand recompense for the violated. Furthermore, it functions for Locke as a universal device, a standardizing concept applicable to all people everywhere. This chapter therefore uncovers a precedent, a model of thought that allows us to see why informed consent has become a global ethic imposing uniformity on subjects in dissimilar cultures. Locke presents a logic of rights that he believes to be transcultural, though to many postmodern critics, it extends the colonial imprimatur of the modern west.

---

<sup>7</sup> John Locke, *Two Treatises of Government* (New Haven: Yale University Press, 2009), II.138, 139, 192.

<sup>8</sup> Locke, *Two Treatises*, II.102. Italics my own

In sympathy with such a critique, this chapter ventures furthest into the domain of political theory, all the while treating Locke as more than a political theorist. For one thing, his treatises present a whole new mythos for the *oikonomia*, casting a vision that removes human nature from the Aristotelian foundation of political society. As Foucault notes, “Locke does not produce a theory of the state; he produces a theory of government.”<sup>9</sup> If, in the *Politics*, Aristotle made the household the smallest unit of political life, and if the Christian pastorate reset the political scene by appealing to a universal household, the Lockean social contract modifies the scene once again with a new backdrop. Liberal governmentality, founded on a vision of human freedom outside the *polis*, resituates economic and family relations in a primordial anarchy. In simple terms, Locke’s vision of the *oikonomia* puts forth a paradigm that I read as the last in a sequence of three. The *oikonomia* began within the state, then grew beyond the state, then appeared to come before the state. The third paradigm, like the second, envisions *oikonomia* transcending state power, yet it returns *oikonomia* to the immanent plane of nature.

For Locke, a pre-political state of nature is an empirical fact of history. He observes it in the early chapters of Genesis and in missionary accounts of the New World. Crucially, his empirical portrait materializes from the texts of pastoral discourse, suggesting a tactical move on his part. Because he is at pains to disprove the divine right of kings, he remains on the field where the debate is in play, namely the field of theology. He therefore supports his case using Richard Hooker’s *Laws of Ecclesiastical Polity*, even as he pivots quite subtly from Hooker to Hobbes on two important points. First, nature evokes no *summum bonum*, no Aristotelian telos; second, fathers bear no innate right of governance over their adult children. These pivots coordinate with each other, marking off a new definition of natural law, which in turn compels the ministries of government to seek a new end: the

---

<sup>9</sup> Michel Foucault, *The Birth of Biopolitics: Lectures at the Collège de France, 1978-1979*, trans. Graham Burchell (New York: Palgrave Macmillan, 2008), 91.

security of private property.<sup>10</sup> I will expand upon all these claims in what follows. My point, for the moment, is that Locke positions himself as a new kind of pastoral theologian, using ministerial means to illustrate and justify his claims about nature.

A second and rather obvious point follows: we today inherit the grammar of his theology. Proof can be found in the bioethical principle of respect for autonomy, which some thinkers wrongly trace to the philosophy of Kant. In Kant, subjects are properly autonomous when they obligate themselves to reason, freely choosing to do their duty in spite of personal preference. Not so for Locke, whose outline of liberty protects individual preference as much as possible. That distinction, while critical, goes unobserved in most discussions about informed consent, as Hoeyer and Hogle observe:

It is important to note that although discourses of autonomy often reference Kant, they are more akin to consumer choice than the original Kantian notion that responsible choices are aimed at furthering the common good. In fact, it seems that the informed consent process has become a way of circumventing the problem of defining common goods in politically and morally diverse societies by reducing autonomy to procedural methods for stating a personal preference.<sup>11</sup>

Locke is not named here, but his legacy is. For Locke, as for Hobbes, “the good” is a matter of personal taste. “For the greatest happiness,” he writes, “consists in having those things which cause the greatest pleasure, and in the absence of those things which cause any disturbance, any pain. Now these, to different men, are different things.”<sup>12</sup> Anticipating Bentham’s hedonic calculus, Locke sees the good as highly individual yet totally commensurable to a tabulation of pleasure and pain. He thus provides an early sketch of what now appears on consent forms, a tally of risks and benefits that

---

<sup>10</sup> Macpherson has therefore suggested an interpretive program starting not with Locke’s theory of government but with his theory of property right. I am inclined to think in the same order. See C.B. Macpherson, *The Political Theory of Possessive Individualism* (Oxford: Oxford University Press, 1962.), 197.

<sup>11</sup> Klaus Hoeyer and Linda Hogle, “Informed Consent: The Politics of Intent and Practice in Medical Research Ethics,” *Annual Review of Anthropology* No. 43 (2013), 350.

<sup>12</sup> John Locke, *Essay Concerning Human Understanding* (London: Rivington, 1824), II.21.55; Thomas Hobbes, *Leviathan* (London: Penguin, 1985), I.6.

comprise the main “information” of informed consent. Bioethical autonomy, so conceived, is not a matter of choosing the common good but of optimizing preference. Its model human is the Lockean economic subject, *homo oeconomicus*, whose nature is that of a property owner, beginning with the fundamental property of one’s own body.

### Biopolitical Theology.

Economics, initially seen as a branch of physics, was among the first disciplines to provide evidence that liberal freedom was a law of nature.<sup>13</sup> Freedom of choice, mapped in patterns of consumption, production, and trade, transformed the state’s understanding of itself. As Foucault points out, the pastoral power of the state reconceived human nature in statistical units, developing a form of knowledge that eventually supplanted the power of the sovereign. Complementing Foucault’s account is Amos Funkenstein’s *Theology and the Scientific Imagination*, which identifies a mode of “secular theology” in thinkers like Descartes, Hobbes, Newton, and Leibniz.<sup>14</sup> Their theology was secular because in the first place, they were not professional theologians. Secondly, their concerns reflected a new orientation to the world, *ad seculum*, renovating Scholastic frameworks of knowledge and power. Neither Foucault nor Funkenstein considers Locke in much detail, but they furnish the context in which his vision of nature first appeared credible.

Akin to his friend Isaac Newton, Locke sees empirical science initiating a new theological discourse. And, as with Newton, Locke’s theology is anti-trinitarian at its core.<sup>15</sup> He does not formally disclose that commitment, nevertheless it reveals itself in what he says – and does not say – about

---

<sup>13</sup> Foucault, *Security, Territory, Population*, ch. 2.

<sup>14</sup> Amos Funkenstein, *Theology and the Scientific Imagination* (Princeton: Princeton University Press, 1986), 3.

<sup>15</sup> See Michael Gillespie, “The Anti-Trinitarian Origins of Liberalism,” unpublished paper; John Marshall, “Locke, Socinianism, ‘Socinianism’, and Unitarianism,” *English Philosophy in the Age of Locke*, ed. in M.A. Stewart (Oxford: Clarendon Press, 2000); Stephen Snobelen, “Socinianism, Heresy and John Locke’s Reasonableness of Christianity”, in *Enlightenment and Dissent* No. 20 (2001): 88-125.

nature in relation to God. Nature is not a realm where God has become flesh, nor does it participate in the divine Being by degrees of ascent.<sup>16</sup> Instead of inclining toward a *summum bonum*, nature evokes a numberless array of private ends pursued by human labor. God, in turn, is the disincarnate lawgiver of a natural order where individual freedom is negative, not positive, entailing the rights of privacy and independence from social control. In the words of Isaiah Berlin, “The wider the area of non-interference the wider my freedom.”<sup>17</sup> State mechanisms do prove advantageous, however, since individuals in a state of nature could interfere boundlessly with the freedom of others. The myth of a social contract therefore allows liberal pastoral power to govern, ensuring that individuals and their property are legible and secure. As we have seen in Foucault, liberal freedom is “nothing else but the correlative deployment of apparatuses of security.”<sup>18</sup> Ministries of state offer peace of mind, not only by securing private property but by engaging in statistical forecasting, leading citizens in public health measures and so on. All such efforts accord with an empirical science of nature, and on that basis, Locke’s political theology offers a rationale of consent to modern government. In short, his political theology is a biopolitical theology, a ministerial vision for the *bios* of liberalism.

Human nature, as a mythos preceding the state, is the very thing studied and regulated by the modern state. While Locke stresses the right of individuals to resist tyranny, his doctrine of nature thoroughly entails the rise of databased governance. It was during Locke’s era that a biopolitics of the population emerged, and Ian Hacking, commenting on its techniques, makes an important historical footnote: the first Enlightenment “state” was the United States of America, which received its full name from a statistician, Richard Price.<sup>19</sup> John Locke, sometimes called America’s philosopher, was

---

<sup>16</sup> In his *Letter Concerning Toleration*, Locke makes a passing comment that God is “equally and infinitely distant from all affinity with matter.” (Indianapolis: Liberty Fund, 2010) Newton held a similar view, though his concept of space made God co-extensive with all bodies.

<sup>17</sup> Isaiah Berlin, “Two Concepts of Liberty,” *Liberty* (Oxford: Oxford University Press, 2002), 170.

<sup>18</sup> Foucault, *Security, Territory, Population*, 71.

<sup>19</sup> Ian Hacking, “Biopower and the Avalanche of Printed Numbers,” *Humanities and Society* Vol. 5, No. 3-4 (1982), 289; also see Michel Foucault, *History of Sexuality Vol. 1* trans. Robert Hurley (New York: Pantheon, 1978), 139-146.

an early instigator of what Hacking calls “the avalanche of printed numbers.”<sup>20</sup> Providing the justification colonists needed for the overthrow of English sovereignty, Locke secured a new position for pastoral power, achieving it precisely through the notion of a counted majority. By consent, a people were self-governing, and they bore the right to withhold consent from despotic rule. Pastoral power therefore took a solicitous interest in the mechanism of consent, the mechanism which, after Locke, was the very means by which the *bios* was thought to cohere. Hence his empirical aim: to demonstrate what causes consent to form.

Trained as a physician, Locke worked for a time with the renowned medical empiricist Thomas Sydenham, from whom he received a vision of nature as self-balancing. That vision, constituting his gaze, was applicable to the treatment of the economy no less than bodies.<sup>21</sup> Copious records were required in both cases, and Locke himself was a copious recordkeeper – one of those Enlightenment observers who kept such things as a weather diary.<sup>22</sup> His method of organizing knowledge anticipated the development of informatics, leaving a profound example for the compilers of the first English encyclopedias.<sup>23</sup> Locke kept books full of quotations he archived alphabetically, arranging ideas by headings and subheadings. Today, the alphabetical order of things appears quite natural, but Locke was a pioneer in its construction, leveling everything from God to gadfly in a searchable codex of information. Departing from older hierarchies of knowledge, his nominalist ideas about language have come to us mainly through the legacy of Samuel Johnson’s massive English *Dictionary*.<sup>24</sup> Johnson

---

<sup>20</sup> See Claire Rydell Arcenas, *America’s Philosopher: John Locke in American Intellectual Life* (Chicago: University of Chicago Press, 2022).

<sup>21</sup> William O. Coleman, “The Significance of John Locke’s Medical Studies for His Economic Thought,” *History of Political Economy* Vol. 32, No. 4 (2000), 719.

<sup>22</sup> Daston and Gallison, *Objectivity*, 235-236. Also see Locke’s medical journals in Kenneth Dewhurst, *John Locke (1632 – 1704), Physician and Philosopher* (London: The Wellcome Historical Medical Library, 1963).

<sup>23</sup> See Alan Walker, “Indexing Commonplace Books: John Locke’s Method,” *The Indexer* Vol. 22, No. 3 (Apr 2001), 114-118.

<sup>24</sup> Elizabeth Hedrick, “Locke’s Theory of Language and Johnson’s *Dictionary*,” *Eighteenth-Century Studies* Vol. 20, No. 4 (Summer 1987), 422-444.



agreed with Locke that words “stand for nothing but the Ideas in the Mind of him that uses them.”<sup>25</sup> To obtain fixity, words had to be standardized in a volume of definitions. It was not that language had no innate order; to the contrary, its order was innately observable, but the required method was empirical and data driven. Human nature was an ordered system, entailing a standardized index of knowledge to facilitate the greatest perception of its order.

The secular world, uncoupled from divine participation, was therefore subjected to the informatic government of language, indeed of life itself. Locke, many believe, was an author of the colonial *Constitutions of Carolina*, which mandated a registry of births, deaths, and marriages.<sup>26</sup> No such biopolitical mandates existed at the time; a full century passed before they were codified by the United Kingdom.<sup>27</sup> Thus, while Locke stood apart from Kant when considering freedom, it seems he anticipated the Kantian sense that populations “are just as subject to natural laws as are the changes in the weather.”<sup>28</sup> To quote Foucault, this is what “eighteenth century political thought understood when it said that we remain in the domain of physics, and that to act in the political domain is still to act in the domain of nature.”<sup>29</sup> Liberal governmentality, composing something like a vast weather diary of the state, organized human nature by observation.

To postmodern critics, the paradox is glaring: nature is always a construct of culture, not the other way around. Yet Locke differed even from later Enlightenment thinkers like Rousseau and Kant, who saw the state of nature as an idealized construct of reason. He instead maintained a literal vision of its reality by looking to the west, especially to “the woods of America,” where people were

---

<sup>25</sup> John Locke, *Essay Concerning Human Understanding*, III.2.2.

<sup>26</sup> *The Fundamental Constitutions of North Carolina: March 1, 1669*, The Avalon Project at Yale Law School, [https://avalon.law.yale.edu/17th\\_century/nc05.asp](https://avalon.law.yale.edu/17th_century/nc05.asp), accessed Mar 28, 2023.

<sup>27</sup> A. N. Williams, “Physician, Philosopher, and Paediatrician: John Locke’s Practice of Child Health Care,” *Archives of Disease in Childhood* Vol. 91, No. 1 (Jan 2006), 85-89.

<sup>28</sup> Kant, *Idea for a Universal History*, 41.

<sup>29</sup> Foucault, *Security, Territory, Population*, 70.

“perfectly in a state of nature.”<sup>30</sup> His protagonist, *man*, was an extension of what Paul Gilroy calls “Europe’s planetary consciousness.”<sup>31</sup> As Charles Mills says in his book *The Racial Contract*, the state of nature roused European thoughts of primitive lands, placing European man at the top of a cultural hierarchy.<sup>32</sup> In the New World, to quote Gilroy, “something like a true state of nature could be observed. Anthropological speculations concerning the transition from natural to social and historical life were thereby entangled with the difficult, brutal work of colonial domination.”<sup>33</sup> Nature, in short, was conceived by government, not the other way around. Although Locke appealed to nature as the founding principle, it was European rule that founded it.

In Locke’s mythology, the indigenous peoples of America live beyond the bounds of a social contract, which grants a frontier-like shape to his picture of the world. Men spread freely until, by mutual consent, they band together and choose rulers for themselves. To prove his point, Locke provides evidence from ancient history. “The beginnings of Rome and Venice were by the uniting together of several men free and independent of one another, amongst whom there was no superiority or subjection.” He adds that these achievements are not limited to the histories of Europe, citing the recent findings of a Jesuit missionary:

And if Josephus Acosta’s word may be taken, he tells us, that in many parts of America there was no government at all. “There are great and apparent conjectures,” says he, “that these men,” speaking of those of Peru, “for a long time had neither kings nor commonwealths, but lived in troops, as they do this day in Florida, the Cheriquanas, those of Brasil, and many other nations, which have no certain kings, but as occasion is offered, in peace or war, they choose their captains as they please.”<sup>34</sup>

The tribes of America, like those who founded Venice and Rome, live by the principle of mutual consent. Choosing their own leaders, they govern themselves. For Locke, this is how a society

---

<sup>30</sup> John Locke, *Two Treatises*, II.14.

<sup>31</sup> Paul Gilroy, *The Tanner Lectures on Human Values 2013-2014* (University of Utah), 32. <https://tannerlectures.utah.edu/lecture-library.php#>.

<sup>32</sup> Charles W. Mills, *The Racial Contract* (Ithaca, NY: Cornell University Press, 1997).

<sup>33</sup> Gilroy, *Tanner Lectures*, 32.

<sup>34</sup> Locke, *Two Treatises*, II.102.

forms, and its earliest stages involve the settlement of a territory. We should note that a colony, for Locke, is not a categorically European institution. A colony is simply what happens when free men band together. The land they settle and divide is Locke's most basic image of society, an image extending from his view of property rights. "Every man," he says in the second treatise, "has a property in his own person. This nobody has any right to but himself."<sup>35</sup> Locke builds his theory of government on that point, showing how the rights of land ownership extend naturally from each man's ownership of his body and labor. Because man is naturally self-governing, he has a right "to preserve his property, that is, his life, liberty and estate."<sup>36</sup> Private property is the all-encompassing category for the Lockean *bios*, a universal fact of every culture in history. Self-government, whether attributed to a people or a person, is always a form of enclosure, a privatizing of the commons.

Consent therefore serves as a universal currency of property rights, although its economic provenance is English. Bruno Latour puts it well in *We Have Never Been Modern*, asking readers to consider "the enormous efforts Westerners have made to 'take the measure' of other peoples, to 'size them up' by rendering commensurable and by creating measuring standards that did not exist before – via military and scientific expeditions."<sup>37</sup> The great task of the modern empire was the same as that of the empirical mind: to make the world known. The translation of the world into a problem of coding is indeed a very old project, and there is good reason to trace its heritage to Locke, whose outlook was shaped by the spirit of Newton's calculus. As much as he wanted to observe nature, he wanted to standardize and codify what he saw. Consent, the core apparatus of his theory, was a tool of commensuration, a universal coinage of human freedom. We can thus appreciate the term as a highly adaptable tool, a means for doing several kinds of work. To classify what kinds, I organize

---

<sup>35</sup> John Locke, *Two Treatises*, II.26.

<sup>36</sup> Locke, *Two Treatises*, II.87.

<sup>37</sup> Bruno Latour, *We Have Never Been Modern*, trans. Catherine Porter (Cambridge, MA: Harvard University Press, 1993), 113.

Locke's grammar into four basic paradigms: the consent of many to many, the consent of one to one, the consent of many to one, and the consent of one to many.

#### The Consent of Many to Many.

In the *Two Treatises*, Locke first uses consent in response to an assertion found in Robert Filmer's *Patriarcha*: "men are not naturally free."<sup>38</sup> Filmer, who argued for the "natural power of kings," based his position on the patriarchal line of Adam recorded in Genesis. "The subjection of children," he wrote, is "the Fountain of all Regal Authority, by the Ordination of God himself."<sup>39</sup> Locke has already responded to another of Filmer's claims – "all government is monarchy" – and has declared that Filmer would make every man a slave. Probing Filmer's claims, Locke sees another implied: there is no state of nature existing beyond sovereign rule. Filmer believes that a continuous patrilineal power, traceable to Adam, makes human nature coterminous with government by monarchy.<sup>40</sup> Consequently, man is always already a political subject, left without recourse to a pre-political notion of what he is. *Non-freedom*, says Locke, is the foundation of Filmer's society – which negativizes Filmer's actual claim that human society is founded on the crown. By removing the claim's positivity, Locke intends to show the jeopardy of Filmer's position. "If this foundation fails," says Locke, "all his fabric falls with it, and governments must be left again to the old way of being made by contrivance and consent of men (ἄνθρωπινη κτισις) making use of their reason to unite together in society."<sup>41</sup> That sentence, housing Locke's first use of consent, sets the agenda for his entire political theology.

Monarchies crumble, he knows. And when they do, the rising political form declares itself to be more natural than Filmer's Adamic monarchy. Men unite together by rational consent, which for

---

<sup>38</sup> Locke, *Two Treatises*, I.6

<sup>39</sup> Robert Filmer, *Patriarcha: Or, The Natural Power of Kings* (United Kingdom: R. Chiswel, W. Hensman, M. Gilliflower, and G. Wells, 1685), 12.

<sup>40</sup> Locke, *Two Treatises*, I.3

<sup>41</sup> Locke, *Two Treatises*, I.6

Locke is parenthetically synonymous with a term from 1 Peter: *anthrópine ktísis*, translated in the King James Bible as “the ordinance of man.”<sup>42</sup> With these words of scripture, Locke resets Filmer’s exegetical project. Instead of beginning with Adam, he opens a new range of contextual links to God, nature, and civilization – links that come to light wherever *ktísis* appears in the New Testament. A ready example is found in St. Paul’s letter to the Colossians:

The Son is the image of the invisible God, the firstborn over all creation (*ktíseos*). For by him all things were created (*ektísthe*): things in heaven and on earth, visible and invisible, whether thrones or powers or rulers or authorities; all things were created (*ektístai*) by him and for him.<sup>43</sup>

Throughout the Pauline letters, *ktísis* signifies the supreme operation of God over all things. It is the primordial foundation of the cosmos, the institution of the natural order. The Gospel of Mark likewise records Christ speaking about “the beginning of creation (*ktíseos*) when God created (*ektísen*) the world.”<sup>44</sup> Matthew repeats the same language, and it appears once again in the Apocalypse of John.<sup>45</sup> In the text that Locke borrows from 1 Peter, the term is uniquely adjoined with the modifier *human*. Here is the passage:

Let everyone be submissive to human institutions (*anthrópine ktísei*) on account of the Lord; whether to the king, as holding power, or leader, as one sent by him to punish evil but approve the good.<sup>46</sup>

If the text does not explicitly say how a monarchy arises, Locke believes the term *anthrópine* suggests a non-divine origin. Critically, the king is not instituted by God over men; he is installed by men over themselves. Kingship is a human institution, as is society on the whole. And this reading is not without precedent: Plato’s *Protagoras* includes a tale of the first humans who banded together, securing their livelihoods by founding cities (*ktízontes poleis*), although such a myth is not the only tale

---

<sup>42</sup> 1 Pet. 2:13

<sup>43</sup> Col. 1:15-16

<sup>44</sup> Mk. 13:19

<sup>45</sup> Mt. 19:4; Rev. 4:11

<sup>46</sup> 1 Pet. 2:13-14

of how early societies were founded.<sup>47</sup> In the *Iliad*, Zeus is said to have founded (*ktíse*) Dardania, and Plato himself quotes the same text in the *Laws*.<sup>48</sup> Still, *ktísis* occupies a predominant place with reference to human settlements. Aristotle speaks in the *Politics* about the original colonizers or settlers of a city (*tōn proton oikesánton e ktisánton*), and Polybius uses the same language in the *Histories*.<sup>49</sup>

Thus for Locke, a single Greek term may signify both divine creation and human settlement. Neither usage performs exactly the same task as Locke's consent, but Locke achieves his meaning by capturing the ancient word's twofold power. On the political level, *ktísis* can signify the banding together of a group; at the cosmic level, it precedes and includes the creation of human life. On both levels, it manifests the natural law. By capturing this dual reality, Locke can imagine a state of nature beyond the patrilineal reign of Adam. Which is to say: God's very monarchy of the cosmos has established a natural order very different from Filmer's depiction. The state of human nature is still characterized by subservience to a single master, God.<sup>50</sup> But divine rule is not handed down patriarchally among men; it diffuses equality among the many, enabling societies to form with mutual consent at their base. This is true in every case "excepting that of the Jews, where God himself immediately interposed."<sup>51</sup> Here, then, is the first grammatical paradigm of Locke's political theology: the consent of many to many.

To complete his reply to Filmer, Locke marshals Richard Hooker to his cause. A full century before Locke, the respected Archbishop had stated that a "universal consent of men" was the best way to identify the good. Societies, furthermore, were supported naturally by the common consent of their citizens.<sup>52</sup> One notes, however, that Hooker was not working from the paradigm just elaborated.

---

<sup>47</sup> Plato, *Protagoras*, 322b.

<sup>48</sup> Homer, *Iliad*, 20.216, quoted by Plato in the *Laws*, 681e.

<sup>49</sup> Aristotle, *Politics*, 3.1275b; and Polybius, *Histories*, 9.1-2, where he groups *ktiseis* with other terms of origin like colonizations (*apoikias*) and bloodlines (*suggeneias*).

<sup>50</sup> Locke, *Two Treatises*, II.6

<sup>51</sup> Locke, *Two Treatises*, II.101

<sup>52</sup> Richard Hooker, *Laws of Ecclesiastical Polity*, I.8.3 and I.15.2.

For Hooker, societies were grounded by the consent of many to *one*, not many to many. This is apparent in Hooker's *Laws of Ecclesiastical Polity*, where his aim is to define the legal architecture of the church in relation to the state. Following an Augustinian line of thought, Hooker believes the church is both a society and a "society supernatural."<sup>53</sup> Ecclesial politics refer not only to natural law but to the canon of church law, which in the case of the English is tied to the crown. Thus, while Hooker's theory is based on consent, he is fundamentally interested in how an already established people lives by consent to a government or a tradition. These concerns are not absent from Locke, but his new doctrine of *letis* promotes quite a different starting point. Consent now brings to mind a political theology in which the colony is a primary image of divine creation.

#### The Consent of One to One.

The consent of many to many is a threshold state. It evolves into another paradigm by the consent of many to one, in which society is governed by a common authority. To make sense of that evolution, we first need to take a step back, examining the primordial paradigm that directs the initial settlement of nature: the consent of one to one. At the international scale, it occurs between "several states and kingdoms" who negotiate peace without a global monarch.<sup>54</sup> The consent of one state to another is necessarily anarchic, transpiring outside any one common authority. At the same time, it reflects the self-sovereignty of individuals in a state of nature, for whom consent occurs without a civil government. As an ordinance of natural law, the consent of one to one arises at every level, and Locke is most concerned with its occurrence among individual men.

It appears most poignantly in Locke's treatment *Of Property*, where he considers "the uncultivated waste of America."<sup>55</sup> He will soon make the memorable claim that "in the beginning all

---

<sup>53</sup> Hooker, *Laws*, I.15.2

<sup>54</sup> Locke, *Two Treatises*, II.45

<sup>55</sup> Locke, *Two Treatises*, II.37

the world was America,” from which we can derive the Lockean portrait of Genesis: a new world created by God, an expansive wildland open to human settlements.<sup>56</sup> Locke reports that the first families increased in size and property over time, “till they incorporated, settled themselves together, and built cities.”<sup>57</sup> As they did so, they found it necessary to draw property lines between settlements. Thus, “by consent, they came in time to set out the bounds of their distinct territories, and agree on limits between them and their neighbours; and by laws within themselves settled the properties of those in the same society.”<sup>58</sup> In established societies, property lines are negotiated by another paradigm – the consent of many to one, under a common legislative power. Yet treaties and land contracts are not fundamentally bound by a civil government. Abraham and Lot form the paradigm case for people in the new world:

But when there was not room enough in the same place for their herds to feed together, they by consent, as Abraham and Lot did, Gen. xiii. 5, separated and enlarged their pasture, where it best liked them. And for the same reason Esau went from his father, and his brother, and planted in mount Seir, Gen. xxxvi. 6.<sup>59</sup>

In the ur-country of America, the work of consent is to divide and settle, to privatize common places. Thus, consent functions not only as a means of convergence, allowing many to become one; it is concurrently a mechanism for the separation of two parties from one. Each party is motivated by the same desire for abundance and peace. Each feels the same aversion to conflict and scarcity. Abraham and Lot, parting ways, show that human society is founded by meetings and departures. The two figures enact the form of consent repeated between one state and another, though Locke is at pains to show its beginnings in the division of family. He thinks that in the early stages of the world, when households were dividing and settling apart from one another, it was normal – though not fundamentally natural – for fathers to rule as kings. It was “easy and almost natural for children, by a

---

<sup>56</sup> Locke, *Two Treatises*, II.49

<sup>57</sup> Locke, *Two Treatises*, II.38

<sup>58</sup> Locke, *Two Treatises*, II.38

<sup>59</sup> Locke, *Two Treatises*, II.38



tacit and almost natural consent, to make way for the father's authority and government."<sup>60</sup> Esau, however, was a type of Lot, leaving his father for the same reason that Lot left Abraham.<sup>61</sup> Already in the first treatise, Locke has argued that Lot was not Abraham's subject. The two men rather lived "as friends and equals, and when their herdsmen could not agree, there was no presence of jurisdiction or superiority between them, but they parted by consent, Gen. xiii."<sup>62</sup> Each man belongs to himself. It is a point Locke repeats throughout the treatises, furnishing anthropological evidence for his claim.<sup>63</sup> In Mexico and Peru, for example, patrilineal monarchy is preferred, but the people may discontinue the line if they do not approve of its heir.<sup>64</sup> Likewise, a father holds no authority except by the consent of his children.

If Locke appreciates Aristotle's colonizing use of *ktisis*, he has here made quite a turn from the philosopher, who believed that fathers rightly ruled their children as their king.<sup>65</sup> In fact, Locke has turned from his key theorist on consent, "the judicious Hooker," who espoused what Aquinas also maintained from Aristotle.<sup>66</sup> Fathers, Hooker said, were naturally endowed with supreme power over their families, "for which cause we see throughout the world even from the foundation thereof, all men have ever been taken as lords and lawful kings in their own houses."<sup>67</sup> Notably, however, Hooker does not go as far as Filmer, who theorizes the divine right of a patriarchal monarchy from Adam. Kingship may only be decided "by consent of men," since no one can claim a patriarchal right over the many families in a society.<sup>68</sup> And so for Locke, Hooker is allowed to reply to Filmer at the level of the state.<sup>69</sup> But at the private level, among families, Locke has silently chosen the path of

---

<sup>60</sup> Locke, *Two Treatises*, II.75

<sup>61</sup> Locke, *Two Treatises*, II.38

<sup>62</sup> Locke, *Two Treatises*, I.135

<sup>63</sup> See Locke, *Two Treatises*, I.126, 148; II.74-75, 102, 112.

<sup>64</sup> Locke, *Two Treatises*, II.105

<sup>65</sup> Aristotle, *Politics*, I.12

<sup>66</sup> Aquinas, *Summa Theologiae*, II-II.57.4

<sup>67</sup> Hooker, *Laws*, I.10.5

<sup>68</sup> Hooker, *Laws*, I.10.5

<sup>69</sup> Locke, *Two Treatises*, II.239

Hobbes, who believed a father did not have “Dominion over his Child because he begat him; but from the Childs Consent.”<sup>70</sup>

### The Consent of Many to One.

A recent bloom of scholarship has emerged on Hooker’s moral theology, featuring an active debate over his reception of Thomas Aquinas. This is for good reason, since Hooker occupied a contested place in Christian history, crafting a middle way between Roman Catholicism and Protestantism.<sup>71</sup> While he praised Calvin and the governance of Geneva, he was often critical of Reformed theologians, echoing the Neoplatonic commitments of Aquinas. The doctrine of a divine *summum bonum* thus pervades his thought. For example:

...there can be no goodness desired which proceedeth not from God himself, as from the supreme cause of all things; and every effect doth after a sort contain, at leastwise resemble, the cause from which it proceedeth: all things are said in some sort to seek the highest, and to covet more or less the participation of God himself.<sup>72</sup>

With a Neoplatonic sense of participation, Hooker is prepared to accept “universal consent” as a “sign and token” of the final good.<sup>73</sup> He receives this idea from Aquinas, who said the following in his treatment of law: “the consent of a whole people (*consensus totius multitudinis*), expressed by a custom, counts far more in favor of a particular observance than does the authority of the sovereign, who has not the power to frame laws except as representing the people.”<sup>74</sup> For Aquinas, *law* signifies a multi-tiered, participatory goodness in God’s rule, referring in differentiated ways to what is eternal, natural, human, and scriptural. Each domain of law, though conceptually distinct, is a unique

---

<sup>70</sup> Hobbes, *Leviathan*, II.20

<sup>71</sup> For instance, A.J. Joyce, *Richard Hooker and Anglican Moral Theology* (Cambridge: Cambridge University Press, 2012), 69ff; W.J. Torrance Kirby, “Reason and Law,” *A Companion to Richard Hooker*, ed. Kirby (Leiden: Brill, 2008), 251-272; Peter Sedgwick, *The Origins of Anglican Moral Theology* (Leiden: Brill, 2012), 212-286.

<sup>72</sup> Hooker, *Laws*, I.v.3

<sup>73</sup> Hooker, *Laws*, I.vii.3

<sup>74</sup> *ST* 1a2ae.97.3, reply to 3.

manifestation of the same good. More precisely: because the universe is written by one law, every form of subsistent law reflects its origin. Humanity thus inclines to its own final goodness by way of reason, discerning the natural law by attending to conditions of justice and wellbeing. Aquinas likes to say that humanity has “a natural aptitude” for goodness, though he hastens to add that our aptitude for virtue, while natural, requires training.<sup>75</sup> Human laws function to fulfill that caveat, forming virtuous citizens under the tutelage of reason. But importantly, the laws made by societies are contextual and mutable, and in that sense, they are unlike the natural law. They exist only as they may be changed, because they are locally conditioned, attentive to the specific customs of a people. The agrarian traditions of a sheepherding village, for example, can result in a set of laws quite different from those in a city like Paris or Naples. That is why, for Aquinas, a people can maintain a “shared sense” (*con-sensus*) of their own good. By their natural aptitude, set in *this* place and time, a people’s customs are rightly ratified by their government.

As I have said, Hooker follows the Thomistic line of thinking, trusting that consensus serves as a “sign and token” of the final good.<sup>76</sup> Contrast this with Locke, whose theory of consent is outlined by radically private ends. His grammar indicates something like the geography of America – its wildlands, its settlements and divisions of property. In short, he refuses a politics in which any human collective may signify a final good of nature. This is a point he develops more explicitly in his *Essay Concerning Human Understanding*, published the same year as the *Two Treatises*.

The philosophers of old did in vain inquire, whether *summum bonum* consisted in riches, or bodily delights, or virtue, or contemplation. And they might have as reasonably disputed, whether the best relish were to be found in apples, plumbs, or nuts; and have divided

---

<sup>75</sup> *ST* 1a2ae.63.1, 94.3, and the present text, 95.1

<sup>76</sup> Hooker, *Laws*, I.vii.3: “Signs and tokens to know good by are of sundry kinds; some more certain and some less. The most certain token of evident goodness is, if the general persuasion of all men do so account it. And therefore a common received error is never utterly overthrown, till such time as we go from signs unto causes, and shew some manifest root or fountain thereof common unto all, whereby it may clearly appear how it hath come to pass that so many have been overseen. In which case surmises and slight probabilities will not serve, because the universal consent of men is the perfectest and strongest in this kind, which comprehendeth only the signs and tokens of goodness.”

themselves into sects upon it. For pleasant tastes depend not on the things themselves, but on their agreeableness to this or that particular palate, wherein there is great variety; for the greatest happiness consists in having those things which cause the greatest pleasure, and in the absence of those things which cause any disturbance, any pain. Now these, to different men, are different things.<sup>77</sup>

For Locke the empirical physician, human nature does not signify a *summum bonum*. Instead, as Hobbes taught, “the good” is a matter of individual taste.<sup>78</sup> We now have a clear picture of why families must be divisible: the private ends of sons may rightly differ from those of their fathers. Locke therefore concludes repeatedly that “government has no other end but the preservation of property.”<sup>79</sup> Here we have found Locke’s radical shift from the Anglican Thomism of Hooker.<sup>80</sup> Human laws do not comport with a natural, perceivable *summum bonum*; their function is rather to permit multiple *summa bona*. This, for Locke, is the natural law.

Accordingly, the consent of many to one is situated by private interest. If Abraham and Lot form the paradigm case of one’s consent to another, what is the paradigm case here? We must oddly take its inverse, tyranny. Locke is most impressed by the perversion of the paradigm, not its perfection. For one thing, there is no perfect type of government. That is, the community’s power may be constituted just as well by monarchy, aristocracy, or democracy – or any hybrid of the three.<sup>81</sup> Locke therefore sets his treatise apart from the republican tradition, which advocates for a mixed government of the three forms, holding that any one of the forms will decay if left to itself (*i.e.* monarchy into tyranny; aristocracy into oligarchy; democracy into anarchy).<sup>82</sup> Rather than emphasizing a mixed

---

<sup>77</sup> Locke, *Essay Concerning Human Understanding*, II, 21, 55

<sup>78</sup> Hobbes, *Leviathan*, I.6: “But whatsoever is the object of any mans Appetite or Desire; that is it, which he for his part calleth *Good*: And the object of his Hate, and Aversion, *Evill*; And of his Contempt, *Vile*, and *Inconsiderable*. For these words of Good, Evill, and Contemptible, are ever used with relation to the person that useth them: There being nothing simply and absolutely so; nor any common Rule of Good and Evill, to be taken from the nature of the objects themselves...”

<sup>79</sup> Locke, *Two Treatises*, II.94, 124, 138, 139.

<sup>80</sup> Its clearest occurrence in Aquinas is in his preliminary discussion of law, *ST I-II.90.2*, response: “Now the first principle in practical matters, which are the object of practical reason, is the last end: and the last end of human life is bliss or happiness.”

<sup>81</sup> Locke, *Two Treatises*, II.132-133

<sup>82</sup> As classically illustrated by Polybius, *The Histories* book 6.

government of the three, Locke devotes his attention to their natural end: private property. In so doing, he also emphasizes the rightful possibility of revolt. Since the one in power – often a patrimonial monarch – is instituted by the tacit consent of a people, their consent is sometimes made explicit by the opposite act. In the case of a tyrant’s encroachment, dissent may be the only means by which a people can appeal to the natural, collective constitution of his authority.<sup>83</sup>

Locke has therefore extended a motif of the medieval jurists, despite his rejection of their *summum bonum*. Pierre Rosanvallon puts it well: “In the absence of opposition, the consent of the people was simply assumed. Hence tyranny and tyrannicide were central concerns of medieval political thought.”<sup>84</sup> For Locke, consent may function strictly as a term of resistance, a thing to be withdrawn. And if it is withdrawn by the many from the one, the many have proven that their consent originates with each other. It does not begin with, nor does it necessitate, a sovereign. It begins with and proceeds from self-sovereignty.

The Consent of One to Many.

What follows? The one in power *must* consent to the many.<sup>85</sup> To remain in his seat, the executive must consent to the legislative body and thus to the people, because to choose the opposite is to choose tyranny. The tyrant, says Locke, is one who disregards the true end of government, making his subjects “give way to his own will and appetite.”<sup>86</sup> Threatening the security of their private interests, the tyrant places citizens back in the anarchic state of nature, indeed a state of war, prompting the overturn of his government. Here we find the phrase “without consent” used to its full effect, formalizing a doctrine of just war.

---

<sup>83</sup> Locke, *Two Treatises*, II.168, 198, 216, 227

<sup>84</sup> Pierre Rosanvallon, *Counter-Democracy: Politics in an Age of Distrust* (Cambridge: Cambridge University Press, 2008), 125.

<sup>85</sup> Locke, *Two Treatises*, II.151-152

<sup>86</sup> Locke, *Two Treatises*, II.200

And hence it is, that he who attempts to get another man into his absolute power, does thereby *put himself into a state of war* with him; it being to be understood as a declaration of a design upon his life: for I have reason to conclude, that he who would get me into his power without my consent, would use me as he pleased when he had got me there, and destroy me too when he had a fancy to it; for no body can desire to *have me in his absolute power*, unless it be to compel me by force to that which is against the right of my freedom, *i.e.* make me a slave.<sup>87</sup>

No one can be used without their consent. That tenet of natural law, grounding the cause of just war, outlines the true boundary of the social contract. Everyone has the right to self-preservation, says Locke; they are entitled by nature to destroy anyone who makes war upon them.<sup>88</sup> The social contract, for all its positive definition, defines itself here by what it is not: enslavement. A great tension thereby holds the contract in place. The threat of enslavement, if felt by a people, results in a threat to the sovereign who does not curb his will to power. To remain safely on the throne, the king must not consider his power absolute. The sovereign is grammatically the same as the private citizen who must likewise consent to majority rule: the consent of the many demands the consent of the one.<sup>89</sup> Of note, this is the only paradigm in which consent is legally obligatory, binding the sovereign and the subject to the majoritarian exercise of self-government. The one must consent to the many, or else he removes himself from the security of the social contract.

About this paradigm, Hooker has little if anything to say in the *Laws*. Consent, for him, is chiefly an act of the many to one, a “sign and token” of the universal good. The louder influence again is Hobbes, because although he puts stress on the consent of many to one, he demands it at the individual level: each private citizen must consent to the sovereign.<sup>90</sup> He differs from Locke, of course, by saying that the sovereign is the exception to the rule. The Hobbesian sovereign is unequal to the private citizen living under the rule of law. After the people have consented to his authority, he is

---

<sup>87</sup> Locke, *Two Treatises*, II.17

<sup>88</sup> Locke, *Two Treatises*, II.168

<sup>89</sup> Locke, *Two Treatises*, II.95, 97

<sup>90</sup> Hobbes, *Leviathan*, II.18: “...because the major part hath by consenting voices declared a Sovereaigne; he that dissented must now consent with the rest; that is, be contented to avow all the actions he shall do, or else justly be destroyed by the rest.”

permanently elevated, leaving the people with no right to dissent from his power. Hobbes makes it clear that the sovereign does not simply transcend the law; he *is* the law, the legal embodiment of the commonwealth.<sup>91</sup> Consensual power has come to its completion in him: the power of the many has become “his own.”<sup>92</sup> The Hobbesian paradigm thus goes beyond the consent of one to the many, in which the private citizen must consent to the majority. In the final analysis, the one must consent to the *one*: every citizen must consent to the Leviathan of the state, autocratically ruled by the sovereign. This “Mortall God” poses the very threat Locke finds intolerable, because in securing the social order, the Hobbesian sovereign need not consent to the private interests of the many.<sup>93</sup> Locke, therefore, having followed Hobbes away from Hooker, develops a more radical idea.

For Locke, the many can always reconstitute their government to secure their private ends. Because their consent demands mutual consent from the one whom they empower, Locke’s vision is undeniably shaped by the perpetual threat of war. It is true that for Locke, the state of nature is not fundamentally a state of war, as it was for Hobbes. That is to say, his image of nature does not *require* natural enemies. Hobbes had argued that nature was a war of each against all, driving men to rivalry and competition.<sup>94</sup> Men, he said, have no pleasure “in keeping company, where there is no power able to over-awe them all.”<sup>95</sup> Hobbes thus promoted an image of order from the top down, by way of a sovereign exception to mere citizenship, whereas Locke promotes order not only from the bottom up but from the outside in, by an appeal to primordial anarchy. That, for Locke, is how a people can always maintain their political recourse: a pre-political state of nature holds the ruler in check. For Hobbes, the opposite was true: the ruler held the people in check, because the pre-political state was nasty and brutish, a war of all against all. With no peace beyond the state, the right to withhold consent

---

<sup>91</sup> Hobbes, *Leviathan*, II.29

<sup>92</sup> Hobbes, *Leviathan*, II.18

<sup>93</sup> Hobbes, *Leviathan*, II.20

<sup>94</sup> Hobbes, *Leviathan*, I.14

<sup>95</sup> Hobbes, *Leviathan*, I.13

is unacceptable, indeed suppressible, because it degrades the only hope of social order. For Locke, the right to withhold consent is foundational, because it constitutes the natural order of sovereign power. Locke thereby inverts the Hobbesian schema: the one cannot demand consent from the many; the many rightly demand consent from the one.

I take this to be the key paradigm of the Lockean social contract. Given its paradigmatic difference from Hobbes, I am struck to find that Locke does not explore this element of his own grammar in detail. By my count, the consent of one to many operates in only three passages, all of which are brief.<sup>96</sup> While it distinguishes Locke from both Hooker and Hobbes, setting the stage for the revolutions of the eighteenth century, it is one of his least developed ideas. Its thinness prompts me to voice a word of critique, looking at the developments of the twentieth century.

The Lockean sovereign, being a private citizen, must consent to majority rule. It follows that the sovereign should propagate his appeal to the majority, indeed working to shrink minority opposition.<sup>97</sup> Locke does not seem to recognize how sovereign power, in terms of its influence, operates at a level beyond that of the citizen. The sovereign bears little resemblance to the subject who, despite his minority views, must consent to the many. Unlike a typical subject, the sovereign can use his platform to win the majority, eliciting their consent by an appeal to their private interests, thus bearing none of the obvious marks of a tyrant. The sovereign need not impose violent measures to achieve his interest; all he must do is gain mass appeal. I take this rather subtle dynamic to be the blind spot of Locke's theory, exposed at last by the spectacle of fascism.

Consent, as a *realpolitik*, always exceeds its liberal script. As I mentioned in the first chapter, Giorgio Agamben sees an essential link between liberalism and fascism, between government by consent and the acclamation of Hitler and Mussolini. We need not fully agree with him to see a

---

<sup>96</sup> Locke, *Two Treatises*, II.95-98, 151-152, 218-222.

<sup>97</sup> See chapter nine of Arendt's *Origins of Totalitarianism*, especially the first section: "The 'Nation of Minorities' and the Stateless People," 269-290.



weakness in Locke's notion of tyranny. Locke does not anticipate someone like a führer, whose nationalistic propaganda won the consent of a people, channeling their private interests through a seductive vision of national welfare. That is because, in valorizing the individual, Locke valorizes a peculiar sort: the one whose rational faculty precedes the state. Appealing to human nature, Locke requires an image of the western frontier, an exterior to the *polis* to be traversed and settled by individual men. However, as Agamben observes, nature itself is a political postulate. Pre-political life is politically framed. Whether one frames it as warring or peaceful, the myth of nature is a cultural product, internal to the order of state power.

By envisioning a form of self-sovereignty beyond the social order, Locke supposes that the rules of his grammar will prevent the sovereign from trespassing the law. He further supposes that tyranny will occur in a widely apparent form, at odds with the rational consent of the many. But the twentieth century has forever altered the landscape of his fantasy. Fascism was seductive before it was oppressive, promising health and wellbeing to the masses included in its appeal. "It soon became apparent," writes Hannah Arendt, "that highly cultured people were particularly attracted to mass movements and that, generally, highly differentiated individualism and sophistication did not prevent, indeed sometimes encouraged, the self-abandonment into the mass for which mass movements provided."<sup>98</sup> Here we hit upon a theme explored in the second chapter: power, in effect, is the management of social contagion. For anyone seeking to understand human nature – and thereby control it – the modern logic of pastoral power has furnished an extraordinary set of tools. The rudiments of that logic, which had already come to light in the mind of Locke, reached their outcome in modern crowd psychology. His notion of tyranny may simply reflect the oversights of his era, but the undercurrents of his thought are worth exploring.

---

<sup>98</sup> Arendt, *The Origins of Totalitarianism*, 316.

Lockean Biopower.

The opening phrase of Carl Schmitt's *Political Theology* established the rationale of *Führertum*, the legal frame by which Hitler ascended to dictate the law: "Sovereign is he who decides on the exception."<sup>99</sup> Schmitt, himself a Hobbesian, placed his theory in opposition to liberalism. But as Agamben has shown, liberal pastoral power does not eliminate the sovereign exception. "In modern biopolitics," he says, "sovereign is he who decides on the value or nonvalue of life as such."<sup>100</sup> His statement holds true for both the liberal and fascistic poles of the biopolitical: the scientific production of the *bios* always entails the inner exclusion of *zoe*. Recall, for example, the Tuskegee Syphilis Study, organized by the U.S. government throughout the course of World War II. A sovereign decision withheld penicillin from Alabama sharecroppers, letting them die for the ostensive good of the population.

Another example strengthens the point. The Tuskegee Study left some 400 men untreated for about 40 years, but a counterpart study in Guatemala secretly tripled their number in a fraction of the time. Syphilis had proven itself to be a highly resistant microbe, intensifying the demand for a widespread cure. While animal research had shown the efficacy of an early penicillin shot, there remained an ethical barrier between researchers and human subjects. "To settle the human issue quickly it would be necessary to shoot living syphilis germs into human bodies," concluded a write-up in the *New York Times*. "Since this is ethically impossible, it may take years to gather the information needed."<sup>101</sup> But in 1946, the very year Nazi physicians were facing trial, Dr. John Cutler was commissioned to do the "ethically impossible." Under the Roosevelt administration, Cutler obtained unprecedented maneuverability – both political and financial – because syphilis posed an

---

<sup>99</sup> Carl Schmitt, *Political Theology: Four Chapters on the Concept of Sovereignty* (Cambridge, MA: MIT Press, 1985), 5.

<sup>100</sup> Agamben, *Homo Sacer*, 83.

<sup>101</sup> Quoted in The Presidential Commission for the Study of Bioethical Issues, *"Ethically Impossible": STD Research in Guatemala from 1946 to 1948* (Washington, DC: 2011), 10.

extreme risk to the nation's health as troops returned from war. In a well-backed state of exception, Cutler and his team traveled to Guatemala, where the government allowed them to inject syphilis into some 1,300 sex workers, soldiers, prisoners, and psychiatric patients – all in the span of only two years. The logic of biopower cast the research population as bare life, excluding them from the *bios* to include them as data. Facing an emergency, the liberal order of individual rights gave way to the rationale of Schmitt. As Agamben puts it: “Life – which, with the declaration of rights, had as such been invested with the principle of sovereignty – now itself becomes the place of sovereign decision.”<sup>102</sup> Biopower decides whom to make live and whom to let die. Arguably, its logic has always lived in the heart of liberal governmentality, and one need not look to the twentieth century for proof.

Along the lines observed by Agamben, Locke's vision of the social contract included an economy of slaves, a register of human life without a political life. His defense of enslavement has proven difficult for modern interpreters, in part because his remarks on it are few, taking up the space of a page in the second treatise. Do they color the whole of his theory, or do they signify an exception to an otherwise consistent vision of liberty? My own sense is that they do reveal an exception, but not an inconsistency. A perpetual state of exception is one of the deepest and most consistent rules of his grammar.

Recall that war, for Locke, is an exception to the norm, while for Hobbes, it is the normal order of nature, requiring the sovereign to bring about a state of exception. For Locke, war is justified when the sovereign does not consent to the many; for Hobbes, war is averted when the sovereign imposes order. For both, the threat of war holds society together, whether it licenses power from the top down or the bottom up. The Lockean rationale for slavery occurs in the context of that threat, and it properly follows the logic of his grammar. “Because John Locke celebrated the importance of natural liberty,” writes historian David Brion Davis, “he had to place slavery outside the social

---

<sup>102</sup> Agamben, *Homo Sacer*, 83.

compact, which was designed to protect man's inalienable rights. Locke thus imagined slavery as '*the State of War continued, between a lawful Conqueror, and a Captive.*'<sup>103</sup> Locke submits that individuals, being entitled to destroy those who make war upon them, are likewise entitled to make slaves of their attackers. His doctrine of just war, the very doctrine that opposes the tyrant's will to enslave his people, licenses the work of enslavement. It is a paradox threaded deep into the logic of the social contract, because only a tyrannical actor may rightly be made a slave.

For Locke, a tyrant is one who seeks absolute power, thereby forfeiting his office as one who consents to the many. The tyrant no longer bears the rights of citizenship; his will to power places him outside the contract, the same as anyone who would enslave others to "his own will and appetite."<sup>104</sup> Locke's condemnation of the tyrant thereby justifies the status of the slave. The two ideas require each other, shoring up the bounds of the social contract by a state of nature turned to war. Though war occurs beyond the bounds of the contract, it marks the life of the slave in society, whose status depends wholly on the exception to the normal order. If war is kept at bay by the consent of the sovereign to the many, it can also run directly through society, building the social order on a state of exception, that is, on the backs of those enslaved by *the State of War Continued*. For Locke, then, the state of exception is not decided by the sovereign; it is decided by the slave, the tyrannical actor who first violated the normal order of consent.

Locke's argument for slavery can seem like a stretch when mapped onto the ivory coast, where slavers would not have fit the profile he created for the agents of a justified war. Some commentators argue that despite its absurdity in that context, his treatment of slavery was intended for such a purpose. After all, they point out, Locke followed the financial plan of many around him, investing in the African slave trade. A second point follows: his investment with the Royal African Company was,

---

<sup>103</sup> David Brion Davis, *The Problem of Slavery in the Age of Revolution* (Oxford: Oxford University Press, 1999), 45.

<sup>104</sup> Locke, *Two Treatises*, II.200

at best, inconsistent with his actual theory of enslavement. His logic is consistent, however, when seen against a more likely backdrop: the forests of Carolina, where colonists had developed a unique system for enslaving indigenous people. As legal scholar Brad Hinshelwood explains:

Close examination of the policies of the Lords Proprietors of Carolina reveals a remarkable similarity between their attitude toward the Indian slave trade and Locke's, hardly surprising given Locke's position as secretary to the Proprietors. Unlike Locke's investments in African slavery, which did not call for high-level theorizing about the legitimation of slavery, in Carolina just-war arguments over slavery were part of a regular dialogue between the colonists and the Lords Proprietors due to the massive trade in Indian slaves and their method of capture – war, either between the colonists and local tribes or intertribal conflict.<sup>105</sup>

While serving as an administrator for an early global firm, Locke developed the liberal grammar of enslavement, a grammar as theological as it was empirical. His informatic methods were no doubt valued by the Proprietors, as were his pastoral justifications of their profit model. Colonialism set the frame for his theology of property rights (as stated above: the colony is an image of divine creation, instituted by self-government), and it made some people legible as the property of others. While the liberal individual is seen to possess his own person, the inner thread of the social contract pulls against that claim, demanding his consent on pain of an inner exclusion from society.

It should come as no shock that in liberal society, prisoners have historically served as a research population for drug innovators. Some five years after the Nuremberg Trials, dermatologist Albert Kligman arrived at Philadelphia's Holmesburg Prison to find what he described as "acres of skin. It was like a farmer seeing a fertile field for the first time."<sup>106</sup> That field, primarily dark in hue, would become a site for numerous toxicology tests, leading to the development of drugs like Retin-A, a patented wrinkle reducer and acne medication. "We are swimming in cash," Kligman later told reporters.<sup>107</sup> Enslavement, so legitimated (often by other terms), remains a sign of the "social physics"

---

<sup>105</sup> Brad Hinshelwood, "The Carolinian Context of John Locke's Theory of Slavery," *Political Theory* Vol. 41, No. 4 (2013), 564-565.

<sup>106</sup> Allen M. Hornblum, *Acres of Skin: Human Experiments at Holmesburg Prison* (New York: Routledge, 1998), xx.

<sup>107</sup> Leslie N. Vreeland and Mary Granfeld, "The Selling of Retin-A," *CNN Money*, April 1, 1989, [https://money.cnn.com/magazines/moneymag/moneymag\\_archive/1989/04/01/85047/index.htm](https://money.cnn.com/magazines/moneymag/moneymag_archive/1989/04/01/85047/index.htm).

guiding modern consent theory.<sup>108</sup> In effect, the notion of voluntary consent does not suggest a possible alternative, a state of nature beyond the social order. It suggests a vision of nature fully captured by a government of life. The human, whether enslaved or not, is a unit of social production, captive to the privatizing of nature. That grammar, indexing the known world to its metrics, remains the signature of liberalism. Indeed, it is the signature of modern science writ large.

### The Physics of Liberty.

Locke represents a view sometimes called social atomism.<sup>109</sup> By consent, social atoms bond or separate, being the smallest units of political and economic life. The social atom thus displaces the *oikos*, the household, which for Aristotle was the most basic unit of the *polis*. Dividing the house into parts, atomism defines what cannot be divided (the *individual*), and it derives its name from the physical theory Locke shared with Newton. It was thanks to Newton that the English image of nature consisted ultimately of atoms in a void.<sup>110</sup> While that image is now as commonplace as the alphabetical order of things, such was not always the case. Voltaire, who witnessed Newton's funeral, remarked, "A Frenchman who arrives in London will find philosophy, like everything else, very much changed there. He left the world a plenum, and he now finds it a vacuum."<sup>111</sup> Voltaire's native France remained under the spell of Descartes, for whom the heavens were not a vacuum but a fullness of invisible ether.<sup>112</sup> Physical motion was still mechanized by fluid dynamics in a great sequence of direct contacts, one

---

<sup>108</sup> Recall the statement of MIT professor Alex Pentland in *Social Physics* (p. 11): "If we had a 'god's eye,' an all-seeing view, then we could potentially arrive at a true understanding of how society works and take steps to fix our problems."

<sup>109</sup> Charles Taylor, "Atomism," *Philosophy and the Human Sciences: Philosophical Papers, Vol. 2* (Cambridge: Cambridge University Press, 1985).

<sup>110</sup> Isaac Newton, "Queries to the *Opticks*," *Philosophical Writings*, ed. Andrew Janiak (Cambridge: Cambridge University Press, 2004), 129-130.

<sup>111</sup> Voltaire, "Letter XIV: On Descartes and Sir Isaac Newton" in *French and English Philosophers: Descartes, Rousseau, Voltaire, Hobbes* (New York: P.F. Collier, 1910).

<sup>112</sup> Descartes, *Principia Philosophiae* §2.10 in *Philosophical Writings*, trans. John Cottingham, Robert Stoothoff and Dugald Murdoch (Cambridge: Cambridge University Press, 1985).

body pushing the next in a perpetual transfer of action. “In France,” Voltaire emphasized, “it is the *pressure* of the moon that causes the tides.”<sup>113</sup> Meanwhile, on Newton’s side of the channel, the tides were seen to *ebb*, pulled away from the shore by the moon’s gravity, the force exerted by and upon bodies in empty space. Voltaire, exiled for satirizing French politics and religion, understood something of what Carl Schmitt later wrote in *Political Theology*: “The metaphysical image that a definite epoch forges of the world has the same structure as what the world immediately understands to be appropriate as a form of its political organization.”<sup>114</sup> Newtonian physics created the backdrop of liberalism, and for that reason, it deserves greater attention here.

Boris Hessen, the Soviet historian, said the following about Newton’s laws of motion: “The basic idea of the *Principia* consists in the conception of the motion of the planets as a result of the compounding of two forces: one directed toward the sun, and the other that of the original impulse. Newton left his original impulse to God but ‘forbade Him further interference in His solar system.’” Having pulled that quotation from Engels, Hessen continues: “This unique ‘division of labor’ in the government of the universe between God and causation was characteristic of the way in which the English philosophers interwove religious dogma with the materialistic principles of mechanical causation.”<sup>115</sup> In a manner of speaking, nature became the private property of human rationalization. Hessen paints the backdrop for what I have already said in chapters two and three. In summary, the calculus of Newton made practical sense of the cosmos; it gave engineers a way to model systems in motion, thus giving rise to a new division of industrialized labor. Simultaneously, it led to the

---

<sup>113</sup> Voltaire, “Letter XIV.”

<sup>114</sup> Carl Schmitt, *Political Theology*, trans. George Schwab (Cambridge, MA: MIT Press, 1985), 46.

<sup>115</sup> Boris Hessen, “The Social and Economic Roots of Newton’s *Principia*,” *The Social and Economic Roots of the Scientific Revolution*, ed. Gideon Frauenthal and Peter McLaughlin (New York: Springer), 67. Hessen’s Engels is a bit adrift here, as Newton was not a deist, allowing instead for the occasional divine tuning of the system. Still, Hessen aptly observes the metaphysical image that coincides with a Newtonian political theology. Also see Agamben, who makes the same argument from another direction throughout *The Kingdom and the Glory*, trans. Lorenzo Chiesa and Matteo Mandarini (Stanford, CA: Stanford University Press, 2011), 122.

bureaucratic, agentless passivity of the informational economy, which converts labor to impersonal data. This, I take it, is the political and economic outcome of Newton's metaphysical image. Atomism does not elevate the individual; it makes him a cog in the machine.

Aspects of the Newtonian image were born long before the English Enlightenment. Atomism dates back to the pre-Socratic philosopher Democritus, whose ideas were later recovered by the Epicureans. Newton's genius, however, lay in his ability to integrate the old model with new mechanical achievements like Boyle's vacuum pump and the modern clock. After the integration, the motion of everything – including human decisions – appeared mechanically determined. Human life, as Newton saw it, was relegated to an order of automations controlled by physical principles. No longer did the experience of a choice reveal the metaphysical interior once described by Augustine, who believed the soul was in possession of free will.<sup>116</sup> Every decision was instead captive to a system of complex but unavoidable causes, all of which could be analyzed under the broad domain of physics. Of course, Newton's view was not acceptable to everyone, but it shaped the work of science over the next two centuries. Einstein himself assented to a deterministic view of the will, praising Newton for its proof.<sup>117</sup>

It bears mentioning, however, that human freedom was not chief among Newton's concerns. When he wrote the *Principia*, he set out to establish a new physical basis for the sciences, one powerful enough to unseat the curriculum of schools yet steeped in Aristotle. Needless to say, his project was unparalleled in its success. As the noted historian of science Thomas Kuhn observes, "No other work known to the history of science has simultaneously permitted so large an increase in both the scope

---

<sup>116</sup> Augustine, *On the Free Choice of the Will*, trans. Thomas Williams (Indianapolis: Hackett, 1993). See especially the beginning of Book 3 (70-77). This view is later eclipsed in Augustine's debate with Pelagius, but it is adopted and strengthened by Aquinas, who reads Augustine alongside John of Damascus. I discuss this in the next chapter. See Aquinas, *Summa Theologiae*, I-II.15.

<sup>117</sup> See Albert Einstein, "Isaac Newton," *Annual Report of the Board of Regents of The Smithsonian Institution* (Washington, DC: United States Government Printing Office, 1928), 201.



and precision of research.”<sup>118</sup> But despite its comprehensive power, the Newtonian paradigm exemplified what historians know as *Kuhn Loss*: the incapacity of a paradigm to explain what its forerunner could. Gone was the Aristotelian perception of *anima* – a body’s inherent motion toward the fulfillment of its nature. Gone, therefore, was the essential correspondence of physics and ethics.<sup>119</sup> Human action, grounded in the new physics, had no consummate good and no corresponding motion of the soul.

Half a century before, Descartes had maintained that the rational soul was inclined to God’s perfection. But he divided the soul’s direction from the mechanical laws of matter, initiating the divorce that Newton soon finalized between physics and ethics. After Newton, consciousness was closed within a physical system of causes. Locke, whose greatest works were published within years of the *Principia*, was rather coy on the topic of the soul, and that made his views easy to align with the Newtonian image. In Locke, Voltaire found a worthy counterpoint to Descartes, saying, “Locke has expounded human understanding to mankind as an excellent anatomist explains the mechanism of the human body. At all points he calls in the light of physics.”<sup>120</sup> God was indeed the first cause of motion, just as a clockmaker was the first cause of a clock’s movement. But the sense of motion that Augustine called love was utterly absent from the new physics. Absent, too, was the Augustinian sense that a soul could freely accept or refuse God’s love. Physics dictated that every choice was like the movement of a gear, a calculable occurrence caused by the forces of physical law.

Newton himself said little about the clockwork of human psychology and biology, leaving the task for others. But the tracing he made of nature deprived it of beatitude, and later theorists, adopting his view, failed to incorporate anything like the moral vision left behind in the Scholastics.<sup>121</sup> A full

---

<sup>118</sup> Thomas Kuhn, *The Structure of Scientific Revolutions* (Chicago: University of Chicago Press, 2012), 30.

<sup>119</sup> See Simon Oliver, *Philosophy, God and Motion* (London: Routledge, 2005).

<sup>120</sup> Voltaire, *Letters on England*, trans. Leonard Tancock (London: Penguin, 2003), 63-64.

<sup>121</sup> Steve Fuller, *Thomas Kuhn: A Philosophical History for Our Times* (Chicago: University of Chicago Press, 2000), 67.

century passed before Bentham – the so-called Newton of legislation – contrived a moral calculus based on the physical determinants of pain and pleasure.<sup>122</sup> Instead of seeing virtue ascending toward a *summum* – a summit of immeasurable happiness – Bentham sought a *maximum* – a quantity of predictable happiness.<sup>123</sup> Legislators, in turn, were to calculate the greatest happiness for the greatest number. The image of a unified code, which Newton had projected onto the highest dome of the universe, now became the biopolitical architecture for questions about the good life.

By that time, too, the image of a coded mechanism was superimposed onto questions about evil. If humans have no free will (and if God is omnipotent), one is left with two possible conclusions. Either God has willed evil into the system, as Leibniz argued in his *Theodicy*, or else evil is not an accurate name for any act (and God is not likely to exist at all).<sup>124</sup> Consider the attitude of Julien Offrey de La Mettrie, a French physician whose ideas were influenced by Locke.<sup>125</sup> Good and evil, he believed, were socially constructed ideas, useful insofar as they served the public interest but not attributable to any fixed reality. Behaviors deemed evil were biologically determined, meaning that criminality was an essentially medical problem, and the state was to treat its subjects accordingly. “One could say about princes what I have said elsewhere about physicians,” wrote La Mettrie: “that the best ones are those who have the great absolute knowledge of the mechanism to which our will is subjected.”<sup>126</sup> Here we arrive at something like a medical philosophy of government, which coincides with a mechanical philosophy of nature. In both, evil is not freely chosen by the human subject. It is a motorized

---

<sup>122</sup> Jeremy Bentham, *An Introduction to the Principles of Morals and Legislation* (Oxford: Clarendon Press, 1876), 1. For the appellation to Newton, see Jeremy Bentham, *Collected Works: Legislator of the World: Writings on Codification, Law, and Legislation*, ed. Philip Schofield and Jonathan Harris (Oxford: Clarendon Press, 1998), 322-323.

<sup>123</sup> Bentham believed the *summum bonum* to be “consummate nonsense.” See Bentham, *Deontology, together with A Table of the Springs of Action and Article on Utilitarianism* (Oxford: Oxford University Press, 1983), 134.

<sup>124</sup> Gottfried Wilhelm Leibniz, *Theodicy: Essays on the Goodness of God, the Freedom of Man, and the Origin of Evil*, trans. E.M. Huggard (New Haven: Yale, 1952).

<sup>125</sup> Locke had a great influence on post-Cartesian materialists like La Mettrie. See John W. Yolton, *Locke and French Materialism* (Oxford: Clarendon Press, 1991)

<sup>126</sup> Julien Offrey de La Mettrie, *Anti-Seneca in Machine-Man and Other Writings*, trans. Ann Thomson (Cambridge: Cambridge University Press, 1996), 143.

outcome, an effect of many causes that ought to be apparent to ministerial surveillance. It therefore elicits a broad field of knowledge Foucault aptly calls a “physics of power,” and it corresponds with the ideal of a secular pastorate newly aware of “the nature of things and no longer of man’s evil nature.”<sup>127</sup>

Reading Locke’s *Treatises* alongside his *Essay Concerning Human Understanding*, one has an early sense of all this. Though he moralizes about individual rights, he is convinced that the question of free will is a category mistake.<sup>128</sup> To ask *is man’s will free or not?* is like asking *is man’s sleep swift or not?* or *is man’s virtue square or not?* “Liberty no more applies to the will than speed does to sleep or squareness to virtue,” writes Locke in the *Essay*. “Liberty, which is a power, belongs only to *agents*, and cannot be attributed to the will, which is only another power.”<sup>129</sup> In other words, liberty is indivisible from the social atom. “The proper question,” he later says, “is not *Is the will free?* but *Is a man free?*”<sup>130</sup> The will, as a power distinct from freedom, is fundamentally determined by the clockwork of nature. Liberty in fact arises from a general conflict with it, still operating within the natural mechanism. As we have seen, the tyrant is one who wishes to subject others to his own will and appetite. Liberty must therefore curb the will’s immediate longings, and in the political system of nature, the consent of the governed achieves that end.

Strictly speaking, Locke is a compatibilist: freedom and determinism coincide with one another. The will is naturally determined by “the uneasiness of desire,” says Locke, “fixed on some absent good – whether the good be negative (such as the absence of pain) or positive (such as

---

<sup>127</sup> Foucault, *Security, Territory, Population*, 71.

<sup>128</sup> Locke, *Essay Concerning Human Understanding*, II.21, “Of Power.” Jonathan Bennet (“Locke’s Philosophy of Mind,” *The Cambridge Companion to Locke Cambridge Companion* [Cambridge: Cambridge University Press, 1994], 94) calls this section of Locke’s *Essay* “a seminal document in the literature of compatibilism: Locke argues at great length that the truth of determinism is consistent with everything that we reasonably believe about ourselves: the crucial question is whether “the man is free” and that can be answered yes consistently with determinism.”

<sup>129</sup> Locke, *Human Understanding*, II.21.14.

<sup>130</sup> Locke, *Human Understanding*, II.21.21

pleasure).”<sup>131</sup> As with Bentham, the will indicates a deterministic order driven by aversions and delights, yet the mind is free to calculate how best to attain happiness. “In this lies man’s liberty,” says Locke, “and all the mistakes, errors, and faults that we run into in living our lives and pursuing our happiness arise from not availing ourselves of this liberty, and instead rushing into the determination of our wills.”<sup>132</sup> Left to itself, the will is antithetical to liberty, but nature is self-balancing: rational consideration prevails over its tyranny. In the social order that follows, one cannot transcend the physics of nature. Hence the Lockean need: to observe a natural law dictating the social field, leading to a contract between atoms.

#### The Void of Consent.

How does the atomism of Locke define our present form of life together? More specifically, how does its grammar appear in our language today? To answer that, I suggest we decenter the atom, considering instead the negative space between atoms. The image of an atom indicates a void, a space at once empty yet filled with the laws of nature. Existing as a formless emptiness, the void creates conditions that regulate the movement and formation of matter. If we can say, following Schmitt, that our political life is impressed with the metaphysical image of our time, what can we say about the void? Where might we find it in the picture we inherit from Locke? The void cannot be the state of nature, exterior to the *polis*, since even there, individuals govern themselves by mutual consent, apart from civil authority. The void occurs, grammatically, where there is no proper bond between atoms.

Not long ago, there were reports about an immigrant detention center where women suffered hysterectomies “without their consent.”<sup>133</sup> That punishing phrase, which posits consent only to declare

---

<sup>131</sup> Locke, *Human Understanding*, II.21.33

<sup>132</sup> Locke, *Human Understanding*, II.21.47

<sup>133</sup> Caitlin Dickerson, “Inquiry into Claims Immigrants Had Unwanted Gynecological Procedures,” *New York Times* (Sep 16, 2020).

it missing, has remained a common pattern of our moral grammar. It teaches the meaning of consent *via negativa*, in terms of what it is not. The word itself thus frames the tragic, the scandalous, the incriminating, all of which are episodes of an absence or a breach of what ought to be there. What *exactly* ought to be there? As I said at the beginning of this chapter, consent proves notoriously difficult to define. Is it primarily constituted by a state of mind? Is it an action? Must it be granted explicitly, or might it be tacit in some cases? Locke does not tend to focus on such questions, and where he does, his answers leave more to be desired. Yet a key phrase of his grammar, *without consent*, remains with us, because as important as such questions are, they depend on a more basic use of the word. Consent functions to name its own absence, the void where its form ought to be.

This is nowhere more obvious than in the sexual ethics voiced by the MeToo movement of 2018. When Ronan Farrow broke the story of Harvey Weinstein's abuses, he quoted Emily Nestor, a former assistant to Weinstein, as saying, "It was just so far removed from reality and normal rules of consent."<sup>134</sup> Farrow does not say what the rules of consent are (*e.g.* how one seeks it or knows it is granted); the rules are simply assumed, and the moral weight falls on the exposition of their being broken. We, the readers, are credited with knowing what consent is. And perhaps we do, but our knowledge is gestalt, impossible to expound in full detail. That is why asking, "What is consent *really*?" is a bit like pursuing a mirage. Like an oasis in the desert, consent is hazy and elusive, and its form can seem to change on approach.

Recall the developments after Weinstein. A cascade of exposés followed the template set by Farrow, all of them very clear accounts of abused power. But the template changed when a woman released her story about a distressing date with actor Aziz Ansari. The ethics of consent were not so obviously trammled; the differential of power, though apparent, was not so plainly organized for

---

<sup>134</sup> Ronan Farrow, "Overtures to Sexual Assault: Harvey Weinstein's Accusers Tell Their Stories," *New Yorker* (Oct 23, 2017).

abuse. The story prompted Isobel Yeung, a correspondent for Vice and HBO, to review her own past as no other story had. An experience in her college years seemed to fit the Ansari template, and while she remembered it with pain, she had not – until now – thought of it as a breach of consent. The result of her insight is a documentary called *Consent*. It begins with Yeung seated against a dark background, saying, “It’s a good time to explore what consent really means.”<sup>135</sup> The *real meaning* of consent is thus pursued by its absence, the ideal by its corruption, the form by its malformation.

In this way of thinking, consent is an inexhaustible object. Known by negation, it exceeds even the most encompassing regulatory definition. The very need for its meaning is stirred up by a deeper question: *what was missing?* The word, before it is regulatory, must make sense of a grievous loss. There is no denying our desperate need for the word; it helps us come to terms with the void, shedding light on a space where a proper bond ought to exist. But the void of consent is far easier to see than its form, because at the extreme center of the void, we can imagine the occurrence of two simultaneous events. The first is slavery, defined here as unjustified, forced, captive labor; the second is resistance. The void is most explicit when a tyrant and a slave oppose each other violently – the tyrant lacking the slave’s consent, the enslaved withholding all forms of it.<sup>136</sup> The void is drawn open by both, each wanting to fill it with the compliance of the other. Not that the void may be filled by mere compliance: the purest form of consent is malformed by the slightest trace of reluctance – which is to say nothing about its more obvious corruptions like bribery, undue influence, and coercion. These, as legal concepts, only testify further to the trouble of defining consent positively.

---

<sup>135</sup> Isobel Yeung, “Consent,” *Vice on HBO*, Sep 2019, YouTube.

<sup>136</sup> John Locke believed that a tyrant held power only by “the consent of the poor man, who preferred his being subject to starving.” (*Two Treatises of Government*, IV, §43) I agree, but rather than turning with Locke toward a peacefully anarchic state of nature, I assume the prevalence of a *libido dominandi*. This is informed by Augustine but also by Hegel’s phenomenology of desire and Sartre’s adaptation of it. See Hegel on the master-slave dialectic, *Phenomenology of Spirit*, ¶190-196; and Sartre, *Being and Nothingness*, trans. Hazel E. Barnes (New York: Washington Square Press, 1956), 471-534.

The law codifies what consent is not, not what consent is. We can see the great power of its legal negativity by returning to the trial at Nuremberg, where Nazi physicians were indicted for experiments conducted “without the consent” of their subjects. Notably, they were also indicted for “taking a consenting part” in crimes against humanity.<sup>137</sup> The second phrase, as we will see in the next chapter, draws upon a grammar older than liberalism. It describes the *presence* of consent, not its absence, defining it as an agreement to a moral evil. While the two phrases effectively condemn the same act, the grammar of the first has remained with us. As a consequence, the ethic of consent is constructed upon images of its formlessness, provoking endless concern about the true nature of its presence. Following the Tuskegee syphilis controversy (in which subjects gave ill-informed consent to researchers), the Belmont Report of 1979 put a priority on informing subjects. Still, the definition of consent remained elusive and perhaps unreachable. “While the importance of informed consent is unquestioned,” said the Report, “controversy prevails over the nature and possibility of an informed consent.”<sup>138</sup>

The term even now remains an object of debate, but it operates at the very center of modern ethics, programming the regulatory environment of research.<sup>139</sup> We are in the predicament of using the term, despite the obstinate void at the heart of all regulation. As in the Lockean social contract, consent is most easily defined by its inverse. And its regulatory environment has spread, now including fields like anthropology and sociology. The regime of bioethics lays out a thesis for all research on human subjects, where in every iteration, consent is a means of avoiding the void – a management tactic, a mechanism of risk prevention. A consent form demonstrates that the system or the researcher

---

<sup>137</sup> *Nuremberg Trials Vol 1*, 10.

<sup>138</sup> *The Belmont Report*, accessed on HHS.gov.

<sup>139</sup> See Nir Eyal, “Informed Consent,” *Stanford Encyclopedia of Philosophy*, last modified Jan 16, 2019; Klaus Hoeyer and Linda F. Hogle, “Informed Consent,” 347-362.

has taken measures to shift liability to the subject, thus avoiding litigation.<sup>140</sup> Consent is on record to do little more than nullify its own absence. The term is positive only by the force of a double negative: the void and the avoidance of it.

If we are to sustain a belief in the moral freedom to choose (which itself is a philosophical choice), we must look to another center. This is easier said than done, given the ubiquitous claim of contracts upon our choices. The effort of the next chapter will be to recover a paradigm all but lost from our grammar. It is *responsible* consent, appearing in the second description of the Nazi war crime. There, the moral evil is a form of consent, not the formlessness of it. The doctors “took a consenting part” in a power they ought to have resisted. The plaintiff, the United States, is on record as stating:

Their failure was the inevitable outcome of that sinister undercurrent of German philosophy which preaches the supreme importance of the state and the complete subordination of the individual. A nation in which the individual means nothing will find few leaders courageous enough to be able to serve its best interests.<sup>141</sup>

Clearly, the charge exceeds the culpability of the physicians. Totalitarianism itself is on trial, and liberal ideals are ascendent. The physicians are thus made to exemplify the twin dangers of fascism and German idealism, and the plaintiff holds that individualism is the more *natural* basis of the political. The Nazis are thus individually charged with consenting to their nation’s philosophy, seeing that they had a natural right to do otherwise. I cannot agree with the argument fully, because it rests on a vision of nature no less anchored to a nationalism. That vision, as we have seen, does not resolve the true problem at hand, namely the domination of life under pastoral power. But because I believe that free will exists beneath and before liberalism, I find the American claim provocative. Its weight carries us

---

<sup>140</sup> See Sydney Halpern, *Lesser Harms: The Morality of Risk in Medical Research* (Chicago: University of Chicago Press, 2004); also Melinda Cooper and Catherine Waldby, *Clinical Labor: Tissue Donors and Research Subjects in the Global Bioeconomy* (Durham, NC: Duke University Press, 2014).

<sup>141</sup> *Nuremberg Military Trials Vol. 1*, 72. I also recall the claim of Adolf Eichmann that, as a Kantian, he was merely doing his duty to the state. See Hannah Arendt, *Eichmann in Jerusalem: A Report on the Banality of Evil* (New York: Penguin, 1992), 135-137.



deeper into the history of consent, deeper than the pastoral myth of Locke's America, down to the elements of a grammar he inherited from his theological forebears.

## Chapter 5.

### The Place of Augustine's Grammar.

This chapter approaches the heart of my dissertation, looking at the Augustinian grammar of consent. As I approach it, I also consider how Augustine's grammar evolved in the "great pastoral battle" of the Reformation, a period Foucault marks as the origin point of modern governmentality.<sup>1</sup> "On the one hand," says Foucault, "there is the movement of state centralization, and, on the other, one of religious dispersion and dissidence: I think it is at the meeting point of these two movements that the problem arises, with particular intensity in the sixteenth century, of 'how to be governed, by whom, to what extent, to what ends, and by what methods.'"<sup>2</sup> These are the evident stakes in Martin Luther's *Prelude on the Babylonian Captivity of the Church*, written to clergy and schoolmen during the summer of 1520. In the treatise, Luther makes two remarkable assertions. First, a distinction exists between the true people of God and its apparent pastorate. Luther uses an old Augustinian term, *populus Dei*, to evoke a line from *City of God*: "the people of God are liberated from Babylon by faith, so that for the time being, they are pilgrims in its midst."<sup>3</sup> The true Church, Luther indicates, is captive to the pastoral power of Rome, just as the prophet Daniel and his friends were captives in Babylon. A second and more explicit assertion follows: the tyranny of Rome can be questioned – indeed proven illegitimate – when the people of God withhold their consent to it (*nec consentiamus ei*).<sup>4</sup>

From the vantage point of the Enlightenment, Luther's vocabulary anticipates that of liberalism, wherein a people constitute their government by consent. But that perspective, while true,

---

<sup>1</sup> Foucault, *Security, Territory, Population*, 200.

<sup>2</sup> Foucault, *Security, Territory, Population*, 127.

<sup>3</sup> Augustine, *De Civitate Dei*, XIX.26, my translation.

<sup>4</sup> Martin Luther, *De captivitate Babylonia ecclesiae praeludium*, in *Luthers Werke*, ed. Otto Clemen (Berlin: Berlag, von Malter, de Grunter & Co, 1950), 438.

obscures the fact that Luther reflects and modifies an older way of thinking. My own account of his language disarticulates it from later theories of democratic government, showing how pastoral power initially shaped and was shaped by sovereign power. Additionally, I treat Luther's language as distinct from the standard history of proto-democracy in the Middle Ages, found for example in Arthur Monahan's *Consent, Coercion and Limit*. Monahan, without expressing interest in the word itself, traces the "consent of the governed" to a phrase well known among Medieval jurors: *quod omnes tangit* – literally, "what touches all."<sup>5</sup> The phrase comes from a Roman legal principle designed to empower collective decisions among civil administrators and teachers. Observing the phrase in texts from the eleventh century forward, Monahan cites it as an important source for later theories of democracy. His view is commonplace, and I have no quarrel with it except to say that it neglects the actual appearance of *consentire*, the verb that proved critical for Luther.

To understand what Luther inherited and how he changed it, we must dig fully into the Latin of the Church, remembering that our task is not an etymology but an archaeology. We are not attempting to recover the word's original meaning, as if its oldest usage is key to its essence. The meaning of consent is always determined by its use, and its uses have been manifold over time. Rather than narrowing its meaning to its origin, my task is to broaden its context in the present age, where its utility is indeed too narrow. Put another way, its utility is hopelessly broad, as Hoeyer and Hogle observe: the word now conjures "a morally appealing image of stability, simplicity, and interoperability, while simultaneously serving as an empty signifier, an image onto which people project very different hopes, concerns, and intentions."<sup>6</sup> Its appeal as a universal metric has emptied consent of its deeper

---

<sup>5</sup> Arthur Monahan, *Consent, Coercion, and Limit: The Medieval Origins of Parliamentary Democracy* (Montreal: McGill-Queen's University Press, 1987), 97-111. As formalized by Justinian, the phrase read: *quod omnes similiter tangit, ab omnibus comprobetur* – "what touches all in like manner should be approved by all." See Gaines Post, "A Roman Legal Theory of Consent, *Quod Omnes Tangit*, in Medieval Representation," *Wisconsin Law Review* No. 1 (1950), 66-78.

<sup>6</sup> Hoeyer and Hogle, "Informed Consent..." 348.

meaning, constructing a highly unstable architecture for human agency and trust. With that problem in mind, we stand to gain a great depth of insight from the recovery of its older form.

Recall from the last chapter how the modern principle of consent applies to moral problems: any act is permissible if proper consent is in place. Moral philosopher Malcolm Murray goes so far as to apply the principle to cannibalism, revealing the far-flung logic of the idea. “We cannot fault an agent who *properly* consents to be eaten,” says Murray, “although we would have difficulty believing it.”<sup>7</sup> Morality itself is seen to derive only from the consenting party and the party obtaining consent. The business of ethics, then, is merely to define *proper* consent, which entails the further definition of terms like *competent* and *suitably informed*. Such terms inevitably require the detailing of further caveats: Who can serve as proxy for someone deemed incompetent? In what situations can a proxy give consent? And so on. It is a quagmire based on the golden rule of modern consent theory: Do *not* do unto others *without* the consent of all concerned parties.<sup>8</sup> As I argued in the last chapter, informed consent is a positive ethic only by the force of a double negative. Our moral duty is to not *not* get proper consent, or to avoid the void of consent. That grammar has gained widespread acceptance, and its rules, many believe, ought to curb the misconduct perpetrated by the likes of Harvey Weinstein. Had Weinstein obtained proper consent from the women he pursued, the argument goes, he would have been blameless. But to restate my observation from the last chapter, the pure form of consent is notoriously difficult to define. The phrase “without consent” does the primary work, namely indictment, revealing the void where a proper form of agreement ought to exist.

In Augustine’s grammar of evil, the word does something similar, revealing a void where a substantial form ought to exist. But here, the moral indictment falls on the *presence* of consent, not its absence. Consent *is* the form of the void. Better put, consent *forms* the void – if the void can be said

---

<sup>7</sup> Murray, *Morals and Consent*, 18. Also see 55-61.

<sup>8</sup> Murray, *Morals and Consent*, 71. Italics mine.

to have a form. The void occurs when a moral creature consents to a deception, a false image of the good. That image, as a fantasy of formfulness with no real being, draws the consenting creature toward nonbeing. If we take Weinstein as a case study, Augustine's grammar teaches us to say the following: Weinstein consented to lust, a habit that directed him not only to pursue women but to seek power over them. In Augustine's language, the *libido dominandi* is the chief captor of free will, the ruler of every lust and the unfulfilled center of the void. It says, *you are free to make the world what you want it to be*, paying no mind to the ground of wisdom and justice from which all nature draws its being. Weinstein's fantasy failed not because it excluded consent but because he consented to a falsehood.

Critically, habits of vice lead to an erasure of agency *by consent*. They limit free will to the options apparent within the scope of one's appetite, all of which are freely chosen yet miserably confined. Addiction is a profound example of this, answering desire only by deepening its hollowness and chaos, clouding the mind's eye with a deceptive vision of peace.<sup>9</sup> Consenting to a restless craving, the addict finds no rest, failing to achieve the aim of his repeated act. For Augustine, such a disorder begins in the will, the morally responsible part of the soul that compels us to want the good. The compulsion of the will is itself unavoidable, yet the will is always free to choose what seems most pleasing. In the image of its creator, the human soul is indeed free to evoke its own reality, its own fantasy of being from nothing. But in consenting to be transformed by what is not, the will habitually engages in a misdirected use of what is, creating a false construct of the good that never comes to rest in the order of God's love. Captured by its own will to power, the soul asserts itself in the position of creator, demanding that other creatures participate in its falsehood. And while the coercive power of a tyrant may appear substantial and real, the Augustinian grammar reveals the endless void of its core. Despite all consent to its reality, satisfaction gained by evil is insubstantial, coming to nothing.

---

<sup>9</sup> See Kent Dunnington, *Addiction and Virtue: Beyond the Models of Disease and Choice* (Downers Grove, IL: Intervarsity, 2011), especially 57-79.

This is one of the great themes of Augustine's corpus, shaped by his conversion from Manicheism. The Manicheans taught him that evil was a real substance, and that Satan, being equal and opposite to God, caused evil to permeate the cosmos. Human beings, therefore, were not ultimately responsible for their actions, given that cosmic powers operated on souls without their consent. Augustine, struggling to free himself from lust, came to see otherwise.<sup>10</sup> In his language, consent is a useful tool for developing self-knowledge. The word identifies the moment I choose to turn from the good, the moment I yield to a disordered clutching, craving, rage, or fear. Finding that I am mastered by my consent to it, I can use the term to recognize my own true agency, even if all I can do at first is notice how I submit to disorder.

As in the *Confessions*, Augustine's later critiques of Pelagianism raise an awareness of free will in the context of prayer. Free will is an irrevocable fact of human nature, but grace strengthens our knowledge of it.<sup>11</sup> I learn to stand my ground, so to speak, in contemplative union with God.<sup>12</sup> Settling into prayer, I willingly open my inner life to the Spirit, who fortifies my desire for truth. With increasing clarity, I can develop freedom in moments where I have tended toward the void, now instead refusing to cede power to false images of my own satisfaction. My newfound habit of refusal, which at first is like holding a door closed, soon develops into a resting awareness that I alone can open the door. The falsehood crouching there, seeking to gain entry, has no authority without my consent. In fact, its ultimate nothingness grows less and less enticing, meaning that my own free will grows more and more substantial. That, for Augustine, is the utility of the word, cultivating the real substance of selfhood. Consent provides me with a greater awareness of my choice, creating breathing room

---

<sup>10</sup> Augustine, *Confessions*, VII.II.5

<sup>11</sup> See *The Spirit and the Letter* in Augustine, *Selected Writings on Grace and Pelagianism*, trans. Roland Jeske (Hyde Park, NY: New City Press, 2011), 275. Augustine argues the salvation by grace does not do away with free will but strengthens it.

<sup>12</sup> From the same volume as above, see *The Punishment and Forgiveness of Sins and the Baptism of Little Ones*, 147; also *The Spirit and the Letter*, 231.

between the old stimulus and the new response. Over time, my interior sense of freedom reveals me to myself as I truly am: one with God, tranquil and at rest in the goodness of divine Being.

In this chapter, I want to retrieve the Augustinian grammar, showing how its contemplative life is relevant to – but absent from – modern theories of consent. I demonstrate its alliance with certain strands of modern psychology and feminism, where aspects of its outline remain alive, creating a frame for self-work and collective action. At the same time, I acknowledge that his use of consent has disappeared, lying buried under the social structures built on top of it. To explain how that happened, I exhume the word from our linguistic strata, tracing its evolution from Aquinas to Luther, the latter of whom punctuates the loss of what we stand to recover. My method, conscious of what is nearest to us in time, continues to follow a reverse chronology, beginning with Luther and working downward. I examine consent at each layer of its history, so that by the end, I will have unearthed the tool needed for the constructive aims of my final chapter, where I explore another way to be modern.

As in the preceding chapters, Foucault leads my thinking from the present context. I perceive Luther as a threshold figure at the earliest stages of modern pastoral power. My account generally follows the story told by Lyndal Roper, whose recent biography explores the way Luther's inner life developed in the context of his material conditions.<sup>13</sup> I freely borrow from thinkers like Weber and Arendt, who cast Luther as an image of the protestant work ethic. With that image in view, I take Luther to signify a stratum of our language in need of repair from below – a repair that can only come from a deeper sense of its origins, in solidarity with those whose inner lives have been alienated by the “mechanical mind” of modernity.<sup>14</sup> If my reading is colored by a disinclination toward Luther's work, it is not because I think the Reformation was of no benefit. To the contrary, it crafted a form of life

---

<sup>13</sup> Lyndal Roper, *Martin Luther: Renegade and Prophet* (New York: Random House, 2017).

<sup>14</sup> Shiva, *Oneness vs. the 1%*, 41

in which a people could withhold consent from a corrupt pastoral system. However, the same form of life gave rise to a set of problems coextensive with modern governmentality.

Luther, who challenged the notion of free will, generated a paradox that would later resonate with the pastoral power of the Enlightenment. Organizing a new politics of Christian freedom, his early conclusions led to a deterministic doctrine of salvation. Both elements – freedom and determinism – derived from a new grammar staked on the sovereign grace of God. Luther put an emphasis on God’s calling, a reality both liberating and binding, epitomized in one of his best-remembered statements: “A Christian is a perfectly free lord of all, subject to none. A Christian is a perfectly dutiful servant of all, subject to all.”<sup>15</sup> From that core tenet, there rose a new theology of God’s *oikonomia* that dignified the service of cobblers and farmers.<sup>16</sup> Everyone was effectively a priest, positioned to benefit society by hard work and trade. “In this way,” Luther wrote, “many kinds of work may be done for the bodily and spiritual welfare of the community, even as all the members of the body serve each other.”<sup>17</sup> As I read him, Luther evokes an early sense of secular pastoral power, grounded in the material economy of this life.<sup>18</sup> His teaching, as we know, initiated a massive change in the geopolitical order. On one side, he created an exit for German principalities from the Roman Church; on the other, he drafted an early theological architecture for the modern state, developing a new mode of pastoral ministry in its auspices.

---

<sup>15</sup> Martin Luther, *The Freedom of a Christian*, in *Three Treatises*, trans. C.M. Jacobs, A.T.W. Steinhaeuser, and W.A. Lambert (Philadelphia: Fortress Press, 1970), 277.

<sup>16</sup> See Ibrahim S. Bitrus, “Give us This Day our Daily Bread: Martin Luther’s Theology of Prosperity,” *Journal of Theology for Southern Africa* No. 160 (Mar 2018), 21-39.

<sup>17</sup> Martin Luther, *Open Letter to the Christian Nobility of the German Nation*, in *Three Treatises*, trans. C.M. Jacobs, A.T.W. Steinhaeuser, and W.A. Lambert (Philadelphia: Fortress Press, 1970), 17.

<sup>18</sup> Roper notes that Luther seldom wrote about the afterlife (*Martin Luther*, 346-347, 389). He thus prefigures the pastoral power of the modern state, which Foucault described thus: “It was no longer a question of leading people to their salvation in the next world but rather ensuring it in this world. And in this context, the word ‘salvation’ takes on different meanings: health, well-being (that is, sufficient wealth, standard of living), security, protection against accidents.” (Michel Foucault, “The Subject and Power,” 334.)



The Reformed Economy of Work.

Luther was trained as an Augustinian monk, a process that acquainted him from the start with ideas about mystical union with God. His confessor, Johann von Staupitz, was steeped in the unitive tradition of Meister Eckhart, Johannes Tauler, and the *Theologia Deutsch*. Yet Luther, it seems, could not be moved by the teaching of Eckhart, who said that the knower and the known are one.<sup>19</sup> Nor did he experience the divine presence described in the *Theologia Deutsch*, a text that reassured the reader of God's goodness already in the soul, awaiting the soul's perception.<sup>20</sup> Instead, God was a high and holy judge, a stern father burdening the Christian conscience with duty upon duty.<sup>21</sup> That feeling of guilt and arduous debt became the antagonism at the heart of Luther's gospel, the problem to be solved by grace, and it arguably stirred the nationalizing impulse of his political attack on Rome.<sup>22</sup>

The first treatise of 1520, his *Open Letter to the Christian Nobility of the German Nation*, was written in German against the backdrop of Roman expansionism. "Italy and Germany have many rich monasteries, foundations, benefices and livings," wrote Luther. "No better way has been discovered to bring all these to Rome than by creating cardinals and giving them the bishoprics, monasteries, and prelacies for their own use."<sup>23</sup> Later in the same treatise, he sharpens the point: "While we were going to be masters, we became in fact slaves of the most deceitful tyrants of all time. We have the name, title, and insignia of the empire, but the pope has its treasures, its authority, its law, and its liberty. The pope gobbles the kernel while we are left playing with the husk!"<sup>24</sup> The pope's intention, says Luther, is to take the world for himself, leaving nothing for the German nobility. In response, Luther insists

---

<sup>19</sup> C.F. Kelly, *Meister Eckhart on Divine Knowledge* (New Haven: Yale University Press, 1977), 56-58.

<sup>20</sup> *Theologica Germanica*, trans. Susanna Winkworth (London: Macmillan, 1874), 28.

<sup>21</sup> Roper, *Martin Luther*, 44.

<sup>22</sup> In *The Freedom of a Christian* (also from 1520), Luther's outline of the gospel starts with an oppositional binary: "Christ is full of grace, life and salvation. The soul is full of sins, death and damnation. Now let faith come between them and sins, death and salvation will be Christ's, while grace, life and salvation will be the soul's." Luther goes on to describe the union of Christ and the soul in terms of a marriage, but the prevailing metaphor is an act of trade. See Luther, *Three Treatises*, 286.

<sup>23</sup> Luther, *Open Letter in Three Treatises*, 27.

<sup>24</sup> Luther, *Open Letter in Three Treatises*, 104.

that the “spiritual estate” of Rome is not immune to the “temporal estate” of the Germans. In fact, the German laity ought to be regarded as equal members of the priesthood.<sup>25</sup> Common workers in the fields, being equally called and equally graced, are equally positioned to serve in the work of salvation. Moreover, because the church has failed to see this, Luther calls for a state of exception: the princes of Germany ought to function as “emergency bishops,” appointing church governments under their own rule.<sup>26</sup>

The second treatise of 1520, quoted at the start of this chapter, was written in Latin to address matters of pastoral power directly. Luther begins with an attack on the sale of indulgences, a practice he once justified because it was “approved by the common consent of so many.”<sup>27</sup> *Consensus* here recalls a medieval notion put forward by Aquinas: a law can be made to support a people’s shared sense of custom.<sup>28</sup> Luther spends the rest of his treatise complicating that notion, since he himself regrets consenting to the custom he now attacks. A similar custom pertains to the wine of communion, withheld from the laity and consumed only by the priesthood during mass. Ratified at the Council of Constance, the custom had been disobeyed by an egalitarian group of Bohemian priests a century before Luther. Their champion, Jan Hus, was condemned to death by the same council.<sup>29</sup> Now siding with Hus, Luther contends that the people of God have undergone a Babylonian captivity. The Roman pastorate, neglecting the plainest reading of Scripture, have treated their custom as if it were law. When asked why such a practice is customary, they can only say, *the church has so ordained*. Luther retorts: “It was not the church which ordained these things, but the tyrants of the churches, without the consent of the church (*consensum Ecclesiae*), which is the people of God.”<sup>30</sup> Roman pastoral power maintains its

---

<sup>25</sup> Luther, *Open Letter in Three Treatises*, 14-17.

<sup>26</sup> Roper’s translation, *Martin Luther*, 150.

<sup>27</sup> Luther, *Babylonian Captivity in Three Treatises*, 123.

<sup>28</sup> *ST* 1a2ae.97.3, reply to 3.

<sup>29</sup> “Council of Constance 1414-1418,” *Decrees of the Ecumenical Councils*, ed. Norman P. Tanner (London: Sheed & Ward, 1990).

<sup>30</sup> Luther, *Babylonian Captivity in Three Treatises*, 137.

hold by appealing to custom, says Luther, yet the custom itself is not achieved by *consensus*; it is achieved by a foreign power that keeps for itself what rightly belongs to the people. Then comes the phrase that began this chapter: “This only do I desire, that no one justify the tyranny of Rome, as though it did well to forbid one of the two kinds for the laity; we ought rather to abhor it, withhold our consent (*nec consentiamus ei*), and endure it just as we should do if we were held captive by the Turk and not permitted to use either kind.”<sup>31</sup>

Following Augustine, consent for Luther signifies a corrosive act, a thing not to be done. The right course of action is to withhold it, meaning that the word functions mainly as a tool of resistance. But significantly, the word is a *political* tool, its use now obscuring the form of self-knowledge Augustine had once inspired. When Luther’s ideas reached the press in 1520, consent was emptied of its former interiority, functioning instead as a call for collective action. His language arguably seeded the soil of the age to come: Grotius, less than a century later, would have no other use for the word; neither would Hobbes or Locke.<sup>32</sup> In Foucault’s terms, it would come to function strictly as a technology of power, no longer serving as a technology of the self.

At the same time, the Protestant dimension of self-knowledge was outfitted by another technology: work. Under the protection of Saxony’s Elector, Luther abandoned the contemplative life of a monk, dropping the practice of daily hours around the time he wrote the treatises above.<sup>33</sup> Engaging fully in the labor of writing, Luther fashioned a Protestant technology of the self, equal in significance to the printing press and the market that sold his ideas to a new public. “Brand Luther,” as Andrew Pettegree names it, entered its first phase of development when a monk turned to the

---

<sup>31</sup> Luther, *Open Letter in Three Treatises*, 136.

<sup>32</sup> For Grotius, the term may refer to contract relations, as in marriage and property law; or, more broadly, it may refer to the common agreement of “all good men” or traditional authorities like the Church Fathers. See Hugo Grotius, *The Rights of War and Peace in 3 Vols.*, ed. Richard Tuck (Indianapolis: Liberty Fund, 2005). Hobbes and Locke fall into the same broad paradigm, though they have less interest in the common consent of tradition.

<sup>33</sup> Lyndal Roper, *Martin Luther: Renegade and Prophet* (New York: Random House, 2017), 134.

active life.<sup>34</sup> Hence, with Luther as its archetype, work paradoxically established the soul's freedom from works. More precisely, it signified the soul's withdrawal from the Catholic penitential system, which had long burdened Luther with feelings of morosity and guilt. His new technology of the self, we might say, relocated conscience to the mind, where faith held onto the fact of God's grace. Any insights that might have come by way of feelings – and any practices that might have trained those feelings to flow well – were discounted as untrustworthy.<sup>35</sup> From 1520 on, Luther was more concerned with intellectual engagement than with a contemplative knowledge of his inner life, and his concern set the course for Protestantism in general, giving it an ascetic quality of its own. To borrow Max Weber's term, "ascetic Protestantism" would be characterized by an aversion to wasting time; it would recognize hard work as "*the end and purpose of life commanded by God.*"<sup>36</sup>

Hannah Arendt draws upon Weber's insights in *The Human Condition*, her acclaimed study of the active life in the modern age. One of her sharpest points comes late in the book, where she observes that the modern era did not exactly elevate *doing* to a higher status, as if to demote contemplation. The reversal instead concerned the role of *thinking*, "which from then on was the handmaiden of doing."<sup>37</sup> Before the Reformation, thinking had been the *ancilla theologiae*, the handmaiden of contemplation, opening the mind to the truth of divine Being. But during and after the Reformation, "Contemplation itself became altogether meaningless."<sup>38</sup> Analytical thought no longer served the contemplative life, as it had for the millennia stretching from the ancient Greeks to the medieval scholastics. It served the ends of productivity and labor, which had formerly been its partners in service to contemplation. One might say that on the scale of world events, Luther's turn to the active life was at least as important as his Ninety-Five Theses. The material effects of his work

---

<sup>34</sup> Andrew Pettegree, *Brand Luther: 1517, Printing, and the Making of the Reformation* (New York: Penguin, 2015).

<sup>35</sup> Roper, *Martin Luther*, 172-173.

<sup>36</sup> Max Weber, *Protestant Ethic*, 107.

<sup>37</sup> Arendt, *The Human Condition*, 292.

<sup>38</sup> Arendt, *The Human Condition*, 292.

were drastic: with the advance of the Reformation, monasteries were closed, and ecclesial property converted to liquid wealth. And, whereas hired labor had been rare in the old feudal system, it now formed a new economic class.<sup>39</sup> Luther was not the main cause of the emerging labor market, but his ideas had a hand in shaping it. The industrial age that followed, coinciding with the pastoral power of the nation-state, capitalized on Luther's technology of the working self.

#### Sovereignty and Self-Government.

Lutheran pastoral power changed the distribution of wealth in Europe, cutting off money to mendicant orders and reclaiming German land from Rome. In its structure, however, the early Reformed movement was antidemocratic. While Luther addressed nobles and peasants as equal before God, the new economy of labor remained fixed to the social order of the Middle Ages. The peasant revolts of 1525, though grounded in Lutheran ideas of equality, were denounced by the man himself as “pure devil’s work.”<sup>40</sup> Weber again sheds light on the situation, noting that the Lutheran concept of *calling* was deterministic in outlook. “The calling was something which man had to *accept* as divine decree,” says Weber; “it was something to which he had to ‘submit’.”<sup>41</sup> Reading between the lines, one can see that Luther’s doctrine of grace emphasized God’s irreversible calling, and its consequence was a form of life newly structured by sovereign power. In practical terms, Luther’s teaching stressed submission over resistance – a fact that seems incongruous with his stance against Rome. But arguably, his own sense of calling was never separated from an adherence to strongman politics. As I have said, he found his footing in the auspices of secular power, sheltered by the Elector of Saxony. It was only through sovereign power that the German people could withhold their consent from Rome. The purposive equality of the social classes, which Luther initially set forth to solidify the Germans against

---

<sup>39</sup> Arendt, *The Human Condition*, 66-67; also see the introduction by Margaret Canovan, xiii.

<sup>40</sup> Roper, *Martin Luther*, 256.

<sup>41</sup> Weber, *Protestant Ethic*, 32.

papal tyranny, did not thereby sanction revolts against tyranny outright. Wealth remained in the hands of landholders, whom Luther instructed to suppress the organized resistance of hired labor.<sup>42</sup>

Not that Luther advocated tyranny; quite the opposite was true, as he showed in his princely mirror to John Frederick, the grandson of Saxony's Elector. The text, written shortly after the watershed works of 1520, offers a glimpse into Luther's technique in shaping sovereign rule. Using the template of Biblical exegesis, Luther provides a line-by-line commentary on the Magnificat of Mary. The text begins with an appeal to the sovereignty of God, "the kind of Lord who does nothing but exalt those of low degree and put down the mighty from their thrones."<sup>43</sup> It goes on:

Just as God in the beginning of creation made the world out of nothing, whence he is called the Creator and the Almighty, so his manner of working continues unchanged. Even now and to the end of the world, all his works are such that out of that which is nothing, worthless, despised, wretched, and dead, he makes that which is something, precious, honorable, blessed, and living. On the other hand, whatever is honorable, blessed, and living, he makes to be nothing, worthless, despised, wretched, and dying.<sup>44</sup>

Here Luther reveals his Augustinian roots, contrasting the substance of creation with its nothingness before God. "In this manner no creature can work," says Luther; "no creature can produce anything out of nothing."<sup>45</sup> His manner of thought leads inherently to a concern about the abuse of power, beckoning the prince to consider his calling as a humble servant. But crucially, the text never invokes the threat of a popular uprising. Luther instead places the prince beneath the sovereign power of God, who elevates the lowly and deposes princes. Power comes from above, requiring the prince to maintain a submissive posture. To make his point, Luther holds up the image of Mary, who remained humble even after receiving the highest honor bestowed upon a mortal. In becoming the Mother of God, Mary did not flaunt her position but relied on grace; in simplicity and lowliness, she submitted to her calling. The prince must likewise remember the wisdom of the

---

<sup>42</sup> Roper, *Martin Luther*, 256.

<sup>43</sup> Martin Luther, *The Magnificat*, trans. A.T.W. Steinhäuser (Minneapolis: Augsburg Publishing House, 1967), 11.

<sup>44</sup> Luther, *The Magnificat*, 11-12.

<sup>45</sup> Luther, *The Magnificat*, 11-12.

Magnificat: God has put down the mighty and exalted those of lowest degree. “For while the world stands,” writes Luther, “authority, rule, power, and seats must remain. But God will not long permit men to abuse them.”<sup>46</sup>

Not quite a decade before, Erasmus and Machiavelli had composed their own princely mirrors.<sup>47</sup> Machiavelli’s *Prince* has since inspired the largest body of commentaries, in part because of its amoral and pragmatic approval of the will to power. For my purposes, it provides little insight; Machiavelli’s use of consent is sparse, and where it appears, it indicates a form of permission granted not by a people but by a sovereign.<sup>48</sup> Foucault rightly suggests that *The Prince*, rather than opening up political thought to modernity, marks “the end of an age.”<sup>49</sup> Erasmus and Luther, by contrast, represent a rising form of modern morality, distinct not only from Machiavelli but from one another. Luther signifies one strand of secular development, guided paradoxically by a return to Scripture; Erasmus signifies another, guided by a return to pre-Christian sources. If Luther represents a new form of the active life, Erasmus represents a new form of the contemplative life, no longer mystical but dedicated to the recovery of Greek wisdom. Both, however, develop a similar possibility with the grammar of consent; they deploy the term against tyranny, Luther aiming at the corruption of the church and Erasmus at the state.

Erasmus, widely remembered as an early humanist of the renaissance, prized the notion of free will. His *Education of a Christian Prince* draws upon Seneca to show how a good prince must “struggle daily to improve himself” for the public advantage.<sup>50</sup> Writing to Charles, prince of Burgundy

---

<sup>46</sup> Luther, *The Magnificat*, 64.

<sup>47</sup> Erasmus published *The Education of a Christian Prince* in 1516. Machiavelli’s *Prince* was circulated as early as 1513 but was not published until 1532.

<sup>48</sup> The sole exception is a reference to the Venetians, who would not consent to the elevation of Duke Valentino. See book seven of *Il Principe* (Oxford: Clarendon Press, 1891), 218. The Venetian republic, ruled by a mercantile oligarchy, was also a point of reference John Locke. But whereas Locke understood it to validate his theory of government by consent, Machiavelli sees it as a player in the game of sovereign power alongside the Duke of Milan.

<sup>49</sup> Foucault, *Security*, 65.

<sup>50</sup> Erasmus, *On the Education of a Christian Prince*, trans. Neil M. Cheshire and Michael J. Heath (Cambridge: Cambridge University Press, 2015), 33.

and Castile, he is at pains to commend the Stoic virtue of restraint. The tyrant is the very image of a man who fails in the struggle, losing himself to the passions of power and greed. Seneca, the statesman and philosopher, proves an especially good resource here, since he revokes or approves the title “king” on the basis of character: “He who looks to the common good is a king; he who looks to his own good is a tyrant.”<sup>51</sup> The prince’s struggle is really no different from that of any Stoic, but his success or failure has far greater consequences. Failing in his task, he weakens the body of the state, taking for himself what rightly belongs to the many.<sup>52</sup>

Erasmus never uses *consentire* to name the interior movement of a moral failure, but its cognate term *consensus* raises the external stakes of the prince’s interior mission. Erasmus recalls the goodness of earlier times, when kings were appointed on account of their virtue by popular consent (*populi consensu*).<sup>53</sup> Times have changed, but the same principle holds, coming through in the form of a warning: “people you oppress with servitude are not really yours, because it takes popular consent to make a prince.”<sup>54</sup> In *The Adages*, he says something similar: “rights over men, free by nature, are not the same as rights over cattle. This same ‘right’ that you have was given by the consent of the people, and the same people who gave it, if I am not mistaken, have the power to take it away.”<sup>55</sup> A new vocabulary of self-government is emerging, but the accent still falls on the king’s agency. The balance of power relies primarily on *his* self-government. That is to say, the right of government is not yet formally assigned to the people, but the king maintains his right to govern only by maintaining his appetites, directing himself toward the common good. Tyrannical passion will stoke the fire of insurrection,

---

<sup>51</sup> Erasmus, *Christian Prince*, 33, 53.

<sup>52</sup> “Since the state is a kind of body composed of different parts, among whose number is the prince himself (even if he is exceptional), it will be important to maintain a balance that is for the good of them all, and does not result in one or other becoming plump and vigorous while the rest are weakened. For if the prince rejoices and prospers in the misfortunes of a state, he is neither a part of the state nor a prince, but a robber.” Erasmus, *Christian Prince*, 43.

<sup>53</sup> Erasmus, *Christian Prince*, 36.

<sup>54</sup> Erasmus, *Christian Prince*, 42.

<sup>55</sup> Erasmus, *Adages*, trans. Margaret Mann Phillips (Toronto: University of Toronto Press, 2001), iv.i.1



because popular consent is only afforded to a prudent and self-controlled ruler. The formula here is not new; tyranny and tyrannicide were central ideas of medieval political thought. But Erasmus gives their imprint a fresh rhetorical power, showing that the prince must resist his passions or find them resisted. Though Erasmus never quite puts it this way, his moral grammar admonishes the prince to withhold consent from his passions, because if he does not, the people will.

As we have seen, Luther's use of consent ultimately seeks to position sovereign power against pastoral tyranny. Erasmus, by contrast, warns the sovereign about the uprising of a people. His language, though subtler than Luther's, offers a bolder recourse for citizens of the state. To exaggerate the schema for clarity, we can put it like this: Erasmian power comes from the bottom up; Lutheran power from the top down. Erasmus, turning to a pagan philosopher, shows that humans are free by nature; Luther, turning to the Mother of God, shows that humans are bound by the sovereign calling of God. Their key difference, and the main topic of their later dispute, was the Augustinian notion of free will. That difference, which I discuss next, should not overshadow the main point: both men bear the mark of Augustine's grammar, using consent as a tool of resistance. Consent is a power to be withheld by a people, and in that sense, it unifies the political horizon of both men. Their grammar has yet to coalesce in a modern theory of government, but it rests on the same idea: consent is a thing to be withheld from corrupt power.

#### Freedom and Bondage of the Will.

Like Luther, Erasmus was an Augustinian monk, though he obtained a favorable release from his vows for the sake of learning and travel. Arguably, his cosmopolitan sense of the world – a theme of Stoic philosophy – shaped his difference from Luther, who left German lands only once on a visit to Rome.<sup>56</sup> Erasmus appealed to free will as a universal trait of human nature, a notion Luther denied.

---

<sup>56</sup> Roper, *Martin Luther*, 48.

Still, the two men bore a unique resemblance to each other, since both, having exited the Augustinian order, followed distinct lines of thought in Augustine's legacy. Erasmus advocated for the freedom of choice found in Augustine's early book, *De Libero Arbitrio*, while Luther showed an affinity for Augustine's later anti-Pelagianism. The basic rules of their difference, then, were formulated on the same field, where mystical knowledge no longer held the two poles together. Augustine had discovered his own free will in the context of his calling; both aspects came together in contemplative union with God. Those two aspects now separated into divergent strands of the same legacy, a fact most apparent in the dispute of 1524, when Erasmus formally challenged Luther's denial of free will. In response, Luther said this:

...you alone have attacked the real issue, the essence of the matter in dispute, and have not wearied me with irrelevancies about the papacy, purgatory, indulgences, and such like trifles (for trifles they are rather than basic issues), with which almost everyone hitherto has gone hunting for me without success. You and you alone have seen the question on which everything hinges, and have aimed at the vital spot; for which I sincerely thank you, since I am only too glad to give as much attention to this subject as time and leisure permit.<sup>57</sup>

Their respective positions are as follows. Erasmus believes that free choice is "a power of the human will by which a man can apply himself to the things which lead to eternal salvation, or turn away from them."<sup>58</sup> Luther replies that free choice "properly belongs to no one but God." He goes on to say this:

You might perhaps rightly attribute some measure of choice to man, but to attribute free choice to him in relation to divine things is too much; for the term 'free choice,' in the judgment of everyone's ears, means (strictly speaking) that which can do and does, in relation to God, whatever it pleases, uninhibited by any law or sovereign authority. For you would not call a slave free, who acts under the sovereign authority of his master; and still less rightly can we call a man or angel free, when they live under the absolute sovereignty of God (not to mention sin and death) in such a way that they cannot subsist for a moment by their own strength.<sup>59</sup>

---

<sup>57</sup> Martin Luther, *On the Bondage of the Will* in *Luther and Erasmus: Free Will and Salvation*, ed. E. Gordon Rupp and Philip S. Watson (Louisville, KY: Westminster John Knox Press), 333.

<sup>58</sup> Erasmus, *On the Freedom of the Will* in the same volume as above, 47.

<sup>59</sup> Luther, *Bondage of the Will*, 170.

For Luther, human nature is not only in bondage to sin. The sheer fact of its creaturehood binds human nature to the sovereign will of God, rendering it analogous to a slave.<sup>60</sup> Erasmus adopts a more established Catholic view: human nature is indeed “compelled to serve that sin to which it had once for all consented,” yet the light of reason is not extinguished.<sup>61</sup> A pagan like Seneca may indeed prove instructive, orienting the will to the good. Furthermore, divine grace accompanies human effort, strengthening the will’s freedom to continue in the same pursuit. Luther stands in extreme opposition to both claims, because he believes that the Scholastic customs of Roman theology have misled the people of God. Reason is a whore, a betrayer “so captivated by her inferences and the words of her own wisdom that she does not know what she is talking about.”<sup>62</sup> And free will, under the sovereign power of God, “is an empty name, and all that we do comes about by sheer necessity.”<sup>63</sup> Luther says he follows the opinion of John Wycliffe, the English proto-reformer who called for the priests of his own era to withhold consent from Rome. In following him, Luther reveals an element of his own Scholastic lineage, a grammar he receives – however indirectly – from earlier tributaries. To better understand his difference from Erasmus, and to grasp what they have in common, we must go down a layer in the history of their language.

In the central medieval picture, free will was an essential trait of human nature, but its existence was inherently bound by service to a greater power. Humans were not forced to serve the devil; they consented to his persuasion. Their liberation, fittingly, transpired in the same way. In Augustine’s formulation, “They who were justly humbled, serving him to whom they gave consent for evil (*ad*

---

<sup>60</sup> Luther never shies from overstatement for the sake of effect. A more delicate and philosophical treatment of his view appears in Graham White, “Modal Logic in Luther’s Enslaved Will,” *The Medieval Luther*, ed. Christine Helmer (Tübingen: Mohr Sebeck, 2020).

<sup>61</sup> Erasmus, *Freedom of the Will*, 48-49.

<sup>62</sup> Luther, *Bondage of the Will*, 186. Luther’s distrust in philosophy is apparent in multiple texts where he calls reason a whore. See Roper, *Martin Luther*, 92.

<sup>63</sup> Luther, *Bondage of the Will*, 180.

*malum consenserat*), are justly liberated by him to whom they give consent for good (*ad bonum consensit*).<sup>64</sup>

This is a rare occurrence in Augustine’s language: consent may in fact serve the good. But it also serves to show that any choice made freely is simultaneously an exercise in obedience. Anyone seeking to serve himself cannot be his own master, since by consenting to a fantasy of false selfhood, he has consented to the devil’s power. Self-mastery can be achieved only as the will overcomes the tyrannical powers of lust and fear – that is, as it consents to serve the good.

So it is possible, indeed vital, to consent to the good, but the term most frequently bears a negative connotation. If we catalogue its uses in the *Summa Theologiae*, consent appears most frequently in the context of temptation, following the Augustinian paradigm. Aquinas says that the devil darkens human reason “so that it may consent to sin (*consentiendum peccato*).”<sup>65</sup> The tempter, who suggests *phantasias* to the imagination, tries to induce passionate arousal by means of a non-reality, a mere illusion of satisfaction and control. Those who follow him become his slaves along with the angels who fell: “the order of Divine justice exacts that whosoever consents (*consentit*) to another evil suggestion, shall be subjected to him in his punishment.”<sup>66</sup> Here we have the notion that remained embedded in the grammar of modernity: the right course of action is to withhold consent from the tyrant. But the Augustinian grammar adds a nuance: one must beware of sin’s allure. The devil is no obvious tyrant; he is crafty, deceiving the soul with attractive images and ideas. Consenting to a falsehood, the soul is drawn away from its rational capacities, held captive to the devil’s persuasion. The captivity of the soul thus manifests in a libidinal kingdom (*regnum illius libidinus*) where the only kind of membership is enslavement. There, appetites rage tyrannically, holding power “by fear on the one hand, desire on the other,” keeping the soul “tossed restless in varying and contradictory moods,

---

<sup>64</sup> Augustine, *De Libero Arbitrio*, Latin text with a translation by Francis E. Tourncher (Philadelphia: The Peter Reilly Company, 1937), III.10. Translation my own.

<sup>65</sup> *ST* 1a2ae.80.2, *response*. Other examples are 1a.81.3, *response*; 1a2ae.74.6, *contrario*; 1a2ae.77.8, *response*.

<sup>66</sup> *ST* 1a.63.8, *response*.

here by anxiety, there by empty and unreal delights: here by the dread of losing something that is loved, there by eagerness of acquiring what is not possessed, here by the pain of some injury done, there the urge of a wrong to be avenged.”<sup>67</sup> The disordered passions identified by the Stoics – desire, fear, grief, and joy – become the totality of falsehoods dictating one’s inner life, which in turn dictate one’s actions upon others.

Crucially, such habits of consent reveal the very origin of evil. The strongest and most crystallizing example appears in Augustine’s text on the angelic fall, which Aquinas references when treating the topic. How could Lucifer, having no external tempter, turn from God? “What we are trying to find,” says Augustine, “is what caused this consent (*consensionem*), this evil will.”<sup>68</sup> Augustine reasons that if evil is the same as consenting to a false image of the good, it has no source beyond the self. Subsisting on a *phantasia*, evil has no exterior cause, nothing real to attract or compel desire. Temptation may come from the seductions of another agent, but the consenting will is the cause of its own evil. “The evil will itself is not an effect but rather a defect,” explains Augustine. “For to defect from what has supreme existence to what has lesser existence is itself to begin to have an evil will.”<sup>69</sup> Evil occurs when passion for the good folds inward, away from the first and final cause of reality.

Free will, then, is truly free when oriented to its cause, bound in service to its Giver. Erasmus and Luther suggest two distinct emphases of the same thought: Erasmus leads with the capacity of choice, Luther with its sovereign cause. Their disparity, as I have said, highlights an absence of language for mystical communion, which is precisely what is also lost in their grammar of consent. Augustine had formulated the term through the work of self-knowledge; his technique, even encompassing the fall of the devil, gained insight by looking within, illuminated by intimacy with the divine. Now, the grammar of consent was collective, deployed against the political problem of tyranny.

---

<sup>67</sup> Augustine, *De Libero Arbitrio*, I.11; III.10.

<sup>68</sup> Augustine, *City of God*, XII.6. English trans. William Babcock (Hyde Park, NY: New City Press, 2013), 42.

<sup>69</sup> Augustine, *De Civitate Dei*, XII.7

Its older meaning was not altogether lost, but its evolution obscured the form of self-knowledge it once invited.

#### Scholastic Tributaries.

In the Middle Ages, the grammar of consent was not only focused on the inner life. It also wove together a distinct fabric of social knowledge. Aquinas upheld the grammar he found in Augustine, but he found more possibilities in its logic than Augustine himself explicated. For him, an act of consent was not corrosive by default. Consent was simply a function of the will, a movement of the rational appetite. In this most technical sense, the term signified an act of practical reason, a decision made about the best way to attain happiness.<sup>70</sup> Aquinas took its formal definition from John of Damascus, working from a Latin translation that allowed him to consolidate two ideas. The Damascene's word, *sententia*, bears the connotation of sentencing, of rendering an opinion or verdict. *Consentire* stems from cognate ideas of sensing: to consent is to “feel with” – to judge that something is agreeable by a felt union with it.<sup>71</sup> Formally, the term is neither negative nor positive; it functions as a natural movement of the will every time someone decides what to do.

As I said above, Aquinas uses consent positively when discussing the legal ratification of a shared custom: “the consent of a whole people (*consensus totius multitudinis*), expressed by a custom, counts far more in favor of a particular observance than does the authority of the sovereign, who has not the power to frame laws except as representing the people.”<sup>72</sup> That teaching, which later troubled Luther, occurs only once in the *Summa*. Two further examples offer a greater context for medieval social thought. First, consent is the efficient cause of marriage, the very act that constitutes the

---

<sup>70</sup> Aquinas, *Summa Theologiae*, trans. Fathers of the English Dominican Province (New York: Benziger Bros, 1947), 1a2ae.15.1, 2. Hereafter cited as *ST*.

<sup>71</sup> Aquinas, *ST* 1a2ae.15.3, reply to 3.

<sup>72</sup> *ST* 1a2ae.97.3, reply to 3.

sacrament.<sup>73</sup> Aquinas takes this from Peter Lombard, who argued that consent, not coitus, “makes a marriage.” Holding the same position, Aquinas protects the Lombardian view of Mary and Joseph, who were married and celibate by mutual consent.<sup>74</sup> To say the least, his position lost popularity in the fifteenth century, when monks like Luther turned to the active life of marriage and family. Still, it granted an early sense that mutual consent bound two parties in a contract. It drew upon a principle of Roman law that, in its initial structure, went beyond the marrying couple to identify the contract arranged by their parents.<sup>75</sup> In the Middle Ages, the concept changed, deriving more clearly from the free will of the husband and wife, whose vows enacted their freedom to choose and commit.

The second positive usage echoes the first, appearing where Aquinas discusses Mary’s *fiat*. To explain why the Virgin’s consent was necessary to the incarnation, Aquinas says it brought about “a certain spiritual wedlock between the Son of God and human nature.”<sup>76</sup> Two ideas thereby work together: consent makes the marriage, even as it unites God with the human. As I discussed in chapter one, Mary became an archetype of free will in the Middle Ages; her consent signified the possibility of mystical union with God, an act to be repeated by contemplatives everywhere. Of note, Luther’s princely mirror shied from such an approach to Mary, though he was likely familiar with it.<sup>77</sup> For Aquinas, the nuptial consent of the soul shapes the entire journey of the *Summa*, despite the fact that it represents a proportionally minor usage of consent in the text. The Augustinian grammar is the *Summa*’s main tributary, and Aquinas draws multiple streams into it for a full account of free will. To summarize: by consent, evil occurs, manifesting in a libidinal kingdom of disordered passion; by

---

<sup>73</sup> *ST Supplementum Tertiae Partis*, 45.1-4. The term occupies a prominent place in the *Summa*’s supplemental discussion of marriage—so prominent, in fact, that I cannot examine its nuances here.

<sup>74</sup> Peter Lombard, *The Sentences Book IV, On the Doctrine of Signs*, trans. Giulio Silano (Toronto: Pontifical Institute of Medieval Studies, 2010), XXVII.3. Also see Thomas M. Finn, “Sex and Marriage in the *Sentences* of Peter Lombard,” *Theological Studies* No. 72 (2011), 41-69.

<sup>75</sup> Philip L. Reynolds, *How Marriage Became One of the Sacraments* (Cambridge: Cambridge University Press, 2016), 157.

<sup>76</sup> *ST* 3a.30.1

<sup>77</sup> In the German mystical tradition, Johannes Tauler taught that “if God is to be truly born in us, we must imitate her...” Tauler, “Sermon 1 [Christmas],” *Sermons*, trans. Maria Shradly (New York: Paulist Press, 1985), 39-40.

consent, salvation occurs, manifesting in well-ordered desire for the good; by consent, the sacrament of marriage is sealed between two people; by consent, the same sacrament receives its consummate meaning in the Virgin's womb. The greatest meaning of consent, then, is mystical union with God.

In English, the earliest recorded use of consent appears in the writings of John Wycliffe, who shaped Luther's concerns but stood on two commonplaces in Aquinas.<sup>78</sup> The first is wedlock, which he believes *shulde be maad wip full consent of bope parties* (should be made with the full consent of both parties).<sup>79</sup> As in Aquinas, Wycliffe's treatment of marriage is discretely topical. The other usage, scattered throughout his works, bears the expected imprint of Augustine's grammar. For example, in his teaching on the ten commandments, Wycliffe expands upon the sin of murder by casting backbiting as its equivalent. He notes the tempter's cunning in such an evil: *And among alle synnes bi whiche þe feend bigileþ men, noon is moore sutil þan such consent* (And among all sins by which the fiend beguiles men, none is more subtle than such consent).<sup>80</sup> These two examples follow the positive and negative forms of consent in Aquinas, but Wycliffe heightens their contrast, because he has no neutral or intermediate way of discussing the term. He does not place consent in a metaphysics of free will as Aquinas does; such a position is obscured, arguably, by the fact that Wycliffe is pressed to provoke social change. One of his greatest concerns is simony, the selling of grace, which lures the poor into buying indulgences. Statements like this are not uncommon:

*...ande Seint Poule seis, þat Cristen men ben þo temple of þo Holy Goste, consent 3ee not þerefore to þo symony of the byschopis, ne covetise of oper prestis, for þo feigned blessyng of heretekis to whos blessyng God cursus, as þo prophete wittenessis.*<sup>81</sup>

<sup>78</sup> See "consent, n.". OED Online. March 2018. Oxford University Press.

<http://www.oed.com/view/Entry/39517?result=1&rskey=uqywY3&> (accessed April 26, 2018).

<sup>79</sup> John Wycliffe, "Of Wedded Men and Wins", *Select English Works of John Wyclif* Vol. 3, ed. Thomas Arnold (Oxford: Clarendon, 1871), 191.

<sup>80</sup> Wycliffe, "The Ten Comaumentis," from the same collection, 87. Wycliffe seems to follow Aquinas quite directly here. See *ST 2a2ae.73.4, Whether it is a grave sin for the listener to suffer the backbiter?*

<sup>81</sup> Wycliffe, "On the Twenty-Five Articles," from the same collection, 487.



...and Saint Paul says that Christian men are the temple of the Holy Ghost. Consent ye not therefore to the simony of the bishops, neither the covetousness of other priests, (seeking) for the feigned blessing of heretics, whose blessing God curses, as the prophet witnesses.

Notice the *phantasia* – “the feigned blessing of the heretics.” The bishops peddle an imaginary good, luring parishioners from the truth. Wycliffe responds angrily: “Consent ye not!” Christians, being the temple of the Holy Ghost, must resist the perpetrators of deceit. Consent is now primed for political use in the hands of Luther, deployed as a term of resistance to abusive pastoral power. But in Wycliffe, the term retains something lost in both Erasmus and Luther: the element of temptation. There is an *allure* to be resisted here, a promise of blessing. The problem of evil is subtle, indeed deceptive, masquerading as a good that may look nothing like tyranny. Wycliffe thus bears a deeper imprint of the Augustinian grammar, an impression of the inner life Augustine cultivated.

The bulk of this chapter has led me to these questions: How does consent form in Augustine? And what might we gain from its use? Like Erasmus, Augustine drew from Stoic wisdom, but he proposed a means of converting its techniques in prayer. Like Luther, he saw that the people of God were in exile, but his political remedy was not found solely in the active life. The *City of God* was an impossible vision without an awareness raised by contemplative practice, later recognized by Aquinas as the nuptial consent of the soul to God.

#### The Augustinian Psychology of Consent.

In Augustine’s short work *On Continence*, we find statements like this: “The falling aside of the heart, what is it but the consent (*consensio*)?”<sup>82</sup> The term indicates a few ideas at once. First, the human is a passionate creature subject to *phantasias* – mental images of distressing or enticing possibilities.

---

<sup>82</sup> Augustine, *On Continence*, in *Nicene and Post-Nicene Fathers*, First Series, Vol. 3, trans. C.L. Cornish, ed. Philip Schaff (Buffalo, NY: Christian Literature Publishing Co., 1887), revised for New Advent by Kevin Knight, <https://www.newadvent.org/fathers/1308.htm>, §3. The Latin text, *De Continentia Liber Unus*, is retrieved from S. Aurelli Augustinus OPERA OMNIA, <http://www.augustinus.it/latino/continenza/index.htm>.

Second, the human heart is prone to give in to fears and desires arising from those images, acting without consideration or wisdom. But third, as Augustine says in the *City of God*, human reason need not “approve of nor consent to such things” (*nec approbari ista eisque consentiri*).<sup>83</sup> This was to be the moral paradigm of the Middle Ages. The meaning of consent was negative in tone, suggesting a compromise, a yielding of oneself to the wiles of passion. At the same time, it denoted the Stoic possibility of doing otherwise – of *not* consenting. By withholding consent from disordered compulsions, one applied the gift of free will to the development of interior freedom, choosing to form the virtues of a good life.

The treatise *On Contenance* plots the basic position for the whole of Augustine’s work.<sup>84</sup> Contenance, being more than a synonym for celibacy, is the virtue of self-control. As its name suggests, it helps us contain ourselves, creating the inner conditions necessary for social and personal wellbeing. “By continence we are gathered together and integrated,” writes Augustine, “whereas before we were dissipated into many things.”<sup>85</sup> Contenance holds us together – both in marriage and virginity – and it reaches down beyond sexual desire to the inner voice of every appetite. It regulates the heart, the central organ of human longing, where its function is not to stifle desire but to enable wise action, like a door that can be opened and closed. The contemplative life enables one to perceive the door, making the soul aware of its ultimate good. Without contemplation, the soul is a drowsy doorkeeper, its inner light dim.<sup>86</sup> Choices then occur without thought, as if involuntarily – though in a technical sense they are incontinent, made with the full consent of the will. In the *Confessions*, Augustine makes himself the example:

---

<sup>83</sup> Augustine, *De Civitate Dei*, IX.4

<sup>84</sup> See Gerald W. Schlabach, “‘Love is the Hand of the Soul’: The Grammar of Contenance in Augustine’s Doctrine of Christian Love,” *Journal of Early Christian Studies* Vol. 6, No. 1 (1998), 59-92.

<sup>85</sup> Augustine, *Confessionum*, my translation.

<sup>86</sup> The allegorical trope of Mary and Martha demonstrates the point. Mary, centered on the true Good, signifies the contemplative life; Martha, worried about many things, signifies the active life. Without the contemplative life, the active life is prone to dissipate the soul in many things – if not in debauchery, then in burnout.

I was bound not by foreign iron, but by my own iron will. The enemy had a hold of it, and by my own will he made a chain and bound me. Because my will was perverse it changed to lust, and lust, being served, became habit, and habit not resisted became necessity. I was bound by these links – which is why I call them a chain – and locked into hard servitude.<sup>87</sup>

The devil cannot put shackles on a will that does not consent to make them. He can possess only those who consent to be enslaved. Augustine therefore discovers the reality of free will by withholding consent from his old habits. “Where in all that long time was my free will?” he wonders. “And from what deep sunken hiding-place was it suddenly summoned forth?”<sup>88</sup> He leaves the mystery unexplained by anything but the story of its summoning. The climactic scene is famous. Weeping in the garden, Augustine wants to leave his old way of life, but his will for a new life is untried and weak. His will for the old, a colossal prison of habit, shelters the lusts that continue to promise him comfort. He sees them as his mistresses, hearing their rueful cries: “Are you sending us away?” they ask. “From this moment on, shall we be with you no more?”<sup>89</sup> Their words are crucial, because although Augustine has listened to them throughout his life, he now *bears* them. They have emerged from below his conscious awareness to plead with him, and that makes their power observable, contestable, and ultimately reducible. A transformation of his conscious life is underway. It is an extinguishing of what he was, a death of his slave-form.

Yet Augustine *himself* has not died. He remains the narrator of his own autobiography, a more substantial form of himself, shedding light on his former darkness. In the *City of God*, a fitting parallel exists with the first day in Genesis, which Augustine reads as the dawn of self-knowledge in the created order, a dawn repeated whenever a soul awakens to the light of God in the self.<sup>90</sup> This is where Augustine now feels the ground of his freedom. Importantly, his conversion has not required him to

---

<sup>87</sup> Augustine, *Confessionum*, VIII.5, Opera Omnia – edito latina, <http://www.augustinus.it/latino/confessioni/index2.htm>, my translation.

<sup>88</sup> Augustine, *Confessions*, Sheed’s translation (Indianapolis: Hackett Publishing, 2006) VIII.5

<sup>89</sup> Augustine, *Confessionum*, VIII.11, my translation.

<sup>90</sup> Augustine, *City of God*, XI.7

abandon the power of his passions; it has redirected their growth to a fuller joy, giving him a new field of relations beyond those of his former lusts. He recalls how, in the garden of his conversion, his vision was flooded by a new archetype:

In the direction toward which I had turned my face, trembling from fear of going, I could see the pure dignity of Contenance, serene and joyous but not defectively, soliciting me to come to her and not doubt, stretching forth holy hands to receive and embrace me, hands full of multitudes of good examples.<sup>91</sup>

For Augustine, the contemplative life is not devoid of images but rich with them. The Lady Contenance is a blessed *phantasia*, a truthful fantasy. A new and worthy mistress of his desire, she is the fruitful mother of many celibates – male and female, young and old. Without effort, Augustine finds them attractive, because they signify a wholeness never known to his old perceptions of reality. Augustine sees that his lust goes far beyond sex; it speaks to a deeper appetite for a higher communion. The Lady smiles at him, encouraging him to draw near. He soon finds that her joys are vivid and diverse, filling his life with rest from the cares that gnawed at him for so long.

Still, the tensions of a continent life are unavoidable, and with time, Augustine the narrator has found that a healthy soul must know itself in two aspects: tranquility and tension, rest and vigilance, letting go and holding on. These are the poles of a continent life, the one pole corresponding to its contemplative side and the other to its active side. In oscillating back and forth, the soul advances toward the abundant goodness of its being in God. This is a theme Augustine revisits throughout his work, and we find it epitomized in his last tractate on the Gospel of John. “There are two states of life,” he says: “one in the work of action, the other in the reward of contemplation; the one turns away from evil and does good, the other has no evil from which to turn.”<sup>92</sup> Of these two states, the contemplative life will endure in the age to come. But its endurance now requires the active life, the

---

<sup>91</sup> Augustine, *Confessionum*, VIII.10, my translation.

<sup>92</sup> Augustine, *In Evangelium Iohannis Tractatus Centum Viginti Quator*, 124.5, Opera Omnia – edito latina, [http://www.augustinus.it/latino/commento\\_vsg/index2.htm](http://www.augustinus.it/latino/commento_vsg/index2.htm), my translation.

labor pains of which anticipate their own end. When the dialectic finally resolves, there will be “no labor of continence,” leaving only the contemplative union that continence has born.<sup>93</sup> Until then, the contemplative life requires its active partner, even as the active life returns to its center by contemplating the good it will never lose.

One can see why the tensions of continence, if not affirmed as good, might lead to feelings of despondency. At issue is the doctrine of free will. How much control can we expect to have, given that lustful thoughts (or wrathful, or fearful) might arise within us, totally unbidden? In his treatise *On Continence*, Augustine grants that the allure of sin – or its threat, for that matter – is not perfectly controllable. Out of concern for those awash with unnecessary guilt, he writes:

As long as the flesh lusts against the spirit, and the spirit against the flesh, it is enough for us not to consent to the evils we feel in ourselves. Only when such consent occurs do those corruptions come out and defile us. But when, on the other hand, consent is withheld by means of continence, then those evils of carnal lust – battled by spiritual lust – are not allowed to harm us.<sup>94</sup>

As I said above, Thomas Aquinas clarifies that *consentire* stems from the cognate ideas of sensation and being sentient. To consent is to “feel with” – to experience a felt union with the object.<sup>95</sup> Aquinas uncouples consent from a similar idea, *assentire*, feeling *toward* an object, which is closer to the Stoic and Aristotelian conception of choice. Its occurrence is far less frequent in the *Summa*, suggesting that Aquinas draws upon Augustine far more than his Hellenistic precursors. As with Augustine, Aquinas invites an erotic sense of rationality that the Stoic grammar was unable to observe.<sup>96</sup>

We can think of consent as a form of agreement, but we can also think of it as a training technique for feelings. One can feel the road with a bicycle, to pick an analogy. When Augustine says “it is enough for us not to consent to the evils we feel,” he recognizes that we really do feel them

---

<sup>93</sup> Augustine, *On Continence*, §20.

<sup>94</sup> Augustine, *De Continentia*, §5. My translation.

<sup>95</sup> Aquinas, *ST 1a2ae.15.3*, reply to 3.

<sup>96</sup> Thomas Pfau, *Minding the Modern: Human Agency, Intellectual Traditions, and Responsible Knowledge* (Notre Dame, IN: University of Notre Dame Press, 2013), 110-111.

(*sentimus*), just as a bicyclist really feels the road. This much is beyond our control; but we need not ascribe our sensation of reality to those feelings (*consentire*). It is as if, while riding a wobbly bicycle, we should remind ourselves that there is a sturdier way to feel the road. And by reminding ourselves of that, we can shift our perception of reality, though the road continues to feel wobbly. Continenence can do something like that. It can help us cultivate a higher order of feeling, consistent with what the Stoics called *epoché* or cessation. By withholding consent from the instinctive order of feelings, we are brought into a second order of tranquility and resilience. The point is not to feel nothing, since that would be an opposite extreme to false guilt, and equally deceptive. The point is to get a feel for the virtues – to create a kind of muscle memory for wisdom in relation to passion, and so to ride the bicycle with greater ease. The most critical exercise here is contemplation, where the soul feels itself in the stillness of God’s presence. In contemplation, to continue the example, one learns how to dismount the wobbly bicycle and find one’s footing before once again embarking on the journey.

#### The Inner Citadel.

When we withhold consent from lust, says Augustine, no evil can harm us.<sup>97</sup> The verb *nocere*, to harm, lies at the root of the English word “noxious.” Using it, Augustine wants to identify the true cause of injury to the soul. A similar discussion appears early in the *City of God*, where he handles the delicate topic of rape. There again, he writes with concern for those burdened by unnecessary guilt – those who, in this case, feel defiled not by their own passions but by those of another. Augustine is clear: “Lust will not defile if it is another’s; and if it does defile, it is not another’s.”<sup>98</sup> In modern sexual ethics, consent is the paramount term, and the same is true for Augustine. But for him, consent is not principally about the relation between two parties; it represents the soul in relation to itself. The soul

---

<sup>97</sup> Augustine, *De Continentia*, §5. My translation.

<sup>98</sup> Augustine, *City of God*, I.18. Adapted from Babcock’s translation.

remains inviolate by withholding consent from its own lusts. Emphasis can still fall on the fact that something was done “without consent,” but in the Augustinian grammar, this is a form of victory; the soul has not been violated.

Now, we may dispute this, considering the development of modern trauma theory. Victims of rape understand how tremendously damaging the event is; the psyche *must* be wounded by it. But as I read him, Augustine does not intend to overlook the undisputable injury. He intends the opposite, applying a poultice to the wound by saying what remains whole. His argument takes a Stoic line of approach, identifying the soul’s freedom by delimiting the true nature of its control.

No one, no matter how honorable and pure, has power to fully determine what happens to his flesh, but only what his mind will accept or reject. Who of sound mind thinks that purity is lost if his flesh, seized and oppressed, gratifies a lust not his own? If purity can perish in such a way, then it is certainly not a virtue of the mind, nor does it belong to those goods by which one lives rightly. Instead, it would be numbered among the perishable goods of the body like strength, beauty, health, and so on. But these are goods which, even if diminished, do not diminish the goodness or justice of life well lived. Now then, if purity were something of the second kind, why would people strive so hard not to lose it that they put their bodies at risk? But since purity is a good of the mind, it is not lost when the body is overpowered. In fact, the body itself is sanctified if the good of holy continence does not yield to the impurity of carnal lusts.<sup>99</sup>

Augustine’s theory traces the boundaries of an inner citadel (*arcem mentis*), a commonplace in Stoic philosophy.<sup>100</sup> Marcus Aurelius, for example, wrote that “the mind free of passion is a citadel (*ἀκρόπολις*), for there is no stronger fortress where a man can find refuge and remain unconsumed.”<sup>101</sup> Ideas like these have enjoyed a popular renaissance in recent years, and for good reason. Stoic philosophy allows us to mark off a zone of personal control in a world where mass controls have failed: the climate is changing, pandemics are pending, fascism is looming. The Stoics teach us how to identify the precinct of our own response, as Pierre Hadot says in his book on Marcus Aurelius:

<sup>99</sup> Augustine, *City of God*, I.18. My translation.

<sup>100</sup> Augustine refers to the *arcem mentis*, the citadel of the mind, in the treatise *On Continence*, §31.

<sup>101</sup> Marcus Aurelius Antoninus, *Meditations*, with a translation by C.R. Haines (Cambridge, MA: Harvard University Press, 1930), VIII.48. My translation. Pierre Hadot has a rich treatment of the topic in *The Inner Citadel: The Meditations of Marcus Aurelius*, trans. Michael Chase (Cambridge, MA: Harvard University Press, 1998).

“Whether the world is ordered or chaotic, it depends only on us to be rationally coherent within ourselves. In fact, all the dogmas of Stoicism derive from this existential choice. It is impossible that the universe could produce human rationality, unless the latter were already in some way present within the former.”<sup>102</sup>

Hadot says elsewhere that classical Stoicism consisted in “the single act of placing oneself in harmony with the *logos*, whether it be the *logos* of universal Nature, the *logos* of rational human nature, or the *logos* as it is expressed in human discourse.”<sup>103</sup> Not all revivals of Stoicism go so far. Michel Foucault, in his own turn to the Stoics, did not accept the notion of a universal Reason or Logos. Still, he saw that Stoic philosophy could provide time-tested methods of resilience and courage.<sup>104</sup> Those methods make it the neighbor of several modern schools of psychology, such as cognitive behavioral therapy and Viktor Frankl’s logotherapy.

Frankl’s famous text, *Man’s Search for Meaning*, recounts his experience as a prisoner in Auschwitz and Dachau, where he found that some people “were able to retreat from their terrible surroundings to a life of inner riches and spiritual freedom.”<sup>105</sup> A death camp is an extraordinary, not to say horrific, place in which to develop a theory of freedom. Yet Frankl emerged having done just that, and the extremity of the situation is arguably what validates his discovery.

We who lived in concentration camps can remember the men who walked through the huts comforting others, giving away their last piece of bread. They may have been few in number, but they offer sufficient proof that everything can be taken from a man but one thing: the last of the human freedoms – to choose one’s attitude in any given set of circumstances, to choose one’s own way.

And there were always choices to make. Every day, every hour, offered the opportunity to make a decision, a decision which determined whether you would or would not submit to those powers which threatened to rob you of your very self, your inner freedom; which

---

<sup>102</sup> Hadot, *The Inner Citadel*, 308.

<sup>103</sup> Hadot, *The Inner Citadel*, 79.

<sup>104</sup> See Michel Foucault, *The Courage of Truth: The Government of Self and Others II*, trans. Graham Burchell (New York: Palgrave MacMillan, 2011).

<sup>105</sup> Viktor Frankl, *Man’s Search for Meaning* (Boston: Beacon Press, 1992), 47.



determined whether or not you would become the plaything of circumstance, renouncing freedom and dignity to become molded into the form of the typical inmate.<sup>106</sup>

Recall, from the last chapter, that the Nuremberg Code was drafted to require “voluntary consent” from all human subjects of research. Agamben raises a protest: “the concept of ‘voluntary consent’ is simply meaningless for someone interned at Dachau.”<sup>107</sup> He is right, but only in the framework provided by the Code. Frankl’s description of inner freedom sets up another framework, not with the language of liberalism but with its ancestral, Stoic conception of self-government. In that framework, voluntary consent is not at all meaningless in a place like Dachau. Its meaning lies in one’s ability to withhold it – or, in Frankl’s terms, to maintain one’s “inner hold” over the freedom of choice.<sup>108</sup>

Having said this much in praise of the Stoic’s inner citadel, I also recognize that it has not escaped a warranted critique. In fact, its greatest strength – namely its power to remain unaffected by passion – may be its greatest shortcoming. In *The Cultural Politics of Emotion*, Sarah Ahmed observes that the words “passion” and “passive” are rooted in the Latin word for suffering – *passio*. The Greeks, too, used the term *pathos*, from which we get “pathology.” In this range of connotations, passion is abnormal; it aberrates the norm of rationality, plunging the mind into waves of unruly fear and desire. To suffer passion is to lose agency; it is to be acted upon rather than taking action. The absolute binary thus posed – between rational agent and passive subject – results in a hierarchy that imprints itself on gender. As Ahmed points out:

The association between passion and passivity is instructive. It works as a reminder of how ‘emotion’ has been viewed as ‘beneath’ the faculties of thought and reason. To be emotional is to have one’s judgment affected: it is to be reactive rather than active, dependent rather than autonomous. Feminist philosophers have shown us how the subordination of emotions also works to subordinate the feminine and the body... Emotions are associated with women, who

---

<sup>106</sup> Viktor Frankl, *Man’s Search for Meaning*, 75.

<sup>107</sup> Agamben, *Homo Sacer*, 90.

<sup>108</sup> Frankl, *Man’s Search for Meaning*, 78.

are represented as ‘closer’ to nature, ruled by appetite, and less able to transcend the body through thought, will and judgment.<sup>109</sup>

Evolutionary thinking tends to reiterate the same idea, dismissing emotion as a useless trace of our prehistory. Anxiety, for example, is said to be a phenomenon dating back to the days when we developed fight-or-flight responses in life-and-death situations. As Ahmed points out, the Darwinian model suggests that “emotions are not only ‘beneath’ but ‘behind’ the man/human, as a sign of an earlier and more primitive time.”<sup>110</sup> In effect, the inner citadel – at least in one of its predominant articulations – is a form of supremacist thinking. It justifies the domination of whatever it finds irrational, primitive, and feminine.

But the Augustinian model is not that sort of citadel, nor does it frame that kind of history. Its interior political theology is open to passion, and necessarily so: its central icon is a man who wept, raged, and sweat drops of blood. It therefore modifies the architecture of Stoicism by welcoming the full range of human emotion. “Weep with those who weep,” wrote Paul to the Romans, after telling them that all creation groans for liberation from death. The soul too, he said, is inextricably bound to the same cosmic groaning: “We ourselves groan inwardly (*eautoīs stenázomen*).”<sup>111</sup> His language creates a high contrast with a Stoic like Epictetus, who taught that the *logos* intended the world to be as it is: “be careful, men, don’t even groan inwardly (*ésotben stenàxes*).”<sup>112</sup> In Christ, a new life has emerged from beyond the Stoic perception of the possible. His passion is never passive; it is agentic, chosen. Thus, in the tractates on John, we find Augustine paraphrasing Christ as follows: “Let perfect action follow me, informed by the example of my passion; but let contemplation, still in formation, be perfected when I come again.”<sup>113</sup> Without passion, the mind’s eye cannot truly behold the *logos*. In

---

<sup>109</sup> Sara Ahmed, *The Cultural Politics of Emotion* (Edinburgh: Edinburgh University Press, 2014), 3.

<sup>110</sup> Ahmed, *Cultural Politics of Emotion*, 3.

<sup>111</sup> Romans 12:15; 8:23-24.

<sup>112</sup> Epictetus, *The Encheiridion*, in *How to Be Free: An Ancient Guide to the Stoic Life*, with Greek text facing a translation by A. A. Long (Princeton: Princeton University Press, 2018), §16. My translation.

<sup>113</sup> Augustine, *In Evangelium Ioannis Tractatus*, 101.5, my translation.

Christ, passion is action; passion *is* the active life of the *logos*. And passion is central to the contemplative life, where the soul knows itself in the flesh and blood of Christ, seeing its end in joyful union with the resurrected body.

For the Stoic sage, there is no such end. The inner citadel must stand in resistance to both desire and joy, seeing that both are passing. But for the saint, the hope of endless joy authorizes a new conception of agency. Sainly grammar is built by the continent soul learning to yearn well. I take this to be the basic paradigm Augustine lays out, visualized as a conflict not between reason and passion but between two modes of passion.

Continence	Corruption
Withholding Consent ( <i>epoché</i> )	Consenting
Spiritual Desire	Carnal Lust

As we have already seen, continence is not opposed to desire. A powerful strand of Platonic mysticism runs through Augustine's work, allowing for the practice of desiring well.<sup>114</sup> He also gets this idea from a text he likes to quote from St. Paul: "the flesh lusts against the spirit and the spirit against the flesh."<sup>115</sup> In fact, Augustine seems to radicalize the erotics of classical Platonism, since even there, the passions were seen as unruly by nature. The Platonic picture remained hierarchical, as reason took command of the passions like a charioteer with his horses.<sup>116</sup> Desire, while pulling the chariot, necessitated the firm hand of a higher intellect. We need only to consider the placid demeanor of Socrates in the face of temptation and death. He is an absolute premonition of the Stoic ideal, whereas in Christ, a different image appears. The passions do not oppose the *logos*; passion is the very means

---

<sup>114</sup> See Sarah Byers, *Perception, Sensibility, and Moral Motivation in Augustine: A Stoic-Platonic Synthesis* (Cambridge: Cambridge University Press, 2013). On page 52, Byers contends that "The Augustinian theory of motivation itself is not *intrinsically* Christian or theological; rather, Augustine has a theory of philosophical psychology that is developed from Stoic and Platonic claims about motivation, and he also thinks that this anthropological model is coherent with the specifically Christian claim that grace is a means to the development of the virtues." I take a dissimilar view, though I agree that Augustine has achieved a Stoic-Platonic synthesis. As I read him, the synthesis would be incoherent without the incarnation of God, which indexes passion to the Logos in a way that neither of the two schools could have.

<sup>115</sup> Augustine, *Confessions*, VIII.5; Galatians 5:17.

<sup>116</sup> Plato, *Phaedrus*, 245a-257b

by which the *logos* overcomes evil, suffering for the joy set before him. What follows, then, is a new index in which the passions are released, not constrained or held to a minimum. As Augustine says in

*City of God*:

In our practice, then, the question is not whether the godly mind is angered, but why; not whether it is saddened, but why; not whether it is afraid, but what it is afraid of. To be angry with sinners in order to correct them, to be saddened for the afflicted in order to relieve them, to be afraid for those in peril in order to save them from perishing – surely no one of sound judgment would fault these passions.<sup>117</sup>

Though he appeals to common judgment, Augustine has a case to make against the opposing view. I suggest we amplify the dispute further, because the opposing view lingers in what Audre Lorde calls “the european-american male tradition.”<sup>118</sup> Wherever Reason is depicted as pristinely separate from passion, like so much dry land apart from the sea, we can be sure that oppression is at hand. As Lorde reminds us, it codes the history of race as well as gender in the west.

On Language and Worldmaking.

A great distance lies between Lorde and Augustine (she: a Black feminist poet of post-civil rights America, divorced, a lesbian, irreligious; he: a church father of Roman North Africa, celibate and a recovering fornicator). But a set of commitments is common to both. First: angry and erotic passions are not to be suppressed but used. They are, in Lorde’s phrasing, sources of power and information.<sup>119</sup> Second, language ought to reveal and develop the passions, training them to take form in the communicated world. Language is not merely a harness for animal passion; to say so would be to ignore the demand placed on language for accuracy. The question *How do I feel and why?* demands that language perform a service to passion. The two powers ought to inform and regulate each other,

---

<sup>117</sup> Augustine, *City of God*, IX.5

<sup>118</sup> Audre Lorde, “Uses of the Erotic: The Erotic as Power,” *Sister Outsider* (New York: Penguin, 2020), 47.

<sup>119</sup> See Lorde’s “Uses of the Erotic” as well as “The Uses of Anger: Women Responding to Racism,” both in *Sister Outsider*.

moving together, equally yoked. Only in the process of shared work can they compose what Lorde and Augustine take to be true self-knowledge. The question is: *What power am I serving and why?* Many similar questions illuminate the citadel: *What do I love and why? What makes me outraged and why?*

Language, as we learn it and teach it to each other, creates pathways of self-discovery, and those pathways present frames for the world. Through language, powers hidden in the self and the world become shapely and articulable. They may be wild, even demonic, but the mere fact of their presence is not what poses the threat. The danger lies in their hiddenness from language and conscious attention. On the side of the oppressed, their hiddenness results in traumatic dissociation, as when victims have no words for what is happening. On the side of the oppressors, it results in self-deceit and false naming (calling something normal, for example, when it is violent). In either case, the hidden power must be named. Its form must appear in words both exacting and evocative, seen with help from the passions of grief and anger.

In one of Lorde's essays, she rehearses the names and stories of oppressed Black women throughout history. One of the most haunting evokes the memory of J. Marion Sim, the "father of American gynecology," who perfected a novel surgery on the bodies of enslaved women before moving to Manhattan to make his fortune. His research was deeply embedded in the colonial project of knowledge acquisition; he fashioned a vaginal speculum that, in his words, allowed him to "see everything as no man had seen before."<sup>120</sup> Lorde tells her version of the story from below, so to speak, in the mode of truthful fiction that Toni Morrison would later adopt in *Beloved*.<sup>121</sup>

It is shortly after the Civil War. In a greystone hospital on 110<sup>th</sup> Street in New York City a woman is screaming. She is Black, and healthy, and has been brought here from the South. I do not know her name. Her baby is ready to be born. But her legs have been tied together out of a curiosity masquerading as science. Her baby births itself to death against her bone.<sup>122</sup>

---

<sup>120</sup> Quoted in Harriet Washington, *Medical Apartheid: The Dark History of Medical Experimentation on Black Americans from Colonial Times to the Present* (New York: Anchor, 2008), 64.

<sup>121</sup> See Toni Morrison, "The Site of Memory," *Inventing the Truth*, 85-102.

<sup>122</sup> Lorde, "Eye to Eye: Black Women, Hatred, and Anger," *Sister Outsider*, 143.

With remarkable clarity, Lorde leaves the captors nameless, without real form in the scene. In their violence and cruelty, it is as if they have consented to nonbeing: Lorde's careful use of the passive voice removes all indications of their agency. The woman *has been brought*; her legs *have been tied*. By whom? We can imagine white men in white coats, but they are not in control. Lorde can see beyond their disguise, straight to the enslaving power of "curiosity masquerading as science." The only action belongs to the baby, for whom the passive voice is most proper, since it is ready *to be born*. Instead, it *births itself to death* in a grotesquely active form of self-reflexivity.

The story calls up a theme from chapter three, namely the "death science" of the Nazis, carried out in liberal guise by the U.S. during the Tuskegee Syphilis Study. While the U.S. Public Health Service did not kill, they followed the biopolitical logic of letting die, withholding penicillin from their subjects. They saw Black lives as a field for the natural history of the disease, more valuable dead than alive, since the "truth" of syphilis was best extracted by autopsy. "The absolute value became knowledge, not human lives," remarks Emilie Townes, adding that the "craving for knowledge" dictated the research.<sup>123</sup> Her language, like that of Lorde, perceives an abject appetite behind the apparent objectivity of the study design. The lust for knowledge can be an evil, and it can rapidly mutate into the sheer lust for power and control.

The same lust rules the scene described by Lorde, where a Black woman screams in shackles. Her captors use her labor to extract information like so much cotton from the fields. Yet Lorde does not cast a spotlight on them, choosing instead to reveal their enslavement to an old western vice: "a curiosity masquerading as science." Augustine once issued a warning about this, his language virtually identical to Lorde's: beware experiments (*experiendi*) conducted out of a "vain and curious desire cloaked in the name of knowledge and science."<sup>124</sup> On this reading, the doctors have failed to see the

---

<sup>123</sup> Townes, *Breaking the Fine Rain of Death*, 88.

<sup>124</sup> Augustine, *Confessions*, ed. James J. O'Donnell (Oxford: Oxford University Press, 1992), X.35.54; pp. 219-220.

malignant power of curiosity, failing further to master it within themselves. Rather than seeking true understanding, they have consented to the mere appetite for knowledge. The moral difference is akin to that of eating and gluttony, where the problem is not desire for food but the uncontrolled claim it has over one's knowledge of the good.

For Augustine, curiosity is a lust of the eyes.<sup>125</sup> By consenting to it, we separate ourselves from a trustworthy perception of reality. The same can be said of every disordered lust, but curiosity has a unique tendency to numb our sensitivity to violence and cruelty. To demonstrate the point, Augustine makes an example of his friend Alypius. One day, cajoled by some friends, Alypius had reluctantly agreed to attend the gladiatorial games. At first he believed he could attend without yielding to the power of the spectacle: "Even if you drag my body to the place," he said, "can you force me to turn my mind and my eyes on the show?"<sup>126</sup> Yet the process of consent had already begun. Try as he might to say yes and no at the same time, curiosity won out – *curiositate victus*.

Seeing the blood he drank deep of the savagery. He did not turn away but fixed his gaze upon the sight. He drank in all the frenzy, with no thought of what had happened to him, revelled in the wickedness of the contest and was drunk with the lust for blood. He was no longer the man who had come there but one of the crowd to which he had come, a fit companion for those who had brought him.<sup>127</sup>

Consenting to the lust of the eyes, Alypius distorts his capacity for the beatific vision, transfixed not by the lamb of God but by the blood of ruthless entertainment. The spectacle functions to distort and counterfeit the contemplative life: it is what the people live to see, what their active life of labor earns them. More to the point, the crowd embodies an extreme form of group consent, normalizing the bloodbath, numbing the good passion of grief with an evil passion of lust. Curiosity,

---

<sup>125</sup> Augustine, *Confessions*, X.35.54. He shares this idea with others under the influence of the Stoics, like Plutarch. See P.G. Walsh, "The Rights and Wrongs of Curiosity (Plutarch to Augustine)," *Greece & Rome* Vol. 35, No. 1 (Apr, 1988), 73-85.

<sup>126</sup> Augustine, *Confessions*, VI.13. Sheed's translation.

<sup>127</sup> Augustine, *Confessions*, VI.13. Sheed's translation.

which made a slave of Alypius, makes a slave of the masses. It stands over the arena, holding the chains of thousands in its hands, making a mockery of their free will.

My point in rehearsing all this comes back to the use of language. As I have emphasized repeatedly, words are tools; they do things. Hence, our use of consent deserves careful attention, because it participates in a grammar that teaches us to speak. If Lorde and Augustine recognize a hidden oppressor named curiosity, it also deserves notice. Worth noticing, too, is the fact that their language sits on the outskirts of a dominant paradigm. Curiosity has lost all former connotations of vice, especially in the realm of science, where it now receives honor as a virtue (with the largest of the Mars rovers even christened with the name). As a widely encouraged character trait, it prompts the knower to crave knowledge without considering the cultural drivers of that craving. Lorde and Augustine might suggest that in the age of Google search, our freedom to know has set up a limit to what we perceive. Curiosity leads us into a closed system of consciousness, a state inured to its own captivity by the appearance of access. It nourishes a hollow craving, feeding us with information while preventing us from being still. We are guided to look, to click, to follow the autofeed into the machine zone of sensations and spectacles.

An even graver problem was inadvertently revealed by William James, the radical empiricist of the late nineteenth century. James, who regarded curiosity as a natural response to the world, was clear about its purpose: to facilitate our conquest of nature.<sup>128</sup> His notion reaches back to the seventeenth century, when the Enlightenment first transformed the term from a vice to a virtue. This was the period, according to historian Barbara Benedict, when “curiosity, newly legitimized as empiricism, swept to the center of culture.”<sup>129</sup> As colonial power spread from Europe, collections of “curiosities” filled estates with all sorts of objects from the Americas and Africa: tools, weapons, ceremonial relics,

---

<sup>128</sup> William James, *The Principles of Psychology Vol. II* (New York: Henry Holt and Co., 1918), 649.

<sup>129</sup> Barbara Benedict, *Curiosity: A Cultural History of Early Modern Inquiry* (Chicago: University of Chicago Press, 2001), 27.



taxidermies, plants and so on. All such items, together with stories told by travelers, made up the “natural history” of the known world.<sup>130</sup> By the mid-eighteenth century, curiosity was “the badge of the disinterested and dedicated naturalist.”<sup>131</sup> No longer a passion to be kept outside the inner citadel, it created the very architecture of credible knowledge.

To be clear, my hope is not to restore curiosity to its place among the vices. It is first to revisit a question I have been asking all along: *What is the known world? And how do we know it?* A second point follows: the most insidious appetite may appear scientific and dispassionate – and thus alluring and tempting. If Lorde and Augustine recognize that danger, it is because they recognize dispassion as a false ideal. It cannot serve truth or justice, because it cloaks the passions it fails to name. That is why the Augustinian citadel *converts* the passions, putting them in service to justice (*in usum iustitiae convertantur*).<sup>132</sup> No longer seeing them as disorderly, it forms a new relationship with them, one not characterized by the mere withholding of consent. Conversion elicits a higher, contemplative order of “feeling with,” because it centers the experience of another. In the final analysis, the new citadel is one of compassion. “For what is compassion,” Augustine writes, “but a kind of fellow-feeling in our hearts (*in nostro corde compassio*) for the misery of another that compels us to come to his aid if we can? And this emotion is in full accord with reason when we show compassion in ways that keep justice unimpaired, as when we give to the poor or forgive the penitent.”<sup>133</sup>

Another Black feminist, bell hooks, writes, “Compassion opens the way for individuals to feel empathy for others without judgment.”<sup>134</sup> This strikes me as a worthy counteraction to the

---

<sup>130</sup> See Neil Kenny, “The Metaphorical Collecting of Curiosities in Early Modern France and Germany,” *Curiosity and Wonder from the Renaissance to the Enlightenment* (Aldershot, England: Ashgate, 2006), 43-62; and from the same volume, Adriana Turpin, “The New World Collections of Duke Cosimo I de’Medici and their role in the creation of a *Kunst- and Wunderkammer* in the Palazzo Vecchio,” 63-85; Peter Harrison, “Curiosity, Forbidden Knowledge, and the Reformation of Natural Philosophy in Early Modern England,” *Isis* Vol. 92, No. 2 (June 2001), 265-290.

<sup>131</sup> Lorraine Daston and Katharine Park, *Wonder and the Order of Nature* (New York: Zone Books, 1998), 304.

<sup>132</sup> Augustine, *City of God*, IX.5

<sup>133</sup> Augustine, *City of God*, IX.5. Babcock’s translation.

<sup>134</sup> bell hooks, *All about Love* (New York: HarperCollins, 2001), 217.

dispassionate ideal. It achieves an equanimity of feeling that dispassion claims to reach, all the while opposing the conquest it tends to license. Elsewhere in the *City of God*, Augustine uses *compassio* as a term for the incarnation, the very means by which the *libido dominandi* has been overthrown.<sup>135</sup> The lust for domination was disarmed when the *logos* who took our nature, suffering with us. Under the widespread consent of evil, he withheld consent to it through the passions of grief and desire. His cry from the cross, expressing the Godforsakenness of the oppressed, was united with an intimate prayer for the pardon of his killers. The *logos*, the true substance of interior freedom, revealed himself in the life of compassionate flesh. In a felt union with all who consent to the void, he overcame it, drawing human nature into a life rising from death, a new creation from nothing. We have thus moved from Augustine's interior political theology to the horizon of political history, where two loves have made two cities: one is a lust for power, coming to nothing; the other is compassion, coming to life.<sup>136</sup> With that in mind, we can add a second triad of opposites to the Augustinian paradigm:

Continenence	Corruption
Withholding Consent ( <i>epoché</i> )	Consenting
Spiritual Desire	Carnal Lust
Converted Passion	Perverted Passion
Serving Justice	Violating Justice
Compassion for the Lost and Immiserated	<i>Libido Dominandi</i>

Toward a Vision of Counter-Conduct.

The paradigm above, broadening into the Medieval doctrine of free will, shrank in its utility with the advent of modernity. In 1520, Luther gained a new freedom of conscience, turning to the active life, making capital of his time to increase his productivity. Absorbed in his work, he abandoned

<sup>135</sup> Augustine, *City of God*, XXI.15

<sup>136</sup> Augustine, *City of God*, XIV.28. In perhaps the most famous line from the work, Augustine writes: "Two loves have made two cities. Love of self, even to the point of contempt for God, made the earthly city, and love of God, even to the point of contempt for self, made the heavenly city."

the contemplative life. No amount of penance, no time in contemplation, no freedom of choice could bring about union with God. The grace and calling of God were all-determining, regardless of virtuous works. What he gained, then, was an ability to do the kind of work that consumed his attention. “What he lost,” remarks Lyndal Roper in his biography, “was the emotional dimension of faith, the potential for radical critique of institutions, and the meditative dimension of religion that we are more familiar with in Hindu or Buddhist devotional practices.”<sup>137</sup> It may come as a shock to think, as Roper does, that Luther’s transition cost him any capacity for critique. After all, it was in the early 1520s that he developed quite a penchant for unrestrained mockery, lampooning the pope and others. But his lack of restraint is perhaps what Roper intends to highlight. His rhetoric betrayed an early supposition of his later political theory, namely that people could only recognize strong forms of power.<sup>138</sup> His use of consent betrayed the same idea, calling upon the people of God – through the emergency power of German nobles – to withhold consent from Rome.

In the Augustinian paradigm, we are reminded that the contemplative life opens up another way, illuminating the power of free will from below. Simultaneously, it brings to light the disordered appetites that often masquerade as the order of things from above. Its grammar is not alien to Luther, but neither is it full. I have paired Augustine with insights from psychology and feminism because, in the fuller scope of his language, I believe there is another way to be modern. It is a technique of the self – not the self in isolation but in deep patterns of communion. The City of God belongs to the many who withhold consent from the libidinal kingdom, identifying the *phantasias* that present themselves as promises or threats to life. Progress, in this context, is not linear but deepening, opening up one’s inner life to a greater field of choices than those apparent in the known world. In the City of God, we learn by contemplation to feel the unity of all times in the same eternal present, and to know

---

<sup>137</sup> Roper, *Martin Luther*, 90.

<sup>138</sup> Roper, *Martin Luther*, 82.

the love of all souls in the same eternal One. But then, there is a need to act, to feel the creative passion of the *logos* in the apparent confines of the present.

In my dissertation so far, I have examined the choice architectures of our present surveillance economy, showing how the world is translated into a problem of coding. I have shown how modern bioethics, too, is an architecture of the information age. Informed consent, owing its grammar to the social contract of Locke, creates an incentive structure for the biopolitical economy of data. Rather than expanding the horizon of human agency, modern theories of consent diminish our options by suggesting that we are the authors of the moral order: any act is permissible if proper consent is in place. Modern pastoral power, working through that architecture, has assumed the role of authorship, ordering life as a system of information, constructing our subjectivity as users, turning us into a labor force of agentless passivity. By the principle of automatism, contagion managers engineer consent and decide on the exception. Our decisions are determined by choice architectures we did not choose. We have seen how the modern code of life, so rendered, results in misery for some and ease for others. And we have seen how in either case, it raises the old specter of Babel, promising a god's-eye view of all things under human control.

But as we have also seen, no calculus captures the whole of reality. No code anticipates its own exception. The lust for control remains confused, incapable of forming a truth valid for all people. How can we conceive another life beyond, yet somehow within, the apparatus of global biopower? We have no recourse to a state of nature, no plane of immanence beyond the informatic biopolis. We must turn instead to a practice of mystical vision, receiving life from beyond the known world. In the next chapter, I look for such a method in the legacy of Dante and St. Catherine, mystics of the late Middle Ages whom I believe can teach us another way to be modern. Nourished by the Augustinian grammar, they navigated the choice architectures of their time, crafting a form of life suited to their situation but not on its terms. They teach us that we do not subsist in a closed system of numbered

resources, nor do the social architectures of fear and desire circumscribe our free will. We do not have a nature bound by the limits of an official system. What we have is the *logos*, who by human consent repeats the miracle of his life in many vernaculars, proceeding to do the unexpected with the materials at hand. What we need is a form of counter-conduct in his light, a vision for contemplative action now.

## Chapter 6.

### Mysticism as Counter-Conduct.

“If I were not a total atheist,” Foucault once joked, “I would be a monk.”<sup>1</sup> His was a very strange kind of atheism, given the polarities in play: the atheist and the monk are extreme pastoral subjectivities of modernity and the Middle Ages. I speculate that Foucault was being more comedic than sincere. As someone who tended to dodge identifications, he was taking a wry, self-deprecating look at the difficulty of detaching oneself from pastoral arrangements of consciousness. But Foucault, the master of postmodern suspicion, did not abandon hope. In a more sincere tone of voice, he said this to colleagues at Berkeley the year before his death:

Despair and hopelessness are one thing; suspicion is another. And if you are suspicious, it is because, of course, you have a certain hope. The problem is to know which kind of hope you have, and which kind of hope it is reasonable to have in order to avoid...the political circle which reintroduces in your hopes, and through your hopes, the things you want to avoid by these hopes.<sup>2</sup>

In a way, he was expressing an Augustinian commitment. The question is always: *What do I really want? Is my will being conscripted, allured, drawn away by a false image of the good?* When someone remarked that Foucault sounded Christian, he said, “Yes, I have a very strong Christian, Catholic background, and I am not ashamed.” In some sense, his hopes were shaped by Christianity. Still, it is unclear what his hopes truly were, given that he preferred to speak of them *via negativa*, in terms of what they were not. In the 1980s, regrettably, his hopes were drawn into the sort of “political circle” he had long hoped to avoid. Around the time he introduced the concept of governmentality, he began to embrace a form of neoliberalism, showing how far his thought had traveled from the cultural Marxism of

---

<sup>1</sup> Macey, *Michel Foucault*, 130.

<sup>2</sup> My thanks to Jonathan Tran for this jewel. See Tran’s *Foucault and Theology* (London: T&T Clark International, 2011), 1. He draws the quote from James Bernauer, S.J., “Cry of Spirit” in the anthology of Foucault’s works, *Religion and Culture*, ed. Jeremy R. Carrette (Manchester: Manchester University Press, 1999), xvi. Bernauer draws it from Document D250 (7) of the Foucault Archive, Paris, April 21, 1983 discussion between M. Foucault and P. Rabinow, B. Dreyfus, C. Taylor, R. Bellah, M. Jay and L. Lowenthal, 32 pages, p. 11.

France in the 1960s.<sup>3</sup> Rather than speaking of something like a common good, he thought mainly of resistance to power. If the state imposed fewer regulations, he reasoned, conditions would allow for another, plural, experimental sociality to emerge. But again, that sociality never reached a very full description in his work. At best, we can discern its fragments in the retrieval projects of his later years. He died during the Reagan era, five years before two symbolic events – the fall of the Berlin Wall and the invention of the world wide web – which led to the pastoral economy I discussed in chapters two and three. While he recognized that pastoral power is trans-institutional, his study of power crested at the state level, where technocratic knowledge was centralized for most of the twentieth century. What he failed to anticipate was the phenomenon Colin Crouch calls post-democracy, where global corporations effectively run the world.<sup>4</sup> The final chapter of my dissertation, still following his suspicions and hopes, looks for signs of a common life elsewhere, in a past form of understanding.

The promise of this chapter, both in terms of its scope and its outlook, is to develop the meaning of mysticism as perceived by Foucault. Mysticism is not a well-studied topic in his work.<sup>5</sup> His use of the term is infrequent, and he does not show much interest in exploring its definition. But where it appears, it suggests a form of self-cultivation that he seems ready to adopt, a set of practices internal to yet external to ministerial control. We must ultimately go further than he did, just as Dante in the *Paradiso* was led no longer by Virgil but by Beatrice. But Foucault, like Virgil, tells us the story of the empire's founding, guiding us rim by rim into the heart of the modern abyss. We hear about the modern origins of power in a genealogy Foucault repeats from multiple angles over the course of

---

<sup>3</sup> Strangely, his reading of neoliberalism left out the conservative presidential campaigns of Barry Goldwater and Richard Nixon, conducted under Milton Friedman's economic counsel. Foucault likewise failed to comment on Reagan, whose embrace of Friedman's views led to major deregulation across most areas of the economy. See Mitchell Dean and Daniel Zamora, *The Last Man Takes LSD: Foucault and the End of Revolution* (London: Verso, 2021), especially chapter 2, "Searching for a Left Governmentality."

<sup>4</sup> Colin Crouch, *Post-Democracy* (Cambridge: Polity, 2004), 41.

<sup>5</sup> The best book to date is Petra Carlsson Redell, *Mysticism as Revolt: Foucault, Deleuze and Theology Beyond Representation* (Aurora, CO: The Davies Group, 2014).

his career. Deleuze in fact calls *Discipline and Punish* a Divine Comedy of punishment.<sup>6</sup> At the bottom of the abyss, Foucault turns unexpectedly to the Greeks, and we find ourselves climbing out by another way. The center of gravity has changed, and there is indeed a feeling of hope in the air. We begin to get a better sense of where we can go from here. Foucault tells us that the virtue of *parrhesia*, from Socrates forward, suggested the truth of “an other world” running counter to an array of social norms; he says that the Christian mystics carried that tradition forward, and he hints at how the mystical tradition might show us how to live in the context of modern pastoral power; his fourfold *History of Sexuality* promises to retrieve an ethics from the early Christian fathers; and then he is gone.<sup>7</sup>

After his death, a Taiwanese novelist, Chu T'ien Wen, wrote *Notes of a Desolate Man* about an AIDS patient in the 1980s. The man is a Foucault enthusiast, turning to the *History of Sexuality* for answers, for liberation. But Foucault has died, leaving his work unfinished and the man with nowhere to turn. Reflecting on his hero's death, the man says this:

He did not have time to say more; like a murdered witness, he was only able to provide a lead... He appeared to have been liberated, but he was not. He seemed to have found the answer, but had not. I followed him up to the lofty mountain crags, but the road ended at the edge of the sky, and there he disappeared. I shouted his name, but there was no response.<sup>8</sup>

The image evokes the feeling of Dante at the top of Mount Purgatory: “Virgil had departed, leaving us bereft.”<sup>9</sup> But Dante, unlike the man in Wen's novel, has another guide, commissioned by the Virgin Mary to lead him in the ways of love. I take that as my starting point: not the Inferno, not Purgatory, but Paradise. The Paradisal vision is for *this* world, Dante believed, and he shared that conviction with his literary successor, Catherine of Siena. Unlike mystics who were cloistered, Dante and Catherine pursued a broad social vision, living in a time of intense economic change. Amid a

---

<sup>6</sup> Gilles Deleuze, *Foucault*, 23.

<sup>7</sup> Foucault, *The Courage of Truth*, 244.

<sup>8</sup> Chu T'ien Wen, *Notes of a Desolate Man*, trans. Howard Goldblatt and Sylvia Li-Chun Lin (New York: Columbia University Press, 1999), 44.

<sup>9</sup> Dante, *Purgatorio*, XXX.49



politics defined by the rise of banking and corporatist guild structures, they stand at the beginnings of what we might call deep modernity, representing a tradition running counter to the immanent structures of modern thought.

For that reason, they are well suited to help me answer a question I sense in Foucault: How does mysticism relate to the modern order of things? That is, what possibilities of thought have emerged in mystical self-consciousness, and how do they interact with the modern sciences of life, labor, and language (biology, economics, and linguistics, respectively)?<sup>10</sup> The question is kaleidoscopic and far reaching, but it follows a traceable theme in Foucault's work. The stakes of the question also run parallel to those laid down by Pierre Hadot and Henri de Lubac, contemporaries of Foucault who, like him, reconstructed ancient frames of mind for use in the modern world. To be sure, Foucault's intellectual project differed from theirs in marked ways; being a self-declared Nietzschean, he devoted most of his career to a critical genealogy of modern power.<sup>11</sup> But as I noted in chapter one, it was precisely from that vantage point that he saw the appeal of mysticism. In Nietzschean terms, the mystic embodied Dionysian potential, passing confidently beyond the modern confinements of rationalist thought.<sup>12</sup> The mystic reveals that there is no empirically complete definition of human nature, and further, that the subjectivities of a given system are not the only possible organizations of self-consciousness.<sup>13</sup>

As a possible subjectivity, mysticism coincides with what Deleuze recognized as "a certain idea of Life, a certain vitalism, in which Foucault's thought culminates."<sup>14</sup> Vitalism, as opposed to mechanism, avoids the tendency to think of life in measurable, manipulable units. Vitalism is the philosophy hiding in the satirical darkness of *Discipline and Punish*, where social machineries fail to

---

<sup>10</sup> Michel Foucault, *The Order of Things: An Archaeology of the Human Sciences*, trans. Alan Sheridan (London: Routledge, 1994), 272-321.

<sup>11</sup> See Foucault's last interview, published as "The Return of Morality," 251.

<sup>12</sup> Michel Foucault, *History of Madness*, trans. Jonathan Murphy and Jean Khalfa (London: Routledge, 2006), 28-32.

<sup>13</sup> Foucault, "The Return of Morality," 253.

<sup>14</sup> Deleuze, *Foucault*, 92-93.

control life and bring about obedience. It hangs in the air when Foucault discusses the history of biopolitics, where techniques of disciplinary power evolve in response to what they cannot control. Resistance, whether in pathogens or people, shapes the technologies of power. Biopolitics thus develops expert fields of knowledge to frame and address the ungovernable, the pathological. Yet as Deleuze and Guattari say elsewhere, “life passes between the lines.”<sup>15</sup> Life resists capture, defying the pastoral code, whether in the Church or the biopolitical state. And mysticism, for Foucault, is one example of how that can happen. As a repeated occurrence of history, mysticism organizes self-knowledge by “a different form of conduct,” countering the norms of pastoral power.<sup>16</sup>

Dante and Catherine are worthy case studies, because they found unique ways to pass between the lines of power. As laypeople, they experimented with new, secular mixtures of the active and the contemplative life. Both were literary innovators, Italianizing the Augustinian grammar I discussed in the last chapter.<sup>17</sup> Their social vision was rich, deeply informed by contemplative practice, but equally informed by life in the world. Dante, for his part, began his career as a politician. By the time he wrote the *Divine Comedy*, his native Florence was in a routine state of conflict. The unionizing movements of the non-elite *popolo* had achieved a new, protomodern version of the city-state, effectively redistributing the power of the old aristocracy. Political life was now staged as a competition of business interests, and statesmen, who were no longer afforded their position by patrimony, had to affiliate with one of several tradesmen’s guilds.<sup>18</sup> Dante enrolled in the guild of apothecaries, holding several public offices before his time in exile. A victim of political intrigue, he was banished on pain of death by the Black Guelphs, a faction who favored a strong alliance with the pope. Dante, who did

---

<sup>15</sup> Gilles Deleuze and Felix Guattari, *A Thousand Plateaus: Capitalism and Schizophrenia*, trans. Brian Massumi (Minneapolis: University of Minnesota Press, 1987), 201.

<sup>16</sup> Foucault, *Security*, 199.

<sup>17</sup> Bernard McGinn, *The Varieties of Vernacular Mysticism (1350-1550)* (New York: Herder and Herder, 2012), chs. 6-7.

<sup>18</sup> See John Najemy, “Dante and Florence,” *Cambridge Companion to Dante*, ed. Rachel Jacoff (Cambridge: Cambridge University Press, 2007), 246; also Najemy, *A History of Florence* (Oxford: Blackwell, 2008), 35-44.

not, spent nearly twenty years wandering from place to place, an outcast not only from Florence but from an active life in politics, composing a totally new kind of contemplative work.

Catherine, on the other hand, was active in Tuscan politics after a long period of prayerful seclusion. In resistance to her mother's wishes, she joined the third order of Dominicans, crafting a novel social role for herself as an uncloistered celibate woman. The sisters of the order, known as the *mantellate*, were mainly widows with income, a fact that made Catherine stand out all the more. As perhaps the only young woman among them, she was known for her works of radical charity, acting as a nurse at the hospital of Santa Maria della Scala. It was in her role as a care worker that she gradually gained authority and a following, eventually gaining an influence on the pope himself.<sup>19</sup>

Dante and Catherine both denounced what we might call the realpolitik of the pastorate, condemning priestly avarice during the Avignon papacy of the 14<sup>th</sup> century (Dante at its beginning, Catherine at its end). Yet their relationship with pastoral power did not exactly occur along the lines Foucault sketched, with mysticism dialectically opposed to the pastoral institutions of Christianity. They instead gave mystical attention to the ills of the priesthood, finding novel ways to work through, with, and sometimes around it. Furthermore, they inherited the language of a *mystical pastorate*, with Augustine himself being the foremost in its line. Secular pastoral power has since obscured the contemplative life of the Middle Ages, but as this chapter shows, Dante and Catherine remain relevant because of their mystical orientation to the secular. They speak in a language that can shape and instruct our own, forming our will to love in the context of informatic power.

#### Non-Identical Repetition.

My technique in this chapter involves an awareness of what Catherine Pickstock calls “non-identical repetition.” She points out that every individual is already “composed of all the other people

---

<sup>19</sup> F. Thomas Luongo, *The Saintly Politics of Catherine of Siena* (Ithaca, NY: Cornell University Press, 2006), 34-42.

whom he has imitated from his unique perspective of natural endowment.”<sup>20</sup> Every identity is a unique repetition of multiple others, whether familial, communal, historical, or even fictional. The self, she later says, “must be a living, dynamic symbol, fusing sense and reference, fiction and history, able to traverse,prehend and grieve, decipher and fulfill the allegories of nature. We should show no surprise when the real selves across time fuse the artistic with the actual.”<sup>21</sup> The reach of her language is broad, but every term is carefully chosen. As a self, I symbolize the composition of things in my sensorium, things known by sight, sound, taste, touch, and smell; I simultaneously fuse their existence with a world of references I have in mind. My frame of reference, furthermore, is not a tidy index of the fictional and the historical, since both, again, are fused in myself. Reading Foucault, I might think of Virgil, Dante’s Virgil, and a Taiwanese novel. I traverse their world simultaneously in my own. And as I do, I “prehend and grieve,” meaning I reach for what I want, and I am sometimes forced to let go of it. The passions of desire and sorrow make sense of my senses; they fuse with everything I symbolize as I “decipher and fulfill the allegories of nature.”

Pickstock’s use of the word “allegory” summons a long tradition of knowledge in which Dante and Catherine partook. By way of example: the Hebrew laws of sacrifice were read as executed, because Jesus, fulfilling all righteousness, now defined the sacrificial figure. Allegorically, time worked in two directions: Israel’s legal culture was the sign of its coming Messiah, even as Christ came to signify the meaning of the law. On one side, it was an allegory of what was to come; on the other, an allegory of what was fulfilled. Each Testament allegorized the other, which gave history its coherence. The world was not simply developing on a linear timeline: ancient Israel was collocated in the Church, folded into the message of the incarnation. In Greek philosophy too, Christians discovered aspects of the *logos* impressed into nature, instantiating a form of memory that fused Hebrew with pagan

---

<sup>20</sup> Catherine Pickstock, *Repetition and Identity* (Oxford: Oxford University Press, 2013), 35.

<sup>21</sup> Pickstock, *Repetition and Identity*, 100-101.

literature. The body of Christ was where both literary bodies came to fulfillment, effecting a new kind of material, a new history of the present.

That outlook, however alien to us now, held sway for centuries. It explains how Dante could read Virgil as a messenger of God, or how Aquinas could set Aristotle in a theological syllabus. It operated by the observance of “a fold in being,” to borrow a term from Foucault.<sup>22</sup> One entity always reflected another without repeating it identically. The Old Testament reflected the New; time mirrored eternity; humanity imaged God. In Dante’s *Paradiso*, the paradigm extends all the way to the final vision of Being: souls reflect God until at last, God’s very essence appears to Dante as *lume riflesso* – reflected light.<sup>23</sup> At the heart of all being, divinity reflects itself *as* humanity, Dante paradoxically finds. The fold in being rises all the way into the triune fellowship, with no being beyond it. The key point is this: the real was always figurative. There was no *literal* without its being *allegorical*, no modern distinction between fact and analogy, because the *logos* himself was both, making all things coherent as such. To repeat a quote first attributed to Hugh of St. Victor: “the whole visible world is like a book written by God.”<sup>24</sup> That mode of seeing is what allowed Augustine to read himself, and indeed all of history, into a reflective communion with the divine. The material world and its characters were nothing if not signs of a deeper, self-reflective Creativity.

And so, as Pickstock notes, “We should show no surprise when the real selves across time fuse the artistic with the actual.” The world of phenomena will not come apart from the world of symbol and myth; I experience the two as one, fused with my desire for the good. In just that way, the literal facts of history are allegorical, drawn to mind by what they represent. I might very well learn to craft my own history “as through fiction,” to repeat the words of Foucault.<sup>25</sup> In chapter one, I briefly

---

<sup>22</sup> Foucault, *The Order of Things*, 20.

<sup>23</sup> Dante, *Paradiso* XXXIII.127

<sup>24</sup> In Gabriel Josipivici, *The World and the Book* (Stanford: Stanford University Press, 1971), 29.

<sup>25</sup> Michel Foucault, “What is Critique?”, 391.

discussed the example of Toni Morrison, who thought of her work as “a kind of literary archaeology.”<sup>26</sup> She wrote about the inner lives of the enslaved, bringing them into modern consciousness through self-reflection, by means of the novel. Foucault’s technique, while different, represents a similar mode of counter-memory, crafted in the form of history. For both writers, counter-memory goes sideways with the archive. Morrison narrates what is not there; Foucault re-networks what is. Their techniques are compatible, and in this chapter, they fuse with my own.

Non-identical possibilities may always come from the contents of the past, as Hardt and Negri noticed at the turn of the millennium. Their book, *Empire*, describes the biopolitical economy that emerged over the twentieth century, when Marxism failed to realize its eschaton as the Soviet Union collapsed “under the burden of its own internal contradictions.”<sup>27</sup> In firm sympathy with Marx, they consider another template for communism, what they call counter-Empire:

In this regard we might take inspiration from Saint Augustine’s vision of a project to contest the decadent Roman Empire. No limited community could succeed and provide an alternative to imperial rule; only a universal, catholic community bringing together all populations and all languages in a common journey could accomplish this. The divine city is a universal city of aliens, coming together, cooperating, communicating.<sup>28</sup>

In this non-identical repetition of Augustine’s vision, we might imagine repetitions of Dante and Catherine – poets, activists, politicians, caregivers. What might they be doing? And with what materials? And with whom? To begin, we ought to consider their techniques of self, their modes of contemplative *askesis*. Simultaneous to that, we ought to recall the techniques of modern power. As Nancy Fraser observes, “Foucault enables us to understand power very broadly, and yet very finely, as anchored in the multiplicity of what he calls ‘micropractices,’ the social practices that constitute everyday life in modern societies.”<sup>29</sup> I would like to suggest that in the age of big data, micropractices

---

<sup>26</sup> Morrison, “The Site of Memory,” 92.

<sup>27</sup> Hardt and Negri, *Empire*, 179.

<sup>28</sup> Hardt and Negri, *Empire*, 207.

<sup>29</sup> Fraser, *Unruly Practices*, 18.

ought to be the focal point of our concern. They are exactly where sovereign decisions are likely to play out, and they are where we can form ethical sensibilities about what to do. My dissertation has looked generally in that direction, questioning the mode of subject formation brought about by informatic consent and contagion management. I have steered away from making recommendations at the level of policy, because I agree with feminist thinkers like Jane Bennet that there is “a whole (underexplored) field of ‘micropolitics’ without which any principle or policy risks being just a bunch of words. There will be no greening of the economy, no redistribution of wealth, no enforcement or extension of rights without human dispositions, moods, and cultural ensembles hospitable to these effects.”<sup>30</sup> The question of *what* dispositions, moods, and ensembles – and the question of how to form them – is what I hope to answer going forward.

#### Language and Representation.

McGinn’s term, vernacular mysticism, is an important place to start. It suggests a distinction between two areas of linguistic possibility, first in the language of the educated, second in the vulgar tongue. Dante broke new ground by writing his epic in the second register, as William Franke explains:

Dante, before he undertook to write his imaginative masterpiece, the *Divine Comedy*, laid out his far-reaching cultural project in a treatise for laymen and women: *Il Convivio* (*The Banquet*). He proposed to take the philosophical and theological knowledge of his day, which was accessible only to the learned, who were versed in Latin, and serve it up in the vernacular language, thereby offering a general banquet, *un generale convivio*, to all those too immersed in worldly obligations to be able to dedicate themselves wholly to the pursuit of learning. For this purpose, he set out to select or to forge a new, secular language.<sup>31</sup>

With Dante, we can begin to advance the notion of a secular mysticism, a mode of contemplative life engaged in the projects of *this* world. True, his greatest work is an allegorical pilgrimage in the netherworld, but his tale is anything but unearthly, since at the peak of Mount

---

<sup>30</sup> Jane Bennet, *Vibrant Matter: A Political Ecology of Things* (Durham, NC: Duke University Press, 2009), xii.

<sup>31</sup> William Franke, *Secular Scriptures: Modern Theological Poetics in the Wake of Dante* (Columbus, OH: The Ohio State University Press, 2016), 13.

Purgatory, he receives instruction to write his poem “for the world which lives badly.”<sup>32</sup> The material politics of his work, expressed in a vision of love conquering envy, cannot be overstated.<sup>33</sup> For good reason, Dante has always found a place among Marxists, with Engels himself calling him a forerunner of the party spirit.<sup>34</sup> More recently, Cesare Casarino appealed to Dante’s short treatise *De Vulgari Eloquentia* as a resource for revolution.<sup>35</sup> The treatise, written alongside the *Divine Comedy*, makes a case for the elevation of vernacular speech. Dante has no wish to prove the supremacy of one regional dialect over another; the point is to dignify the register of language that we learn “without any formal instruction, by imitating our nurses.”<sup>36</sup> Taking note of this, Casarino employs Dante to theorize the vernacular as having a potency beyond official regulation, a power that can therefore expand our vision of being in common.

And the *Divine Comedy* proves his point: Dante wrote the lyrics for a new mode of commonality among the factious city-states of Tuscany. Mobilizing a vision of ascent for the uneducated class, he not only sentenced a number of clerics to hell but broke from the grammar of their authority. There was now a vulgar Paradise of God that both energized and outshone its Latin counterpart. Speakers of Italian, learning the poem by heart, gained fluency in a language that somehow deepened and surpassed their own dialect. On one hand, the poem greatly expanded their lexicon, but on the other, it brought them into participation with the Love beyond human language. Dante pushed Italian well beyond its former capacity, establishing all kinds of new words to describe his ascent in Paradise. His neologisms, usually verbs, evoke the ineffability of divine participation. For example: *incielare* (“to enheaven”), *indiarsi* (“to withinGod oneself”), *infuturarsi* (“to enfuture itself”), *imparadisare* (“to

---

<sup>32</sup> Dante, *Purgatorio*, trans. Robert Hollander and Jean Hollander (New York: Doubleday, 2003), XXXIII.103.

<sup>33</sup> I have written about this in “Dante’s Economy of Words after Marx,” *Dante and the Other: A Phenomenology of Love*, ed. Aaron Daniels (London: Routledge, 2021).

<sup>34</sup> Karl Marx and Friedrich Engels, *Collected Works Vol. 6* (London: Lawrence & Wishart, 2010), 271.

<sup>35</sup> Cesare Casarino and Antonio Negri, *In Praise of the Common* (Minneapolis: University of Minnesota Press, 2008), 8-15.

<sup>36</sup> Dante Alighieri, *De Vulgari Eloquentia*, trans. Steven Botterill (Cambridge: Cambridge University Press, 1996), 210.



imparadise”), *trasmodarsi* (“to pass itself beyond all limits”).<sup>37</sup> In these words, we can hear the mystical heartbeat of Dante’s project. The economy of God’s love surpasses language, yet Dante, lost for words, creates more words to reflect the divine excess.

As for Catherine, the Cambridge Italianist Edmund Gardner spoke of her as Dante’s “literary successor.”<sup>38</sup> I find this striking, given that Catherine had no formal schooling and struggled even to learn the Latin alphabet.<sup>39</sup> Most of her compositions were dictated, which demonstrates the paradox of her remarkable authority and comparative illiteracy. From the meeting point of both attributes, her works exhibit the rich, nonlinear, contemplative state of mind in which she authored her texts. Tomasso Caffarini, one of her disciples, said that she was often “rapt beyond her senses, except for the voice in which she dictated to various writers.”<sup>40</sup> At the same time, her works are grounded in everyday life, a quality felt especially in the voice of her letters. While lofty and prophetic, they are down to earth and companionable, at home in the Sienese vernacular. Thomas Luongo recently observed that Catherine’s letters are completely novel as a body of writings, at once domestic and transcendent, amounting to a subtle feat of literary and political experimentation. “Catherine,” he says, “took advantage of the fluidity of the epistolary form, its lack of formal constraints and institutionalized modes of discourse – a feature even more true of the vernacular letter than of the Latin letter – to confront her correspondent in her own words with her inspired take on the crisis of the church and the world.”<sup>41</sup> Like Dante, she expanded the material of her language, innovating its genres to draw support for the politics of a common love.

---

<sup>37</sup> Brenda Deen Schildgen, “Dante’s Neologisms in the Paradiso and the Latin Rhetorical Tradition,” *Dante Studies, with the Annual Report of the Dante Society*, 1989, No. 7 (1989), 101-119.

<sup>38</sup> Edmund G. Gardner, *The Road to Siena*, ed. Jon M. Sweeney (Brewster, MA: Paraclete Press, 2019), 11.

<sup>39</sup> See Raymond of Capua, *The Life of Catherine of Siena*, trans. Conleth Kearns, O.P. (Wilmington, DE: Michael Glazier, 1980), 104-105.

<sup>40</sup> From Caffarini’s *Processo Castellano*, quoted and translated by Susan Noffke, “The Writings of Catherine of Siena: The Manuscript Tradition,” *A Companion to Catherine of Siena*, ed. Carolyn Muessig, George Ferzoco, and Beverly Mayne Kienzle (Leiden: Brill, 2012), 326.

<sup>41</sup> F. Thomas Luongo, *The Saintly Politics of Catherine of Siena* (Ithaca, NY: Cornell University Press, 2006), 74-75.

An exact contemporary of Boccaccio and Petrarch, Catherine remains an important voice from deep modernity, when the earliest strains of the renaissance began to play in the western imagination. One of her countrymen later remarked that “she gave to the little child of the Tuscan language its first and most nutritious milk.”<sup>42</sup> Her book, written as a dialogue of the soul with God, does something novel by realizing the divine voice in the vulgar tongue of a woman. But that is also perhaps why Catherine has not received a great deal of attention for the language that she so carefully nourished. After Dante, it was Petrarch and Boccaccio who received the laurel crown for their achievements in Italian literature. These three men, the *tre corone* of Italy, have exerted a great influence over western culture through the centuries. Petrarch and Boccaccio followed Dante’s example in different ways, but neither expressed the same mystical vision as their forerunner. One could say that for them, the language of love took an earthward turn, and that they subordinated eros to the mortal realm.<sup>43</sup> For that reason, Catherine suggests another way to be modern, a mode of contemplative actions taken from an allegorical way of loving the Good beyond language. For the same reason, Gardner sees Catherine’s *Dialogue* as uniquely continuous with Dante’s achievement. A long quote from Gardner, which I included at the beginning of this work, is worth repeating here:

In a language that is singularly poor in mystical works (although rich in almost every other field of thought), it stands with the *Divine Comedy* as one of the two supreme attempts to express the eternal in the symposium of a day, to paint the union of the soul with the suprasensible while still imprisoned in the flesh. The whole of Catherine’s life is the realization of the end of Dante’s poem: “to remove those living in this life from a state of misery, and lead them to the state of faithfulness.” And the mysticism of Catherine’s book is as practical and altruistic as that of Dante’s, as when he declares to his patron, Cangrande della Scala, that the whole *Divine Comedy* “was undertaken for work, not for speculation.” Thus Catherine, in the preliminary chapters of the *Dialogue*, makes her first petition to the eternal Father for herself only because “the soul cannot perform any true service to her

---

<sup>42</sup> Girolamo Gigli, quoted by Jane Tylus, *Reclaiming Catherine of Siena: Literacy, Literature, and the Signs of Others* (Chicago: University of Chicago Press, 2009), 3

<sup>43</sup> See Teodolinda Barolini, “Petrarch as the Metaphysical Poet Who Is Not Dante,” *Petrarch and Dante: Anti-Dantism, Metaphysics, Tradition*, ed. Zygmunt G. Baránski and Theodore J. Cashey, Jr. (Notre Dame, IN: University of Notre Dame Press, 2009). Also see Martin G. Eisner and Marc D. Schlachter, “*Libido Sciendi*: Apuleius, Boccaccio, and the Study of the History of Sexuality,” *PMLA* Vol. 124, No. 3 (May 2009), 817-837.

neighbor by teaching, example, or prayer, unless she first services herself by acquiring virtue.”<sup>44</sup>

What we find in both mystics is an ethics of the kind Foucault discovered among the Greeks: a *techne tou biou*, a technique of life.<sup>45</sup> Their technique is a form of literary vision, a method of figuration meant to shed light on reality. A good example can be found in a letter from Catherine, who compares the soul to a sovereign city-state. At its boundary are three gates: memory, intellect and will.<sup>46</sup> “Our creator,” she says, “allows all of them to be battered and sometimes opened by violence – except one: the will.”<sup>47</sup> No enemy is strong enough to capture the soul without the will’s consent (*consente*). The will, the only gate fully under the soul’s power, can triumph even if the intellect and memory fail. “And if this gate remains unopened,” she says, “that is, if we do not consent (*non consenta*) to what our memory and understanding and the other gates are sensing, our city is forever free.”<sup>48</sup> As with Augustine, Catherine’s use of consent belongs to a grammar of negation. Withholding consent from a false image, the soul remains free of trespass and seizure. Her image also reaches back to the inner citadel of the Stoics, who trained themselves to fortify the soul against the invasion of disordered *phantasias*.<sup>49</sup> With that in mind, we can broaden our scope to consider the modern fantasy of power against the more truthful allegory of love.

#### A Mystical Technique of Life.

The *Paradiso*’s first and most important neologism is *trasumanare* – “to transhumanize.”<sup>50</sup> It signifies a profound inner change that Dante compares to the myth of Glaucus, a fisherman who

---

<sup>44</sup> Gardner, *The Road to Siena*, 183. He quotes from Dante’s *Epistle to Cangrande* XIII.39-41 and from Catherine’s *Dialogue*, §1.

<sup>45</sup> Michel Foucault, “On the Genealogy of Ethics,” 260.

<sup>46</sup> The Augustinian image of the triune soul.

<sup>47</sup> St. Catherine of Siena, *Lettere di Santa Caterina Vol. 4*, ed. Niccolo Tommaseo and Piero Misciatelli (Florence: Casa Editrice Marzocco, 1940), Letter 309.

<sup>48</sup> *Ibid.*

<sup>49</sup> See Augustine, *City of God* IX.4. Also see chapter 6 of Pierre Hadot, *The Inner Citadel*.

<sup>50</sup> Dante, *Paradiso* I.70

became a sea god after eating a magic herb. The myth, like all human language, cannot capture the experience of divinization; it is a non-identical repetition. Thus Dante says:

To signify transhumanizing in words  
is impossible; but let the example suffice  
for anyone to whom grace grants the experience.<sup>51</sup>

Six centuries passed before Julian Huxley recoined the term “transhumanism,” having no apparent knowledge of Dante. His idea was vastly different, reflecting the grandiose optimism of modern industrialists. As a biologist and avowed eugenicist, Huxley imagined a utopian project led by the empirical sciences. “We have pretty well finished the geographical exploration of the earth,” he declared; “we have pushed the scientific exploration of nature, both lifeless and living, to a point at which its main outlines have become clear; but the exploration of human nature and its possibilities has scarcely begun. A vast New World of uncharted possibilities awaits its Columbus.”<sup>52</sup> Huxley’s ideas live in the shadow of his brother’s dystopian fantasy, *Brave New World*, but they do live on. I need not detail the controversies around human enhancement – athletic doping, genetic editing and so on; they are many, and as disability theorist Melinda Hall points out, they form a central concern of modern bioethics.<sup>53</sup> My point in bringing them up is simply to shed light on two distinct plotlines of human salvation. Each is a vision of transhumanism: Huxley offers one, Dante another. Each suggests a technique of life, a way to get free of our felt limitations. And each is apophatic in bent, promoting a state of being beyond our present frame of consciousness. If it is true, as Scripture says, that we do not know what we will be, then our method of ignorance is vitally important.

Dante and Catherine, living in the earliest moments of the modern era, pull at the fabric of modern beliefs about nature. Dante, for his part, was an exact contemporary of John Duns Scotus,

---

<sup>51</sup> My translation of Dante, *Paradiso*, l.70-72.

<sup>52</sup> Julian Huxley, *New Bottles for New Wine* (London: Chatto & Windus, 1957), 14.

<sup>53</sup> Melinda Hall, *The Bioethics of Enhancement: Transhumanism, Disability, and Biopolitics* (Lanham, MD: Lexington Books, 2017).

whose way of thinking signaled the eventual departure of science from Scholastic theology. Scotus had little use for the *via negativa*, the path that for centuries led mystics to recognize the incapacity of language to represent God.<sup>54</sup> While Scotus recognized that human knowledge was limited, he responded by creating a philosophical system within the bounds of the knowable, discussing God's being as a rational object of thought. In effect, he covered up the old Platonic impression that all things were analogies rooted in the divine mystery. Nature was now conceivable without allegory, its figurative meaning withdrawn from its literal being. Scotus thus prepared the way for the British school of empiricism and its line to Kantian objectivity. As William Franke explains, "What Scotus offers is already a form of *critical* philosophy based on self-certainty secured through self-limitation."<sup>55</sup> Dante, on the other hand, cultivates an older vintage of Neoplatonic and Patristic thought. Words and images reflect the life they cannot comprehend or control, so that the soul truly knows its own nature only as it passes into wordless ecstasy in God. The same sense of reality fills the language of Catherine, who was famous for her trances, and who frequently wrote of feeling drunk from the experience of union with Christ. Like Dante, she bears witness to a traditional vision of the transhuman, or of transness in general, wherein the finite soul goes beyond itself in union with the infinite.

We would be mistaken, however, to classify Dante and Catherine as mere conservatives of the tradition, given the novelty of what they achieved. In *The Second Sex*, Simone de Beauvoir speaks of Catherine as a proto-feminist who attained unique social freedoms and authority, transcending the roles usually assigned to women.<sup>56</sup> And Thomas Luongo, in his more recent study, confirms that Catherine "violated expectations of both secular and religious women, transgressing the gendered borders of social space and mixing conspicuously in the world of men."<sup>57</sup> Indeed, Catherine's

---

<sup>54</sup> John Duns Scotus, *Ordinatio I*, d.3, p.1., q.1 (Vatican City: Typis Polyglottis Vaticanus, 1954).

<sup>55</sup> William Franke, "Representing the Other: Dante, Duns Scotus, and the Crisis of Representation in the Modern Age," *Dante and the Other*, ed. Aaron Daniels (London: Routledge, 2021), 55.

<sup>56</sup> Simone de Beauvoir, *The Second Sex*, trans. Constance Borde and Sheila Malovany-Chevallier (New York: Vintage, 2011), 115, 150, 377, 659, 717.

<sup>57</sup> Luongo, *The Sainly Politics of Catherine of Siena*, 3.

confessor, Raymond of Capua, recalls an experience worth repeating. One day, as he listened to Catherine discussing what God had revealed to her, Raymond could not help but wonder about the authority of her claims.

As she was speaking, and as these doubts were running through my mind, I kept my eyes fastened on her face. Suddenly it became the face of a bearded man, gazing fixedly at me and filling my soul with awe... The whole countenance bore a stamp of majesty which unmistakably marked out its owner as a lord amongst men. And whilst I gazed on it, no other face was visible but it alone. Quaking with fear I threw up my hands in terror to shoulder level and cried out: "Oh, who is this who is looking at me?" And Catherine answered: "It is He Who is." No sooner had these words been spoken than that Face disappeared; and her face which had faded out came back clear before me.<sup>58</sup>

Catherine's dealings with pastoral power can be abridged by this moment, even as the depth of her contemplative prayer is revealed in it. Her technique of life does not shore up the boundaries of the self. It is a kind of self-limitation that begins with the incapacity of mere reason, receiving the self in union with the truth beyond all bounds. Raymond recalls how Catherine acquired her method of self-knowledge directly from Christ, who appeared to her saying: "Do you know daughter, who you are and who I am? If you know these two things you have beatitude in your grasp. You are she who is not, and I AM HE WHO IS."<sup>59</sup> This is the basic, Augustinian principle of Catherinian selfhood, which leads not to oblivion but to complete substantiation. There is no true way to know oneself apart from the divine Being; the self is substantiated precisely by knowing its nothingness without God. Self-work, as we now call it, is a revelation of the unitive love flowing from that awareness. One is nothing without Love; one is many things in Love.

Like Dante, Catherine is an allegorist of the transhuman. And her gender, like any feature of creation, is an allegory of the real, a moving image of unchanging love. Her roles therefore shift and evolve in how they reveal her union with *Prima Verità*, or First Truth.<sup>60</sup> On the one hand, Catherine

---

<sup>58</sup> Raymond, *Life of Catherine of Siena*, 82.

<sup>59</sup> Raymond, *Life of Catherine*, 85.

<sup>60</sup> Catherine of Siena, *The Dialogue*, trans. Susan Noffke (New York: Paulist Press, 1980), 27.

typifies the feminine bride, being espoused to Christ in a vision. On the other hand, the bridegroom says these words to her at the very moment of espousal: “So now, daughter, do manfully. From now on you must never falter about accepting any task my providence may lay upon your shoulders.”<sup>61</sup> Susan Noffke, the foremost translator of Catherine, observes that manliness is an admirable quality in Catherine’s lexicon.<sup>62</sup> Noffke’s fellow Dominican Paul Murray explains it well: “Nothing distresses her more than the sight of free men and women reduced by the pressure of their own weakness, or by the pressure of the society in which they live, to a debilitating moral servitude. Almost every page of her writing is, as a result, an impassioned manifesto of freedom.”<sup>63</sup> In Christ, the soul is free to become whatever it truly is. Thus, at the beginning of *The Dialogue*, Catherine refers to the soul using the classical feminine *anima*, then says that Christ “makes of her another himself,” a non-identical repetition.<sup>64</sup>

The same understanding is apparent in Dante, though his transhuman allegory is one of love for the divine feminine. From the start, his character is anything but manful. At several points, he swoons, and St. Lucy herself – who first commissions Beatrice to guide Dante in the path of love – carries him sleeping to the entrance of Purgatory. But it is Beatrice who gives Dante his “way of knowing,” as Charles Williams remarks.<sup>65</sup> It is she who ultimately delivers him to Mary the God-bearer, “that point of substance in which Deity humanly subsists.”<sup>66</sup> To borrow the language of Catherine, God has made of Mary another himself, reproducing himself in her life. And this process of *anothering* is how the Unsayable is said, how the *logos* becomes flesh in all who are born of his love. The

---

<sup>61</sup> Raymond, *Life of Catherine*, 107.

<sup>62</sup> See Noffke’s footnote 6 in *The Dialogue*, 26.

<sup>63</sup> Paul Murray, O.P., *Saint Catherine of Siena: Mystic of Fire, Preacher of Freedom* (Park Ridge, IL: Word on Fire Institute, 2020), 11.

<sup>64</sup> Literally *ne fa un altro sé*. I am following Noffke’s translation. See Catherine of Siena, *The Dialogue*, 25.

<sup>65</sup> Charles Williams, *The Figure of Beatrice* (Berkeley, CA: Apocryphile Press, 2005), 222,

<sup>66</sup> Charles Williams, *The Figure of Beatrice*, 231.

incarnation is the transhuman told the other way around, in the experience of God becoming creation, opening nature to a boundless and generative life beyond its apparent limits.

### Life from Beyond Within.

The Marian tradition tends to visualize grace above nature, as a realm superior to the limits of human thought. But Mary also demonstrates the fullness of grace in her body, below the realm of the head. The body is where divine wisdom enters through the door of the will, becoming one flesh with humanity. Mary has remained a model in that respect – pregnant, so to speak, with the kind of spirituality practiced today by *curanderas*, folk healers in Mexico. As Latinx theologian Christine Dennis explains:

Mary consciousness is an inherited structure of behaviors and components that motivate decisions and values in our social reality. Grounded in the mythologies of La Virgen de Guadalupe, the primary values of Mary consciousness are compassion, service, and bodily knowing. These values are rooted in the Guadalupana mission of service to the poor and vulnerable. My grandmother was a gifted psychic and energy healer, but her greatest gift was a vast capacity for compassion. Mary of Mercy held space for all the planet's suffering in the comfort of her heart. She never spoke an ill word and never passed judgement on the transgressions of others. She accepted you and loved you as you were. She saw you the way Nuestra Madre (Our Mother) sees you.

In addition to the values of compassion and service, Mary consciousness supports the body as an undeniable source of knowing. We honor this embodied knowledge through our service to dying bodies. The gift of spiritual mediumship has always guided the women in my lineage to serve patients in hospice care.<sup>67</sup>

The Guadalupana mission carries out another way to be modern, another biopolitical theology, conceived in the line of Marian contemplatives. Its form of knowing, while communicable, remains unconstrained by modern informatic power, instead creating a network of allegorical action. Unafraid of death, the *curanderas* embody the consent of Mary: the passion of the *logos*, born of her body, is compassion for the afflicted of the world. We might look to their network as one example of how to

---

<sup>67</sup> Christine Dennis, "The Structure, State, and Stream of Mary Consciousness in the Quest for the Knowing Body," *Journal of Conscious Evolution*, Vol. 16, No. 1 (Nov. 2020), 8.



live in the postmodern City of God, where multiple, creolized languages effect new patterns of communion. To consent to the *logos* means, in Augustine's grammar, a conversion of the passions in service to justice. The logic of the incarnation is *com*-passion, "feeling with" at the level of bodily knowing; it is alert to the material conditions of others, simultaneously knowing that life comes from beyond the bounds of rational, sensate materiality.

The global south is indeed ripe with examples – local knowledges that elude "the mechanical mind" of modernity.<sup>68</sup> As I indicated in the first chapter, the Marian tradition has given rise to a set of practices that Gustavo Gutiérrez first called a "spirituality of liberation."<sup>69</sup> The Magnificat, he said, reveals that "the future of history belongs to the poor and exploited." Conceiving a fullness of life from below, Marian consent fosters communion with the alienated. To know the *logos* within oneself is to know the life given to all, including the disenfranchised, who ought to be loved in the gratuity of communion. When Gutiérrez called for its practice in the 1970s, he was met with resistance from fellow priests, many of whom believed he was following Marx more than Mary. To them, the Latin American revolution was theologically incoherent, wayward, and even dangerous. But Gutierrez, much like Dante and Catherine, saw that the structures of pastoral power had not afforded a theological language to the people. His argument brings greater light to the need met by the vernacular mystic:

If they are not always able to express in appropriate terms the reasons for their commitment, it is because the theology in which they were formed – and which they share with other Christians – has not produced the categories necessary to express this option, which seeks to respond creatively to the new demands of the Gospel and of the oppressed and exploited peoples of this continent. But in their commitments, and even in their attempts to explain them, there is a greater understanding of the faith, greater faith, greater fidelity to the Lord than in the 'orthodox' doctrine (some prefer to call it by this name) of reputable Christian circles.<sup>70</sup>

---

<sup>68</sup> Shiva, *Oneness vs. the 1%*, 21-22

<sup>69</sup> Gutiérrez, *A Theology of Liberation*, 222

<sup>70</sup> Gutiérrez, *A Theology of Liberation*, 217

He goes on to say that a liberative spirituality must entail conversion *to* the oppressed, not *of* the oppressed. “Conversion means a radical transformation of ourselves; it means thinking, feeling, and living as Christ – present in exploited and alienated man.”<sup>71</sup> Non-identically, Gutiérrez repeats the language of mystical transhumanism. His vision, withholding consent from the salvation stories of modern development, calls for the release of rationalized control. Such a vision is only possible in a cosmos held together gratuitously, in the heart of divine love. Marian consent prompts a conversion to that reality, bringing about a vision of God in forsaken humanity.

The Gospel of John says that the *logos* became flesh, but it says much more than that: In him was *zoe*, and the *zoe* was the light of humanity.<sup>72</sup> In Christ, we truly meet the one who is both outside the *bios* and born within it. His life was before the *bios*, and when he came to his own, he was not received. The account of his nativity in fact demonstrates the *bios politike* into which he was born: a census, mandated by the emperor to record the population, prompts his family’s dislocation from their home; finding no shelter, Mary gives birth to him outside the *oikos*, among livestock; the sovereign decision of Herod makes him killable with impunity, one in a demographic of boys his age. From the beginning, the *zoe* of God chose union with those alienated from the *bios*. Yet his was the very life supporting the *bios*, the very life in which all life subsists. As Athanasius wrote, he is *Autozoe*, life living itself without biology, yet incarnate in the biome.<sup>73</sup> Mary’s consent receives him, seeing God’s life in her own – a union of life given for the life of many others.

The light of Mary’s consent was key to the social vision of the *Divine Comedy*. Thus Beatrice, preparing Dante for his final vision, urges him first to gaze upon the souls of Paradise, shining in the light of God like a sea of mirrors. As reflections of the First Light, they also reflect each other, showing how love for another is love for oneself. When at last Dante gazes into their Source, he sees that even

---

<sup>71</sup> Gutiérrez, *A Theology of Liberation*, 219

<sup>72</sup> John 1:4

<sup>73</sup> Athanasius, *De Incarnatione*, 29.

there, in the self-reflective nature of God, light emanates from love for another. There in God's Being is Christ, the human God ascended, whom Dante recognizes with a personal pronoun: *nostra effigie* – our image.<sup>74</sup> The phrase echoes the divine counsel in Genesis: *let us create humanity in our image, after our likeness*. But notably, the referent of “our” is not the creator. It is *us* – we humans, we the creation. In the bright horizon of the Uncreated, Dante sees another himself, who is our image and the inner reflection of Godself. Such a transhuman reality is at the very edge of what Dante comprehends, being far too brilliant for the container of rational speech. He can know it only by being moved into it – into the First Love for Another, the Union who causes all things to be. And there the poem ends, with its poet drawn into “the Love that moves the sun and all the other stars.”<sup>75</sup>

Decades later, Catherine finds an earthy image to reflect the same reality. “Keep in mind,” she hears God saying, “that each of you has your own vineyard. But every one is joined to your neighbors’ vineyards without any dividing lines. They are so joined together, in fact, that you cannot do good or evil for yourself without doing the same for your neighbors.”<sup>76</sup> As in the light of *Paradiso*, the vineyard is a place for self-work. Each of us has our own vineyard of selfhood, and we must cultivate it. “This tiller of your soul has been given such power that neither the devil nor any other creature can steal it without the will’s consent (*non vuole*).”<sup>77</sup> But the vineyard of each soul, cultivated in private, is to be shared. It contributes to – and partakes in – what is finally boundless: *una vigna universale*, a universal vineyard. Private cultivation does not merely divide what is common; it seeks to multiply the good of what is shared. This, for Catherine, is the mark of a true society, of *Autozoe* living itself in the *bios*.

The well-cultivated soul seeks to share its fruit – for its own sake as much as for others – all the while keeping vigil at the gate of the will. If it consents to a false image of the good, its land will

---

<sup>74</sup> Dante, *Paradiso* XXXIII.131

<sup>75</sup> Dante, *Paradiso* XXXIII.145

<sup>76</sup> Catherine, *Dialogue*, 24.

<sup>77</sup> Catherine, *Dialogue*, 60.

be captured and its true autonomy deformed. The duty of every person is therefore to guard the city of the soul. In so doing, each one guards the soul of the city. The human does not subsist in a state of nature, before and beyond the state. The soul and the city are inseparable, belonging to the whole cosmic vineyard – a culture made of human nature.<sup>78</sup> As with Dante, Catherine’s fluid significations of soul-space demand a political theology interior to – and in excess of – a materially bound reality. The true boundary exists in the preservation of divine analogy, the non-identically repeated image of God, kept intact by the will to love. Autonomy cannot be known apart from a social analogy to God; self-sovereignty is figurative – and thus *real* – insofar as the human figure repeats the love of God in the self for the other.

As in the Mary consciousness of the *curanderas*, an ethic of care flows from these images, and my essay is too brief to recount the many episodes of healing attributed to Catherine. But I will mention one I find pertinent. As the Black Plague spread across Europe, Catherine stayed in Siena to nurse the sick and poor while the highborn and wealthy left town. Raymond her confessor also stayed, considering that “the power of Christ surpasses that of Galen, and that grace can do more than nature.”<sup>79</sup> It was not long before Raymond contracted the illness, and not long after that, he was bedridden. Sending for Catherine, he felt himself weakening. This is what he recalls:

When she came and saw how far gone I was, she listened to an account of my symptoms. Then at once she went on her knees beside the bed, covering my forehead with her hand, and began to pray interiorly in her accustomed way. As she prayed I saw her rapt out of her senses, exactly as I had so often seen her on other occasions, and I kept hoping that something out of the ordinary was about to happen to me, for the welfare of my soul and my body. Well, when she had remained like this for a half an hour or so, I began to shiver in every limb. I thought it was the beginning of an attack of vomiting such as I had seen occurring in many sufferers who had died of the plague. But this did not happen. Instead, I seemed to feel as if something were being drawn out from me, rather forcibly, through every extremity of my body. I began to feel better, and then a steady improvement set in. What more need I say? Before Catherine came back to her senses I was completely cured, though a certain debility

---

<sup>78</sup> Once again inheriting a doctrine of Stoicism.

<sup>79</sup> Raymond, *Life of Catherine*, 239.

lingered – either to remind me of the sickness I had been cured of, or to match the feebleness of my faith.<sup>80</sup>

Catherine’s mystical transhumanism is rooted in the life of another world, or rather, in the Unsayable *zōe* by which this world is anothered. Rapt beyond her senses, she makes that other world apparent in this one. She participates in the boundless life of God, whose healing power likewise transforms Raymond into another participant self of God. When the healing is complete, Catherine wastes no time in telling him to continue the ministry of Christ. “Off with you now,” she says, “to work for the salvation of souls.”<sup>81</sup>

Another Way to Be Modern.

I suggest with William Franke that Dante and Catherine represent another way to be modern. Their vision leads “not to seeming mastery of the material universe through the grid of scientific concepts, but rather towards the imagination of other worlds, including higher, divine, and spiritual worlds.”<sup>82</sup> To be sure, there is a risk even here: when imagining other worlds, we can do violence to this one. The colonial fantasies of the new world are evidence of that. But modern utopias, beginning with the technocratic paradise of Bacon’s *New Atlantis*, embark on a vision quite distinct from that of Dante and Catherine. The Baconian thinker dreams of a known world, a world of measurable causes and effects, a world explored and controlled by reason. It is ultimately a violent fantasy, erasing what it finds unintelligible, deluded by its own methods of knowing. Its delusions are what Foucault disrupts in all kinds of ways, writing a new form of history to confront the notion of a singular, objective reality.

---

<sup>80</sup> Raymond, *Life of Catherine*, 240.

<sup>81</sup> Raymond, *Life of Catherine*, 240-241.

<sup>82</sup> Franke, “Representing the Other,” 66.

Most poignant is Foucault's recollection of public torture in the early modern period.<sup>83</sup> The interrogator, to elicit confessions of criminality, adhered to a "penal arithmetic," a scientific method of truth extraction.<sup>84</sup> As a method derived from the penitential system of the Church, public torture was a technology devised to produce truthful confessions, and it coincided with a new way to see. The "empirical gaze" – whether medical, judicial, or governmental – established the truth by extracting it. As Foucault writes in *The Birth of the Clinic*, "The residence of truth in the dark centre of things is linked, paradoxically, to this sovereign power of the empirical gaze that turns their darkness into light."<sup>85</sup> This, to him, was the core legacy of the Enlightenment: truth could be extracted only because it was projected by the gaze of power. In *The Archaeology of Knowledge*, he outlined its legacy further, describing "the formation of objects" in the science of mental disorders.<sup>86</sup>

The empirical formation of objects was, for Foucault, the real problem. And for most of his career, he addressed it by negating it, taking an apophatic stance to modern forms of scientific knowing. But after negation, what remained? In a lecture at Berkeley, he said this:

When I say that I am studying the "problematization" of madness, crime, or sexuality, it is not a way of denying the reality of such phenomena. On the contrary, I have tried to show that it was precisely some real existent in the world which was the target of social regulation at a given moment. The question I raise is this one: how and why were very different things in the world gathered together, characterized, analyzed, and treated as, for example, "mental illness"? What are the elements which are relevant for a given "problematization"?<sup>87</sup>

Foucault thus believes that "things in the world" exist. But he is not invested in describing them so much as in describing *how they have been described* (which is to say *socially controlled*). I greatly admire his line of critique, but I must say that those who follow it are sometimes misled. I myself have

---

<sup>83</sup> Michel Foucault, *Discipline and Punish: The Birth of the Prison*, trans. Alan Sheridan (New York: Vintage, 1995), 35-47.

<sup>84</sup> Foucault, *Discipline and Punish*, 33.

<sup>85</sup> Michel Foucault, *The Birth of the Clinic: An Archaeology of Medical Perception*, trans. Alan Sheridan (New York: Vintage, 1994), xiii-xiv.

<sup>86</sup> Michel Foucault, *The Archaeology of Knowledge*, trans. A.M. Sheridan (New York: Pantheon, 1972), 40.

<sup>87</sup> Michel Foucault, "Concluding Remarks to the Seminar," *Discourse & Truth: The Problematization of Parrhesia*, 1999, accessed Aug 20, 2021 at <https://foucault.info/parrhesia/foucault.DT6.conclusion.en/>

been tempted to say that truth is a power game, a conjuring of reality with no basis beyond itself. Yet if I put confidence in that suspicion (and I do, to an extent), I am faced with a difficulty. On what ground do I stand, if the implication of my stance is that Foucault is telling the truth? I am in a bind. The ground of truth is suspect, yet it is required, and I must stand on it for his observations to mean anything. Alongside his *via negativa*, I require a *via positiva*, an affirmative way into the reality exceeding the cognitive limits of modern culture. The point is not to abandon thought but to abandon modern habits of control, understanding that the literal world is always a figurative image, laden with a language of desire.

For the mystic, counter-conductive vision is the vision of God. It is not the same as beholding an object; it is a manifestation of God's own seeing.<sup>88</sup> Catherine, her face changed into the image of Christ, is an example of that possibility. Thus Raymond, beholding the face of Christ in Catherine, is beheld by Catherine in Christ, and when Christ-in-Catherine sees Raymond, she sees an agent of the same vision. Raymond is therefore healed of the plague so that Christ-in-Raymond will tend to Christ in the sick. The vision of God multiplies itself in the other; that is the nature of its transpersonal and transhuman reality. In our own time of pandemic surveillance, we ought to remember that the all-seeing nature of God is not like the panoptic state. It is not a univocal authority, using the plague to justify the lockdown of surveilled subjectivities. Instead of enclosing the self, the vision of God liberates consciousness to multiply love beyond the domain of empirical control.

Still, Dante and Catherine offer us a form of agency with deeply modern contours. This is uniquely true of Catherine, as Simone de Beauvoir saw.<sup>89</sup> As if by a miracle, she stands apart from the confines of medieval womanhood.<sup>90</sup> Though contemplative, she is not cloistered but fiercely active in public life. Though celibate, she is not a nun but a laywoman. Among her people, she is known for

---

<sup>88</sup> See Franke, *Secular Scriptures*, 31, drawing upon Nicolas of Cusa's treatise, *Visione Dei*.

<sup>89</sup> Simone de Beauvoir, *The Second Sex*, 115, 659, 717.

<sup>90</sup> See Luongo, *The Sainly Politics of Catherine of Siena*, 19.

her charity and, as Beauvoir puts it, “for the visions that testify to her intense inner life within a very normal existence.” The strength of Catherine’s vision draws male followers at a time when women are afforded no official positions. She pleads with the lost to be reconciled to God, pleading likewise with families and towns to be reconciled to one another. And, having gained a political reputation, she is chosen by Florence, a rival city, to convince the pope to re-headquarter the church in Rome. Ahead of all this, she is a nurse – a caregiver who leads a movement of love.

The temptations of hagiography are, put positively, glimpses at the archetypes embedded in our form of life. They offer an allegorical sense of history not unlike the one presented in the *City of God*. Catherine is present to us as a type, a non-identical repetition – whether of liberation or communion – because she is atypical of her time. She herself is non-identically repeatable, which is precisely how the life she embodies is present to us *now*. We ought not want to return to what was, nor should we fully accept the current order of things. After the first consent to evil, there is no pristine moment of history, no earthly city fully relieved of its ills. But history is host to the City of God, where we sojourn forward by recalling the timeless origin of our freedom, diversely repeating and receiving *Autozoe* – life in the self for the other, in the other for the self.

#### The Commons of Love.

Augustine wrote the *City of God* as a form of counter-memory, because he knew that history is not an object apart from the self; it is *practiced*, and if practiced well, it releases the soul from its unconscious chains. As Foucault suggests, “the effort to think one’s own history can free thought from what it silently thinks, and so enable it to think differently.”<sup>91</sup> This, Foucault saw, was an *askesis*, “an exercise of oneself in the activity of thought.” Not only was he proposing a retrieval of the Greeks; it was an exercise of counter-conduct, a way of taking the self back from the modern powers

---

<sup>91</sup> Michel Foucault, *Use of Pleasure*, 9.



automating it. For Foucault, the Stoics offered exercises that might convert the contents of one's inner life, though he did not suppose the conversion to be teleological or communal. Instead, it resulted in a transformed "aesthetics of existence," a selfhood restyled apart from any conception of the *logos*. Pierre Hadot, a noted scholar of the Stoics, critiqued him for this. The Stoic exercises, he said, were meant to help their practitioners go into themselves and find cosmic order. "Interiorization is a going beyond oneself; it is a universalization."<sup>92</sup> In Christian practice, it is membership in the global City of cities and Time of times.

Where Hadot seeks conformity with the One, Foucault seeks to fracture totality. But in so doing, Foucault adopts the legacy of liberalism as much as Stoicism. The self remains a private possession governed by personal taste, protected from the interference of others. Mystical vision, by contrast, offers a very different form of counter-conduct. It consents to the commons of love, which can never be drawn into the logic of private property. As Augustine says of wisdom:

We can all enjoy it in common; there is ample room, and it lacks for nothing. It welcomes all of its lovers without envy; it belongs to them all but is faithful to each. No one says to another, "Step back so that I too can get close; let go of it so that I too can embrace it." They all cleave to it; they all touch it. No one tears off a piece as his own food; you drink nothing from it that I cannot also drink. For what you gain from that communion does not become your own private property; it remains intact for me. When you breathe it in, I need not wait for you to give it back so that I can breathe it too. No part of it ever becomes the private property of any one person; it is always wholly present to everyone.<sup>93</sup>

Two decades ago, Hardt and Negri came close to Augustine when they noticed a shift in how we define the problem of scarcity. Before the digital age, it seemed obvious that goods were exclusive. They existed in one place at a time and belonged to one party at a time. We now understand the opposite to be true, at least in some cases. I can download a book, for example, and I am not removing it from the natural number available to all. Its copies are effectively without boundary or quantity, reproducible in many places at once. For Hardt and Negri, this new mode of acquisition signified a

---

<sup>92</sup> Pierre Hadot, *Philosophy as a Way of Life*, trans. Michael Chase (Oxford: Blackwell, 1995), 211.

<sup>93</sup> Augustine, *On the Free Choice of the Will*, II.14; p. 57.

newly possible communism. It outmoded the logic that says, “if you have it, I cannot have it.”<sup>94</sup> Downloadable goods disrupt the doctrine of nature firmly established in John Locke’s thesis on property. How strange, then, that the Lockean doctrine continues to justify today’s market structures. Digital goods, which could be released and reproduced almost infinitely, are monetized by artificial restrictions. Scarcity is unnaturally enforced. It is as if, without depleting and privatizing what is common, human nature will cease to be.

Hardt and Negri thus urge a new political identity upon the possessors of virtual reality. Their call is not owing to some recent mutation of our nature; it is grounded more deeply in the real. Locke’s main mistake, they believe, was to take one class of goods as the only kind. The class itself is not up for dispute: “Material property, such as land or water or a car, cannot be in two places at once: my having and using it negates your having and using it.”<sup>95</sup> But a second class of goods remains, and it is likely the more important, because it shapes the way we signify the first.

Immaterial property, however, such as an idea or an image or a form of communication, is infinitely reproducible. It can be everywhere at once, and my using and having it does not hinder yours. On the contrary, as Thomas Jefferson says, ideas are enhanced by their communication: when I light my candle from yours they both seem to burn brighter.<sup>96</sup>

Their quote of Thomas Jefferson is both humorous and incisive because, while famously influenced by Locke, Jefferson saw beyond the Lockean boundary. He understood the plain fact of an immaterial commons, an economy of ideas which could only exist as spontaneously sharable and reproducible. While it was less globally patent in his day, it has now materialized in digital networks, widening the hidden fissure in Locke’s state of nature. Hardt and Negri suggest that we, the virtual realizers, must rethink how to symbolize our relation to matter. It may turn out that “economy,” as we often define the term, is merely the skin of an irreducible abundance. The goods we possess are

---

<sup>94</sup> Michael Hardt and Antonio Negri, *Multitude* (New York: Penguin, 2004), 180.

<sup>95</sup> Hardt and Negri, *Multitude*, 311.

<sup>96</sup> Hardt and Negri, *Multitude*, 311.

not merely exclusive; some must be excessive.<sup>97</sup> Some must exist only as they are shared and reproduced freely.

But how do we pierce the rind for the fruit? How can we overcome the habits of scarcity if a deep virtual reality signifies more progressive social arrangement? Hardt and Negri, in a rather surprising turn, indicate the necessity of love. Love is the only power strong enough to exceed the immediate “mine and ours” of the nuclear, bourgeois family. They specify: “We need to recuperate the public and political conception of love common to premodern traditions.”<sup>98</sup> Readers may wonder if Hardt and Negri have been converted from Marxist materialism; after all, the practices they affirm took place in the auspices of divinity. But Hardt and Negri anticipate the charge and object to it. Love, they say, need not be a metaphysical reality. It was always “incarnated in the common material political project.”<sup>99</sup> As soon as they seem to transgress Marxism with religious love, they reclaim love for the modern mind. But in so doing, they offer two solutions which are not neatly interactive. If immaterial goods evoke an alternative world structure, how is love properly reduced to materiality?

A serious reading of Dante and Catherine is not only helpful but appropriate here. Representing the tradition Hardt and Negri cite, they show that a politics of love must reflect an immaterial excess beyond human reckoning. If love transcends the private and familial – and for the mystic, it must – it must therefore exceed the mortally political. It must be the very power moving the sun and other stars. It must entail the miraculous, the resurrected, the incalculable. Only in a world with such motivity can political love enact itself beyond the seeming boundaries of nature. Only then can a political language emerge to signify a reality beyond the appearance of scarcity.

---

<sup>97</sup> Not all Lockean thinkers hold this view. Often, air and sunlight are considered non-commodities held in common. However, Locke believes that the common is without value until it is privatized; the common goods of nature exist only as *potentially* valuable. Theoretically, air itself would more valuable if commoditized (as indeed shown in the marketing of water); this, for Hardt and Negri, is the logic in question.

<sup>98</sup> Hardt and Negri, *Multitude*, 351.

<sup>99</sup> Hardt and Negri, *Multitude*, 352.

Consider the teaching of Virgil on Mt. Purgatory, where Dante's character begins to see the operations of divine love in pure economic form. The pair has just departed the terrace of the envious, where Guido del Duca, a member of an elite Romagna family, laments the futility of loving what cannot be shared: "O race of humans, why put your heart where trade is a negation of partnership?"<sup>100</sup> The phrase is puzzling, and in typical fashion, Dante turns to Virgil for an explanation. The answer comes in the form of a contrast: there are two kinds of work, says Virgil. In the first, laborers split the good for which they toil. The second, however, is a process of multiplication: the more souls there are who say *nostro* (ours), the more good each soul has. This is the highest form of love, which Dante would understand if his desires were turned upward. As is often the case, Dante's character remains stuck in the world of lack. How, if a good is distributed, can there be more of it? Virgil's answer is a concise primer on the Augustinian matter of divine gratuity.

Such an economy depends on "that infinite and ineffable good," says Virgil.<sup>101</sup> The Good is first classified by what it is not: limited and describable. No volume, numeric or literary, can fathom it. To identify it properly, we must negate all things from it, which is no mere act of subtraction: even zero, the mathematical difference of all things from all things, belongs to the realm of quantity. The Good must surpass even the absence of all things. It is *là sù* – above the limits of mathematical negation. How then can we know it? Here is Virgil's answer: despite its transcendence and negativity, it "flows to love as a ray of light comes to a lit body."<sup>102</sup> A loving person is an image of the Good, just as a person standing in the sun is an image of light.

Still, our knowledge for the Good must always negate the limit; we must always say it is unlimited. We can never find its boundary, because when it appears in the realm of quantity, it multiplies. The more souls there are who set their hearts above – *là sù s'intende* – the more there is to

---

<sup>100</sup> Dante, *Purgatorio*, 14.86-87.

<sup>101</sup> Dante, *Purgatorio*, 15.67.

<sup>102</sup> Dante, *Purgatorio*, 15.68-69.

love. Each beloved soul becomes a mirror of the good to others, who then reflect the light to others, and on it goes forever. The trade of love is therefore quite unlike the trade of a commodity, because it increases by distribution. Put another way: love does not value what it does not have, because love is its own good. In Paradise, the more loves one has, the more loves one receives. This is the grammar: Love loves love. And it is non-identically repeated: love loves love loves love loves love...

The display continues when souls in Paradise cry out to Dante, “Here is one who will increase our loves!”<sup>103</sup> Love, Dante is learning, is utterly unafraid of sharing. It only exists as procreative; it multiplies itself, or else it is not truly received. That is how eternity is manifest in time, how *Autozoë* lives itself in the *bios*. Eternal Being does not simply expand beyond the horizon of our understanding. It produces more and more unique reflections of itself in the creativity of each witness. To hoard the gift is to mis-allegorize the plenitude of its goodness. Augustine says the same in *City of God*:

For the possession of goods is by no means diminished by being shared with a partner... on the contrary, the possession of goodness is increased in proportion to the concord and charity of those who share it. In short, he who is unwilling to share this possession cannot have it; and he who is most willing to admit others to a share of it will have the greatest abundance himself.<sup>104</sup>

The theme is finally taken up by Beatrice herself in the uppermost sphere of *Paradiso*. As she prepares Dante for his vision of the Creator born of the Virgin, she expounds the metaphysics of love from its origin:

Not seeking any goods He had not –  
there can be none – but so His shining-out  
could in return shine back and say: “I am,”  
in his eternity beyond all time  
beyond our understanding, as He pleased,  
to new loves Love eternal opened out.<sup>105</sup>

---

<sup>103</sup> Dante, *Paradiso* V.105.

<sup>104</sup> Augustine, *City of God*, XV.5

<sup>105</sup> Dante, *Paradiso* XXIX.13-18, Kirkpatrick’s translation.

It is a variation on a theme from *Confessions*, where Augustine recognizes that God has no need; whatever is good is God's.<sup>106</sup> Aquinas says the same: goodness and being are one, because God is the origin and fruition of both.<sup>107</sup> But Dante puts the idea down in a profound rhyme. In God, there is no absence to necessitate acquisition – *acquisto*. Thus, the new loves of Love are created rather than acquired, repeating “I am” in a way that suits their creaturely form – *Subsisto*.

Subsistence.

Beginning his treatise *On Christian Doctrine*, Augustine reflects on how his teaching ought to be seen as a reproducible gift. “Everything which does not decrease on being given away is not properly owned when it is owned and not given.”<sup>108</sup> Hardt and Negri have repeated the claim: there are two classes of goods, the first of which decreases by distribution; the second, when shared, remains undiminished. It was Augustine who first recognized this, citing the miraculous feeding of the multitudes: “There were at one time five loaves and at another time seven before they began to be given to the needy; and when this began to be done, baskets and hampers were filled, although thousands of men were fed.”<sup>109</sup>

Does bread not belong to the first class of goods, which decrease the common store when distributed? In this case, no. The miracle is an apocalypse of the second class, revealing its true priority over the first. Breaking the bread, Jesus opens up the material order to reveal the life in which it subsists, the life unlimited by techniques of calculation. He thereby reveals a metaphysical difference from the picture painted by Hardt and Negri, who think that love can be incarnated in material self-reference. The Gospel hangs everything on the opposite claim: materiality is only possible in the *logos*.

---

<sup>106</sup> Augustine, *Confessions*, VII.10.17

<sup>107</sup> Aquinas, *Summa Theologiae*, I.5.1

<sup>108</sup> Augustine, *On Christian Doctrine*, trans. D.W. Robertson (Upper Saddle River, NJ: Prentice Hall, 1958), I.1

<sup>109</sup> Augustine, *On Christian Doctrine*, I.1

The multiplied loaves are an allegory of creation from nothing, a work not finally captive to the politics of material power. (The evangelists make this clear, placing the miracle after the birthday feast of Herod, where wolfish appetite reigned supreme.) Augustine thus reads his own work allegorically, believing his words may be assimilated to the miracle.

Just as the loaves increased when they were broken, the Lord has granted those things necessary to the beginning of this work, and when they begin to be given out they will be multiplied by His inspiration, so that in this task of mine I shall not only suffer no poverty of ideas but shall rejoice in wonderful abundance.<sup>110</sup>

If Augustine's ideas are multiplied freely, it is because they do not belong solely to Augustine. They signify the original Creativity of all things. Assimilating his work to the miracle, Augustine returns us to where we began, with the creation of new wine despite a shortage. Dante and Catherine, following Augustine, agree with Hardt and Negri that scarcity is more of an outlook than a material fact. They likewise agree that the problem of scarcity is transcended by means of ideas and images, shared in the vernacular mode of political love. But they insist that when language alters the perception of scarcity (thus altering the problem itself), it is because language of love derive its true power from the immaterial life that creates material life. It derives, that is, from the *logos* made flesh, who sets human nature free from corruption and loss.

Hardt and Negri have almost lighted upon this, but for them, "immaterial property" cannot truly signify what they say. It remains prone to obsolescence and decay – the very opposite of the *logos* made flesh. A downloaded book, even a book shared by all, remains bound in a computer process, embedded in the proprietary labors of upkeep and production. The same is then true for the mind, free will, love, and language, mysteries that seem likely to shrink to the custodial narratives of neuroscience, behavioral science, and genomics. Modern transhumanists operate by that very logic,

---

<sup>110</sup> Augustine, *On Christian Doctrine*, I.1

promising to extend our days in fantasy of controlled material causes. I have suggested that the mystical technique of life, receiving *Autozoe* in the *bios*, conceives another possibility in our language.

But are we to subsist merely on images and ideas? Are the poor to be fed by words alone? No; but neither can we live by bread alone. Marx himself, from the beginning, was bent on articulating the worker's hope. Through the material dialectic, he predicted, workers would one day be psychologically whole, no longer subject to an upper class. Marx indeed imagined a world beyond his senses, but he did not carry its implications far enough, as Dante and Catherine did. What they saw was a commons of love beyond the control of pastoral and sovereign power, a material union of God with the alienated. Dante, the exiled poet of Florence and the citizen of the true Rome, has the final word:

He who beholds that Light is so enthralled  
that he would never willingly consent  
to turn away from it for any other sight.<sup>111</sup>

Conclusion.

My dissertation has traversed the historic city of our language, inspecting a number of architectures, a number of consent forms, a number of fantasies in which human life is thought to subsist. Several are shaped by the translation of the world to a problem of coding. Several are indeed built on the assumption that coding goes all the way down. The informatic universe allures us with the promise of knowability, control, wealth, and longevity. Down at the end of our genomes, we hear, we are nothing but information. At the level of population health, we are a manageable mass. Technologies proliferate the *bios* to form us at both levels, consenting us into the logic of corporate usability, prompting us to adopt new devices, new apps, new versions of the same dream. Our attention is profiled and parceled for advertising; we are sold a friction-free vision that obscures its true cost to human life.

---

<sup>111</sup> Dante, *Paradiso*, trans. Hollander and Hollander, XXXIII.100-102



And all this happens, ostensibly, by consent. A button clicked, a form signed. We are told that if proper consent is in place, every act is moral. We are told that each one of us belongs to no one else, that the self alone dictates the good of the self alone; that moral trespass occurs not from within but from without, when someone breeches the social contract. We are told that the threat of such a breach is what constitutes the need for consent. But then, if the threat is severe enough and large enough in scale, we are told that the existing contract no longer holds; a new contract, drawn up on exceptional grounds, will suspend the norms of atomized consent for the sake of a new normal. We are also told that in view of massive threats, the normal thing to do is to prepare for the future exception. An image of that future codes all kinds of clinical research, where healthy subjects are tested in the name of disease prevention. All activities, cast in the twin logics of prevention and peace, ought to be calculable, predictable, governable, rendered as one global known. All relations ought to be mapped, tracked, and traded as data. All forms of learning ought to be metricized and financialized, so that every action is reduced to a legible structure of roles and coded behaviors. There can be no lines of flight, save what the market offers.

And yet, despite our being consented, we can learn to withhold consent. We can withhold it without reference to a modern state of nature, because we subsist in the Love beyond creation, suffusing the material order. The ground of our subsistence came, by the consent of a Jewish girl in the Roman empire, to form the free will of those who receive him. He taught us that it is better to give than to receive: we can withhold consent from envy, hoarding, and the fear of loss. He taught us that the eye is the lamp of the body: we can withhold consent from disordered curiosity and lust. He taught us to love our enemies: we can withhold consent from wrath, scare-mongering, and the logic of domination. He taught us to be unafraid of those who kill the body but have no claim on the soul: we can withhold consent from anxiety and terror, acting boldly, knowing that the body subsists in Life – not the other way around. In all these things, we are more than conquerors: we are non-identical

repetitions of Jesus Christ. As allegorical signs of his life, we can expand the vernacular of our day with the materials at hand. We can practice a poetics of the good, learning to weep with those who weep, to rejoice with those who rejoice. We can learn to rage well at the profiteers who desecrate holy places, so that the passion of anger illuminates the insidious norm. Christ opens causeways for all such holy passions, bringing the contemplative life into a collective language for loving action. Joining us together for grieving, healing, and laughter, he repeats himself, shining through micropolitical networks, novel literatures, and miracles beyond the capture of any one language.

In this chapter, I have tried to imagine a way to love Michel Foucault, to complete what he started, and to do it non-identically. He has been a kind of Virgil to me on the journey of my dissertation, sometimes offering ideas I questioned, sometimes saying exactly what I needed to hear. Some thirty years after his passing, he has guided me to consider my own subjectivity in the informatic biopolis he never quite imagined. I have been helped along the way by many others. Key among them were Shoshanna Zuboff, whose work led me to see behind the doors of Google; Wendell Berry and Jacques Ellul, true Cynics in the world of modern technology; Toni Morrison, whose use of English is searing; Frederick Douglass, about whom I would say the same; Hoeyer and Hogle, whose article on consent said much of what I was trying to say; Augustine, Dante, and Catherine, who have become a working triad of beauty in my mind's eye; Audre Lorde and Viktor Frankle, who add necessary color to their palette; Luther and Locke, who, while troubling for me, stir my earnest appreciation for their respective efforts to curb the will to power; Hardt and Negri, whose brave attempt at a Marxian politics of love has grabbed my imagination; Athanasius, who graced me with his neologism, *Autozoe*; Agamben, who has yet to discover the Athanasian secret; Aquinas, whose system is at once mystical and logical; and Mary, who has become my mother and friend, encouraging me to receive the passion of her Son for the downtrodden.

There is a point in my recounting all these names, who are not just figures to be cited; they are non-identical repetitions of Love, each one uniquely insightful in the fusion of my understanding. In my effort to undouble myself – to cast off the self-consciousness wrought by modern pastoral power – I have found a multitude. As Dante and Catherine also found, divine love multiplies in the self through the many who comprise one's own self-knowledge. Inside oneself, there are many, and inside the many, there is One. We are not atoms in the void or discretely movable units of information. We live in the universal vineyard, caring for each other by tending to ourselves, tending to ourselves by caring for each other. The micropractices now required of us are born of that allegorical awareness. Consenting to the work of a wise vinedresser, we subsist in the Love who still makes new wine.

## Final Summary of the Grammar.

Laid before us are two prominent uses of a word, each employed in the moral architectures of the west. The use prevailing today, an heirloom of the English enlightenment, assumes a form of self-government based on a view of man in a state of nature. Its principal draftsman was John Locke, an empiricist and physician. Dismissing the doctrine of a final good, Locke believed ultimately in one natural authority: the individual, who possessed the right to rule himself according to his own private interests. The ethics of consent were thus intended to prevent trespass onto private property, especially on the part of the state. No longer was the government a tutor of virtue, as Aquinas had once claimed; its true end was the security of property. Liberal society is something like a multitude of lands with fences and front gates; it is reducible to the sovereignty of the landholding individual, whose consent establishes the bounds and bonds of his contract with everyone else.

The premodern image is not unrelated, since it also entails a form of self-government, imagined by many as a citadel of the soul. Predominantly, however, consent is a thing not to be done; it is a yielding of the will to temptation. Trespass therefore occurs not from the outside but from within, by consent to disordered passion. If, in the liberal grammar, consent is signified by a boundary, the same is true here; however, the clear concern is that we should not consent to the sin crouching at the door. The premodern soul rules itself insofar as it withholds consent from evil passions, which are evoked by *phantasias* that feel promising or threatening.

In these two general categories, a number of other uses occur. In the first category, it is possible to “be consented” – to be rendered as data in a procedural input-output process. Chapters two and three were dedicated to that problem. In the second chapter, I discussed our present surveillance economy, where users are monitored and manipulated through the architecture of an Agree button. I considered how the digital consent process is smoothed, bypassed, or even nullified

by data managers. That led me to the third chapter, where I considered my own work “consenting people” in clinical research. I discussed how the research industry depends on a laboring class of experimental guinea pigs, rendering them non-agential and passive, without recourse to labor law. Then, in the fourth chapter, I discussed John Locke’s theory directly, showing its origins in a colonial mentality of scientific nature making. I broke down his grammar into four paradigms: the consent of one to one; the consent of one to many; the consent of many to one; the consent of many to many.

In the fifth chapter, I discussed the use of consent at multiple levels of its development from Aquinas to Luther. Most every figure fits some version of the second architecture outlined above, though Luther and Erasmus are threshold figures between the first and the second. Aquinas adopted the Augustinian grammar: in the main, consent was a thing not to be done. But he added to it with insights from others like Peter Lombard and John of Damascus, using the term favorably in the cases of Mary’s fiat and the sacrament of marriage. Both cases effectively comprise a single analogy of salvation, where Christ unites himself to his body. John Wycliffe, the first person on record to write “consent” in English, stayed with the commonplaces of temptation and marriage, though he had no clear metaphysics of free will. After him, Luther used the term strictly as a thing not to do, making the term collective and political, leveling it at the tyranny of Rome. Erasmus, his contemporary, took a subtle step further, writing in his princely mirror that a people had right to depose their sovereign should he fail to control his passions.

Finally, in the last chapter, I discussed the mysticism of Dante and Catherine of Siena, two users of Augustine’s grammar. I showed how they achieve a transcendent vision of collective and polyphonous Love, and I suggested that their unique forms of agency might help us navigate our place today. Throughout my dissertation, I was guided by the critical insights of Michel Foucault, who suggested an overall trajectory for the study: a retrieval process beginning from a critical posture

toward modern technologies of power, moving toward the inner life and self-work of the Christian mystics.

Further research might include a serious investigation of Black mysticism, specifically in the life of Harriet Tubman. The term “mystic” is something of a catch-all, so I would like to see how a liberative mystic like Tubman is and is not like the medievals. Another line of approach is more practical, micropolitical, and perhaps ethnographic. I imagine assembling a group to think about practical techniques for withholding consent from abusive data power. Further theoretical work is also needed at the intersection of AI and Theology. I recently put out a proposal for a conference on coloniality, asking “Can the Subaltern Code?” If accepted, I will explore the colonial patterns of AI development, asking if machine learning can ever “learn to learn from below,” as Spivak puts it. Artificial intelligence has also raised metaphysical questions about consciousness and what it means to be human; a second book project might bring those considerations into focus.

Finally, there is more to do with Dante. What impresses me about the *Comedy* is that it sacrifices nothing: it is a philosophico-theological system like that of Aquinas, an epic like those of Homer and Virgil, an introspective memoir like the *Confessions*, and a reading of this world in the next (or of the next world in this one). To boot, Dante developed his own rhyme scheme. What I imagine, in response to all that, is not exactly an academic work but a cultural project, using the goods of my academic training. I think we need some kind of *Comedy* for the present, as my reading of Foucault already suggests. What form it will take is yet to be determined, but I can say that Dante’s rhyme scheme is no easy thing to master in English.

## Bibliography.

- Agamben, Giorgio. "Lo stato d'eccezione provocato da un'emergenza immotiva." *Il Manifesto*. Feb 26, 2020. [https://ilmanifesto.it/lo-stato-deccezione-provocato-da-un'emergenza-immotivata?fbclid=IwAR17ciygOzmIpolNxACx8WMoRzrPpePxJMN0Tns7ni69ZfwO\\_QzmHYeYXVk%5C](https://ilmanifesto.it/lo-stato-deccezione-provocato-da-un'emergenza-immotivata?fbclid=IwAR17ciygOzmIpolNxACx8WMoRzrPpePxJMN0Tns7ni69ZfwO_QzmHYeYXVk%5C).
- . *Homo Sacer: Sovereign Power and Bare Life*. Translated by Daniel Heller-Roazen. Stanford: Stanford University Press, 1998.
- . *The Kingdom and the Glory: For a Genealogy of Economy and Government*. Translated by Lorenzo Chiesa with Matteo Mandarin. Stanford: Stanford University Press, 2011.
- Ahmed, Sara. *The Cultural Politics of Emotion*. Edinburgh: Edinburgh University Press, 2014.
- Alighieri, Dante. *De Vulgari Eloquentia*. Translated by Steven Botterill. Cambridge: Cambridge University Press, 1996.
- . *Divina Commedia*. Edited by Giorgio Petrochi. Milan: Edizione Nazionale, 1966-1967.
- . *The Divine Comedy*. Translated by Robert and Jean Hollander. New York: Doubleday, 2000-2007.
- . *The Divine Comedy*. Translated by Robin Kirkpatrick. New York: Penguin, 2013.
- Amazon Technologies, Inc. "Voice-based Determination of Physical and Emotional Characteristics of Users." US Patent 10,096,319 B1, October 9, 2018.
- Amer, Karim and Jehane Noujaim. *The Great Hack*, a film (2019).
- Arcenas, Claire Rydell. *America's Philosopher: John Locke in American Intellectual Life*. Chicago: University of Chicago Press, 2022.
- Arthur, Charles. "If Facebook can tweak emotions and make us vote, what else can it do?" *The Guardian*. June 30, 2014, <https://www.theguardian.com/technology/2014/jun/30/if-facebook-can-tweak-our-emotions-and-make-us-vote-what-else-can-it-do>.
- Aquinas, Thomas. *Commentary on the De Trinitate of Boethius*. Translated by Rose E. Brennan, S.H.N. Freiburg, Germany: Herder, 1946.
- . *Summa Theologiae*. Translated by the Fathers of the English Dominican Province, 1920.
- Arendt, Hannah. *Eichmann in Jerusalem: A Report on the Banality of Evil*. New York: Penguin, 1992.
- . *The Human Condition*. Chicago: University of Chicago Press, 1998.
- . *On the Origins of Totalitarianism*. New York: Houghton Mifflin Harcourt, 1976.

- Aristotle. *Politics*. Translated by Ernest Barker. Oxford: Oxford University Press, 1995.
- Aschoff, Nicole. "Tech Billionaires Think SimCity is Real Life." *Jacobin*. May 22, 2019, <https://jacobin.com/2019/05/future-cities-tech-giants-alphabet-toronto>.
- Associated Press. "Reagan Opens Day at NYSE, Says He'll 'Turn the Bull Loose.'" *L.A. Times*. March 28, 1985.
- Athanasius. *On the Incarnation: The Greek Text*. Edited by Archibald Robertson. London: David Nutt, 1893.
- Augustine. *The City of God in Two Volumes*. Translated by William Babcock. Hyde Park, NY: New City Press, 2012, 2013.
- . *Civitate Dei*. Latin text retrieved from S. Aurelli Augustinus OPERA OMNIA, <http://www.augustinus.it/latino/cdd/index.htm>.
- . *Confessions*. Translated by F.J. Sheed. Indianapolis: Hackett Publishing, 2006.
- . *Confessions*. Translated by James J. O'Donnell. Oxford: Oxford University Press, 1992.
- . *Confessionum*. Latin text retrieved from S. Aurelli Augustinus OPERA OMNIA, <http://www.augustinus.it/latino/confessionum/index2.htm>.
- . *On Christian Doctrine*. Translated by D.W. Robertson. Upper Saddle River, NJ: Prentice Hall, 1958.
- . *On Continence*, in *Nicene and Post-Nicene Fathers*, First Series, Vol. 3. Translated by C.L. Cornish. Edited by Philip Schaff. Buffalo, NY: Christian Literature Publishing Co., 1887, revised for New Advent by Kevin Knight, <https://www.newadvent.org/fathers/1308.htm>.
- . *De Continentia Liber Unus*. Latin text retrieved from S. Aurelius Augustinus – OPERA OMNIA, <http://www.augustinus.it/latino/continenza/index.htm>.
- . *In Evangelium Ioannis Tractatus Centum Viginti Quator*. Latin text retrieved from S. Aurelli Augustinus OPERA OMNIA, [http://www.augustinus.it/latino/commento\\_vsg/index2.htm](http://www.augustinus.it/latino/commento_vsg/index2.htm).
- . *On the Free Choice of the Will*. Translated by Thomas Williams. Indianapolis: Hackett, 1993.
- . *Selected Writings on Grace and Pelagianism*. Translated by Roland Jeske. Hyde Park, NY: New City Press, 2011.
- Aurelius, Marcus. *Meditations*. With a translation by C.R. Haines. Cambridge, MA: Harvard University Press, 1930.
- Bacon, Francis. *Novum Organum*. New York: P.F. Collier and Son, 1902.



- BARDA Funding Tracker, *Public Citizen*, July 5, 2020, <https://www.citizen.org/article/barda-funding-tracker/>.
- Barolini, Teodolinda. "Petrarch as the Metaphysical Poet Who Is Not Dante." *Petrarch and Dante: Anti-Dantism, Metaphysics, Tradition*. Edited by Zygmunt G. Baránski and Theodore J. Cashey, Jr. Notre Dame, IN: University of Notre Dame Press, 2009.
- Beauvoir, Simone de. *The Second Sex*. Translated by Constance Borde and Sheila Malovany-Chevallier. New York: Vintage, 2011.
- Bennet, Jonathan. "Locke's Philosophy of Mind." *The Cambridge Companion to Locke Cambridge Companion*. Cambridge: Cambridge University Press, 1994
- Bentham, Jeremy. *Collected Works: Legislator of the World: Writings on Codification, Law, and Legislation*. Edited by Philip Schofield and Jonathan Harris. Oxford: Clarendon Press, 1998.
- . *Deontology, together with A Table of the Springs of Action and Article on Utilitarianism* Oxford: Oxford University Press, 1983.
- . *An Introduction to the Principles of Morals and Legislation*. Oxford: Clarendon Press, 1876.
- Berlin, Isaiah. "Two Concepts of Liberty." *Liberty*. Oxford: Oxford University Press, 2002.
- Berry, Wendell. *The Art of the Commonplace*. Edited by Norman Wirzba. Berkeley, CA: Counterpoint, 2002.
- . "How to Be a Poet." Poetry Foundation.  
<https://www.poetryfoundation.org/poetrymagazine/poems/41087/how-to-be-a-poet>.
- Beauchamp, Tom L.. "Autonomy and Consent." *The Ethics of Consent: Theory and Practice*. Edited by Franklin Miller and Alan Wertheimer. Oxford: Oxford University Press 2009.
- Beauchamp, Tom L. and James F. Childress. *Principles of Biomedical Ethics, 6<sup>th</sup> Ed*. Oxford: Oxford University Press, 2008.
- Behrent, Michael. "Foucault and Technology." *History and Technology* Vol. 29, No. 1 (2013), 54-104.
- Benedict, Barbara. *Curiosity: A Cultural History of Early Modern Inquiry*. Chicago: University of Chicago Press, 2001.
- Bennet, Jane. *Vibrant Matter: A Political Ecology of Things*. Durham, NC: Duke University Press, 2009.
- Bernays, Edward. "The Engineering of Consent," *Annals of the American Academy of Political and Social Science* Vol. 250, No. 1 (March 1947) 113-120.

- . *Biography of an Idea: The Founding Principles of Public Relations*. New York: Open Road Integrated Media, 2015, e-book.
- . *Propaganda*. New York: Liveright, 1928.
- Bildt, Carl. "EU Should Resist the Urge to Rig the Rules of Cyberspace," *Financial Times*, May 3, 2015, <https://www.ft.com/content/5d626a4e-f182-11e4-88b0-00144feab7de>.
- Bitrus, Ibrahim S. "Give us This Day our Daily Bread: Martin Luther's Theology of Prosperity." *Journal of Theology for Southern Africa* No. 160 (Mar 2018), 21-39.
- Blackburn, Laura. "RNA vaccines: an introduction." PHG Foundation, University of Cambridge, Oct 2018. <https://www.phgfoundation.org/briefing/rna-vaccines>.
- Blumhagen, Dan W. "The Doctor's White Coat." *Annals of Internal Medicine* Vol. 91 (1979), 111-116.
- Bond, Robert M. *et al.*, "A 61-million-person experiment in social influence and political mobilization." *Nature* Vol. 489 (September 13, 2012).
- Bourdieu, Pierre. "Social Space and Symbolic Power." *Sociological Theory* Vol 7, No 1 (Spring 1989), 14-25.
- Boutin, Natalie T. *et al.* "Implementation of Electronic Consent at a Biobank: An Opportunity for Precision Medicine Research." *Journal of Personalized Medicine* Vol. 6, No. 17 (2016).
- Brody, Maurice. "Social Theory in Architectural Design." *Arena* Vol. 81 (1966), 149-154.
- Brothers, Will. "A Timeline of COVID-19 Vaccine Development." *Biospace*. Dec 3, 2020. <https://www.biospace.com/article/a-timeline-of-covid-19-vaccine-development/>
- Brown, Hallie Q. *Homespun Heroines and Other Women of Distinction*. Xenia, OH: The Aldine Publishing Company, 1926.
- Burchell, Graham. "Peculiar Interests: Civil Society and Governing 'The System of Natural Liberty'." *The Foucault Effect: Studies in Governmentality*. Edited by Graham Burchell, Colin Gordon and Peter Miller. Chicago: University of Chicago Press, 1991.
- Bush, George W. Letter from the White House. Sep 17, 2002. <https://georgewbush-whitehouse.archives.gov/nsc/nssall.html>
- Byers, Sarah. *Perception, Sensibility, and Moral Motivation in Augustine: A Stoic-Platonic Synthesis*. Cambridge: Cambridge University Press, 2013.
- The Cambridge Foucault Lexicon*. Edited by Leonard Lawlor and John Nale. Cambridge: Cambridge University Press, 2014.

- Canguilhem, Georges. *The Normal and the Pathological*. Translated by Carolyn R. Fawcett. New York: Zone, 1989.
- Capua, Raymond of. *The Life of Catherine of Siena*. Translated by Conleth Kearns, O.P. Wilmington, DE: Michael Glazier, 1980.
- Carey, James. "Socrates' Exhortation to Follow the *Logos*." *Socrates in the Cave: On the Philosopher's Motive in Plato*. Edited by Paul J. Diduch and Michael P. Harding. London: Palgrave MacMillan, 2019.
- Casarino, Cesare and Antonio Negri. *In Praise of the Common*. Minneapolis: University of Minnesota Press, 2008.
- Cavell, Stanley. *Claim of Reason*. Oxford: Oxford University Press, 1979.
- Cetina, Katin Knorr. *Epistemic Cultures*. Cambridge, MA: Harvard University Press, 1999.
- Channel 4 News. "Cambridge Analytica: Under Cover Secrets of Trump's Data Firm." YouTube Video, 9:24, March 20, 2018. <https://www.youtube.com/watch?v=cy-9iciNF1A>.
- Childress, James F. and Marcia Day Childress. "What Does the Evolution from Informed Consent to Shared Decision Making Teach Us about Authority in Health Care?" *AMA Journal of Ethics*, Vol. 22, No. 5 (2020), E423-429.
- "Christopher Ianeli – iSpecimen – Radio Entrepreneurs Full Interview Video." Radio Entrepreneurs Youtube video. March 24, 2019. <https://www.youtube.com/watch?v=XWuOXtKBVa8>.
- ClinicalTrials.gov. "Trends, Charts, and Maps." <https://clinicaltrials.gov/ct2/resources/trends#:~:text=ClinicalTrials.gov%20currently%20lists%20453%2C636,States%20and%20in%2021%20countries>. Accessed May 29, 2023.
- Cohen, Lauren P. "Lilly's 'Quick Cash' to Habitues of Shelters Vanishes Quickly." *The Wall Street Journal*. Nov. 14, 1996. <https://www.wsj.com/articles/SB847923261820633500>.
- Coleman, William O. "The Significance of John Locke's Medical Studies for His Economic Thought." *History of Political Economy* Vol. 32, No. 4 (2000), 711-732.
- "consent, n." OED Online. March 2018. Oxford University Press. <http://www.oed.com/view/Entry/39517?result=1&rskey=uqwyY3&> (accessed April 26, 2018).
- Cooper, Melissa and Catherine Waldby. *Clinical Labor: Tissue Donors and Research Subjects in the Global Bioeconomy*. Durham, NC: Duke University Press, 2014.

- Copeland, Rob. "Google's 'Project Nightingale' Gathers Personal Health Data on Millions of Americans." *The Wall Street Journal*. November 11, 2019, <https://www.wsj.com/articles/google-s-secret-project-nightingale-gathers-personal-health-data-on-millions-of-americans-11573496790>.
- Crawford, Kate. *Atlas of AI*. New Haven: Yale, 2021.
- Crouch, Colin. *Post-Democracy*. Cambridge: Polity, 2004.
- Cyril of Alexandria. "To Theodosius." *Three Christological Treatises*. Translated by Daniel King. Washington, DC: Catholic University of America, 2014.
- Daemmrich, Arthur. "Pharmaceutical Manufacturing in America: A Brief History." *Pharmacy in History* Vol. 59, No. 3 (2017), 63-72.
- Daston, Lorraine and Katharine Park. *Wonder and the Order of Nature*. New York: Zone Books, 1998
- Daston, Lorraine and Peter Gallison. *Objectivity*. Brooklyn: Zone, 2007.
- Davis, Arch. "Remembering John Wheeler." *Community News* May 6, 2008, [https://www.communitynews.org/uncategorized/remembering-john-wheeler/article\\_2aa146c8-b265-55be-8b96-4f71e5f39beb.html](https://www.communitynews.org/uncategorized/remembering-john-wheeler/article_2aa146c8-b265-55be-8b96-4f71e5f39beb.html)
- Dawkins, Richard. *The Selfish Gene*. Oxford: Oxford University Press, 2006.
- Davis, David Brion. *The Problem of Slavery in the Age of Revolution*. Oxford: Oxford University Press, 1999.
- Dean, Mitchell and Daniel Zamora. *The Last Man Takes LSD: Foucault and the End of Revolution*. London: Verso, 2021.
- Deceptive Patterns website. <https://www.deceptive.design>.
- Deleuze, Gilles. *Foucault*. Translated by Seán Hand. Minneapolis: University of Minnesota Press, 1986.
- Deleuze, Gilles and Felix Guattari. *A Thousand Plateaus: Capitalism and Schizophrenia*. Translated by Brian Massumi. Minneapolis: University of Minnesota Press, 1987.
- Dennis, Christine. "The Structure, State, and Stream of Mary Consciousness in the Quest for the Knowing Body." *Journal of Conscious Evolution* Vol. 16, No. 1 (Nov. 2020), 1-15.
- Department of Agriculture and Farmer Welfare (DACFW), Government of India. "Standard Operating Procedure (SOP) for verifying Farmer's Database (100 Villages)." Accessed Feb 3, 2023. <https://drive.google.com/file/d/146TcaGm1BGjpJxsXbWoMK2iGHiEkR5fn/view>.
- Descartes, René. *Principia Philosophiae in Philosophical Writings*. Translated by John Cottingham, Robert Stoothoff and Dugald Murdoch. Cambridge: Cambridge University Press, 1985.

- Dickerson, Caitlin. "Inquiry into Claims Immigrants Had Unwanted Gynecological Procedures." *New York Times*. Sep 16, 2020.
- Dewhurst, Kenneth. *John Locke (1632 – 1704), Physician and Philosopher*. London: The Wellcome Historical Medical Library, 1963.
- Doctors without Borders. "Moderna Posts Billions in Profit from COVID-19 Vaccine but Won't Share Technology," Nov 4, 2021, <https://www.doctorswithoutborders.org/latest/moderna-posts-billions-profit-covid-19-vaccine-wont-share-technology>.
- Douglass, Frederick. Letter to Thomas Auld (September 3, 1848), Yale MacMillan Center, <https://glc.yale.edu/letter-thomas-auld-september-3-1848>.
- . *The Life and Times of Frederick Douglass*. Hartford, CT: Park Publishing, 1882.
- Du Bois, W.E.B. *The Souls of Black Folk*. New York: Penguin, 1989.
- Dunnington, Kent. *Addiction and Virtue: Beyond the Models of Disease and Choice*. Downers Grove, IL: Intervarsity, 2011.
- Ehrenreich, Barbara. "The Professional-Managerial Class," ed. *Between Labor and Capital* (Boston: South End Press, 1979), 5-48.
- Einstein, Albert. "Isaac Newton." *Annual Report of the Board of Regents of The Smithsonian Institution*. Washington, DC: United States Government Printing Office, 1928.
- Eisner, Margin G. and Marc D. Schlachter. "Libido Sciendi: Apuleius, Boccaccio, and the Study of the History of Sexuality." *PMLA* Vol. 124, No. 3 (May 2009), 817-837.
- Elliot, Carl. *White Coat, Black Hat: Adventures on the Dark Side of Medicine*. Boston: Beacon Press, 2010.
- Ellul, Jacques. *The Meaning of the City*. Translated by Dennis Pardee. Grand Rapids, MI: Eerdmans, 1970.
- . *The Technological Society*. Translated by John Wilkinson. New York: Vintage Books, 1964.
- Elmore, Matthew. "Dante's Economy of Words after Marx." *Dante and the Other: A Phenomenology of Love*. Edited by Aaron B. Daniels. London: Routledge, 2021.
- . "Mysticism as Counter-Conduct: A Foucauldian Retrieval of Dante and St. Catherine of Siena." *Journal for the Society of Christian Ethics*. Forthcoming.
- Elton, Catherine. "The Untold Story of Moderna's Race for a COVID-19 Vaccine." *Boston Magazine*. Jun 4, 2020. <https://www.bostonmagazine.com/health/2020/06/04/moderna-coronavirus-vaccine/>

- Epictetus. *The Encheiridion* in *How to Be Free: An Ancient Guide to the Stoic Life*. With Greek-facing translation by A. A. Long. Princeton: Princeton University Press, 2018.
- Erasmus. *Adages*. Translated by Margaret Mann Phillips. Toronto: University of Toronto Press, 2001.
- . *On the Education of a Christian Prince*. Translated by Neil M. Cheshire and Michael J. Heath. Cambridge: Cambridge University Press, 2015.
- Erasmus and Martin Luther. *On the Bondage of the Will* in *Luther and Erasmus: Free Will and Salvation*. Edited by E. Gordon Rupp and Philip S. Watson. Louisville, KY: Westminster John Knox Press.
- Espeland, Wendy Nelson and Michell L. Stevens. "Commensuration as a Social Process." *Annual Review of Sociology* No. 28 (1998), 313-343.
- Eubanks, Virginia. *Automating Inequality*. New York: St. Martin's Press, 2017.
- Evans, John H. *The History and Future of Bioethics: A Sociological View*. Oxford: Oxford University Press, 2012.
- Eyal, Nir. "Informed Consent." *Stanford Encyclopedia of Philosophy*, last modified Jan 16, 2019.
- Farrow, Ronan. "Overtures to Sexual Assault: Harvey Weinstein's Accusers Tell Their Stories." *New Yorker*. Oct 23, 2017.
- Ferguson, Susan. *Women and Work: Feminism, Labour, and Social Reproduction*. London: Pluto Press, 2020.
- Filmer, Robert. *Patriarcha: Or, The Natural Power of Kings*. United Kingdom: R. Chiswel, W. Hensman, M. Gilliflower, and G. Wells, 1685.
- Finn, Thomas M. "Sex and Marriage in the *Sentences* of Peter Lombard." *Theological Studies* No. 72 (2011), 41-69.
- Fink, Sheri and Mike Baker, "Coronavirus May Have Spread in U.S. for Weeks, Gene Sequencing Suggests." *New York Times*. Mar 1, 2020.  
<https://www.nytimes.com/2020/03/01/health/coronavirus-washington-spread.html>
- . "‘It’s Just Everywhere Already’: How Delays in Testing Set Back the U.S. Coronavirus Response," *New York Times*. Mar 10, 2020.  
<https://www.nytimes.com/2020/03/10/us/coronavirus-testing-delays.html>
- Fleming, Alexander. *Penicillin: Its Practical Application*. London: Butterworth and Co, 1946.

- Foer, Franklin. "Facebook's War on Free Will." *The Guardian*. September 19, 2017. Extracted from Foer's book, *World Without Mind: The Existential Threat of Big Tech*, <https://www.theguardian.com/technology/2017/sep/19/facebooks-war-on-free-will>.
- Foucault, Michel. *The Birth of Biopolitics: Lectures at the Collège de France, 1978-1979*, trans. Graham Burchell. New York: Palgrave MacMillan, 2008.
- . *The Birth of the Clinic: An Archaeology of Medical Perception*. Translated by A.M. Sheridan Smith. New York: Vintage, 1994.
- . "Concluding Remarks to the Seminar." *Discourse & Truth: The Problematization of Parrhesia*, 1999. Accessed Aug 20, 2021. <https://foucault.info/parrhesia/foucault.DT6.conclusion.en/>
- . *The Courage of Truth: Lectures at the Collège de France 1983-1984*, trans. Graham Burchell. New York: Palgrave MacMillan, 2011.
- . *Discipline and Punish: The Birth of the Prison*. Translated by Alan Sheridan. New York: Random House, 1995.
- . *History of Madness*. Translated by Jonathan Murphy and Jean Khalfa. London: Routledge, 2006.
- . *History of Sexuality Vol. 1: An Introduction*. Translated by Robert Hurley. New York: Pantheon, 1978.
- . "Nietzsche, Genealogy, History." *Language, Counter-Memory, Practice*. Edited by Donald F. Bouchard. Ithaca, NY: Cornell University Press, 1977.
- . "On the Genealogy of Ethics: An Overview of Work in Progress." *Essential Works, Vol I: Ethics: Subjectivity and Truth*. Edited by Paul Rabinow. New York: The New Press, 1997.
- . *The Order of Things: An Archaeology of the Human Sciences*. Translated by Alan Sheridan. London: Routledge, 1994.
- . *Religion and Culture*. Edited by Jeremy R. Carrette. Manchester: Manchester University Press, 1999.
- . "*Society Must Be Defended*": *Lectures at the Collège de France, 1975-1976*. Translated by David Macey. New York: Picador, 1997.
- . *Security, Territory, Population: Lectures at the Collège de France 1977-1978*. Translated by Graham Burchell. New York: Palgrave MacMillan, 2009.
- . "The Return of Morality." *Michel Foucault: Politics, Philosophy, Culture*. Edited by Lawrence Kritzman. Translated by Thomas Levin and Isabelle Lorenz. New York: Routledge, 1988.
- . "The Subject and Power." *Essential Works Volume III: Power*. Edited by James D. Faubion. New York: New Press, 2001.

- . *The Use of Pleasure: History of Sexuality Vol. 2*. Translated by Robert Hurley. New York: Vintage Books, 1990.
- . “What is Critique?” *What is Enlightenment?* Translated by Kevin Paul Geiman. Berkeley: University of California Press, 1996.
- Fowler, Geoffrey A. “To become an Amazon Clinic patient, first you must sign away some privacy.” *Washington Post*. May 1, 2023. <https://www.washingtonpost.com/technology/2023/05/01/amazon-clinic-hipaa-privacy/>.
- Franke, William. “Representing the Other: Dante, Duns Scotus, and the Crisis of Representation in the Modern Age.” *Dante and the Other: A Phenomenology of Love*. Edited by Aaron Daniels. London: Routledge, 2021.
- . *Secular Scriptures: Modern Theological Poetics in the Wake of Dante*. Columbus, OH: The Ohio State University Press, 2016.
- Frankel, Alex. *Wordcraft: The Art of Turning Little Words into Big Business*. New York: Crown, 2004.
- Frankl, Viktor. *Man’s Search for Meaning*. Boston: Beacon Press, 1992.
- Fraser, Nancy. “Foucault on Modern Power.” *Praxis International*. No. 3 (1981), 272-287.
- . *Unruly Practices: Power, Discourse, and Gender in Contemporary Social Theory*. Minneapolis: University of Minnesota Press, 1989.
- Fricker, Miranda. *Epistemic Injustice: Power & the Ethics of Knowing*. Oxford: Cambridge University Press, 2007.
- The Fundamental Constitutions of North Carolina: March 1, 1669*. The Avalon Project at Yale Law School. Accessed Mar 28, 2023. [https://avalon.law.yale.edu/17th\\_century/nc05.asp](https://avalon.law.yale.edu/17th_century/nc05.asp).
- Fuller, Steve. *Thomas Kuhn: A Philosophical History for Our Times*. Chicago: University of Chicago Press, 2000.
- Fung, Brian. “The NSA paid Silicon Valley millions to spy on taxpayers.” August 23, 2013. <https://www.washingtonpost.com/news/the-switch/wp/2013/08/23/the-nsa-paid-google-and-facebook-millions-to-spy-on-taxpayers/>.
- Funkenstein, Amos. *Theology and the Scientific Imagination*. Princeton: Princeton University Press, 1986.
- Gage, Frances. “Reminiscences by Frances D. Gage.” *History of Woman Suffrage, Vol. 1: 1848-1861*. Edited by Elizabeth Cady Stanton, Susan B. Anthony, and Matilda Joslyn Gage. New York: Fowler & Wells, 1881.
- Gardner, Edmund. *The Road to Siena*. Edited by Jon M. Sweeney. Brewster, MA: Paraclete Press, 2019.



- Gates, Bill. *How to Prevent the Next Pandemic*. New York: Alfred A. Knopf, 2022.
- . “The Next Outbreak? We’re Not Ready.” TED talk. April 2015.  
[https://www.ted.com/talks/bill\\_gates\\_the\\_next\\_outbreak\\_we\\_re\\_not\\_ready?language=dz](https://www.ted.com/talks/bill_gates_the_next_outbreak_we_re_not_ready?language=dz).
- . “We can make COVID-19 the last pandemic.” TED talk. Apr 2022.  
[https://www.ted.com/talks/bill\\_gates\\_we\\_can\\_make\\_covid\\_19\\_the\\_last\\_pandemic](https://www.ted.com/talks/bill_gates_we_can_make_covid_19_the_last_pandemic).
- Geissler, P.W. “Public Secrets in Public Health.” *American Ethnologist* Vol. 40, No. 1 (2013), 13-34.
- Gerstle, Gary. *The Rise and Fall of the Neoliberal Order: America and the World in the Freemarket Era*. Oxford: Oxford University Press, 2022.
- Gertner, Jon. “Unlocking the Covid Code.” *New York Times Magazine*. Mar 25, 2021.  
<https://www.nytimes.com/interactive/2021/03/25/magazine/genome-sequencing-covid-variants.html>
- Giddens, Anthony. *The Consequences of Modernity*. Stanford, CA: Stanford University Press, 1990.
- Gillespie, Michael. “The Anti-Trinitarian Origins of Liberalism,” unpublished paper made available by Gillespie online.
- Gilroy, Paul. *The Black Atlantic: Modernity and Double Consciousness*. London: Verso, 1993.
- . *The Black Atlantic and the Re-Enchantment of Humanism: The Tanner Lectures on Human Values 2013-2014*. University of Utah. <https://tannerlectures.utah.edu/lecture-library.php#g>.
- Goldstein, Irwin *et al*, “Oral Sildenafil in the Treatment of Erectile Dysfunction.” *The New England Journal of Medicine* 338 (1998), 1397-1404.
- Graeber, David. “Caring too much. That’s the curse of the working classes.” *The Guardian*. Mar 26, 2014. <https://www.theguardian.com/commentisfree/2014/mar/26/caring-curse-working-class-austerity-solidarity-scourge>.
- Greenwald, Glen and Ewan MacAskill. “NSA program taps in to user data of Apple, Google and others.” *The Guardian*. June 7, 2013 <https://www.theguardian.com/world/2013/jun/06/us-tech-giants-nsa-data>
- Grotius, Hugo. *The Rights of War and Peace* in 3 Vols. Edited by Richard Tuck. Indianapolis: Liberty Fund, 2005.
- Grosz, Elizabeth. *Volatile Bodies: Toward a Corporeal Feminism*. Bloomington, IN: Indiana University Press, 1994.
- Gurdus, Lizzy. “Tim Cook: Apple’s greatest contribution will be ‘about health’.” CNBC.com, Jan 8, 2019. <https://www.cnbc.com/2019/01/08/tim-cook-teases-new-apple-services-tied-to-health-care.html>.

- Gutiérrez, Gustavo, *A Theology of Liberation: History, Politics and Salvation*, trans. Sister Caridad Inda and John Eagleson. New York: Maryknoll, 1985.
- Hacking, Ian. "Biopower and the Avalanche of Printed Numbers." *Humanities and Society* Vol. 5, No. 3-4 (1982), 279-295.
- Hadot, Pierre. *The Inner Citadel: The Meditations of Marcus Aurelius*. Translated by Michael Chase. Cambridge, MA: Harvard, 1998.
- . *Philosophy as a Way of Life*. Translated by Michael Chase. Malden, MA: Blackwell, 1995.
- Hall, Melinda. *The Bioethics of Enhancement: Transhumanism, Disability, and Biopolitics*. Lanham, MD: Lexington Books, 2017.
- Halpern, Sydney. *Lesser Harms: The Morality of Risk in Medical Research*. Chicago: University of Chicago Press, 2004.
- Haraway, Donna. "A Cyborg Manifesto." *Manifestly Haraway*. Minneapolis: University of Minnesota Press, 2016.
- . *Simeons, Cyborgs, and Women: The Reinvention of Nature*. New York: Routledge, 1991.
- Harari, Yuval Noah. *21 Lessons for the 21<sup>st</sup> Century*. New York: Random House, 2019.
- . *Homo Deus: A Brief History of Tomorrow*. New York: HarperCollins, 2017.
- Hardt, Michael and Antonio Negri. *Empire*. Cambridge, MA: Harvard University Press, 2000.
- . *Multitude*. New York: Penguin, 2004.
- Harris, Tristan. Interview by Anderson Cooper. 60 Minutes. "What is 'brain hacking'? Tech insiders on why you should care." Apr 9, 2017, <https://www.cbsnews.com/news/brain-hacking-tech-insiders-60-minutes/#app>.
- . "The Slot Machine in Your Pocket." *Spiegel International*. Jul 27, 2016, <https://www.spiegel.de/international/zeitgeist/smartphone-addiction-is-part-of-the-design-a-1104237.html>.
- Harrison, Peter. "Curiosity, Forbidden Knowledge, and the Reformation of Natural Philosophy in Early Modern England." *Isis* Vol. 92, No. 2 (June 2001), 265-290.
- Harvard Health. "Erectile dysfunction: the Viagra revolution," Harvard Health Online, March 9, 2014, [https://www.health.harvard.edu/newsletter\\_article/Erectile\\_dysfunction\\_The\\_Viagra\\_revolution](https://www.health.harvard.edu/newsletter_article/Erectile_dysfunction_The_Viagra_revolution).
- Harvey, David. *Marx, Capital and the Madness of Economic Reason*. London: Profile, 2017.

- Hedrick, Elizabeth. "Locke's Theory of Language and Johnson's *Dictionary*." *Eighteenth-Century Studies* Vol. 20, No. 4 (Summer 1987), 422-444.
- Hegel, Georg Wilhelm Friedrich. *Phenomenology of Spirit*. Translated by J.B. Baillie. London: Swan Sonnenschein and Co, 1910.
- Heidegger, Martin. *The Question Concerning Technology*. Translated by William Lovitt. New York: Harper and Row, 1977.
- Heller, Jean. "Syphilis Victims in U.S. Study Went Untreated for 40 Years." *New York Times*. July 26, 1972.
- Herzfeld, Michael. *The Social Production of Indifference*. Chicago: University of Chicago Press, 1992.
- Hessen, Borris. "The Social and Economic Roots of Newton's *Principia*." *The Social and Economic Roots of the Scientific Revolution*. Edited by Gideon Frauenthal and Peter McLaughlin. New York: Springer.
- Hinshelwood, Brad. "The Carolinian Context of John Locke's Theory of Slavery." *Political Theory* Vol. 41, No. 4 (2013), 562-590.
- Hobbes, Thomas. *Leviathan* London: Penguin, 1985.
- Hodson, Hal. "Revealed: Google AI has access to huge haul of NHS patient data." *New Scientist*. April 29, 2016, <https://www.newscientist.com/article/2086454-revealed-google-ai-has-access-to-huge-haul-of-nhs-patient-data/>.
- Hoeyer, Klaus and Linda F. Hogle. "Informed Consent: The Politics of Intent and Practice in Medical Research Ethics." *The Annual Review of Anthropology* Vol. 43, No. 347 (2014), 347-362
- Hoffman, Tobias and Cyrille Michon. "Aquinas on Free Will and Intellectual Determinism." *Philosophers' Imprint* Vol. 17, No. 10 (May 2017), 1-36.
- Holshue M. L., DeBolt C., Lindquist S., Lofy K. H., Wiesman J., Bruce H. *et al.* "First case of 2019 novel coronavirus in the United States." *New England Journal of Medicine* 382 (2020), 929-936.
- Homer. *Iliad in Homeri Opera in Five Volumes*. Oxford: Oxford University Press, 1920.
- Hooker, Richard. *Laws of Ecclesiastical Polity in The Works of Richard Hooker, Vol. 1*. Oxford: Clarendon Press, 1988.
- Hornblum, Allen M. *Acres of Skin: Human Experiments at Holmesburg Prison*. New York: Routledge, 1998.
- Horrell, E. Wolf and J. D'Orazio, "UV-independent induction of beta defensin 3 in neonatal human skin explants." *F1000 Research* Vol. 3, No. 288 (2014).

House of Representatives, Committee on Energy and Commerce. "Facebook: Transparency and Use of Consumer Data." April 11, 2018.

<https://docs.house.gov/meetings/IF/IF00/20180411/108090/HHRG-115-IF00-Transcript-20180411.pdf>.

Huxley, Aldus. *Brave New World and Brave New World Revisited*. New York: HarperCollins, 2004.

Huxley, Julian. *New Bottles for New Wine*. London: Chatto & Windus, 1957.

International Symposium on the Information Transduction and Processing of Biological Systems. *Bioinformatics: Information Transduction and Processing Systems from Cell to Whole Body*. Netherlands: Elsevier Science Publishers, 1989.

iSpecimen. "Helping to Overcome Biospecimen Procurement Challenges." iSpecimen website. Accessed March 9, 2022, <https://www.ispecimen.com/company/ispecimen-marketplace/>;

Jacobs, Lesley A. "Rights and Quarantine during the SARS Global Health Crisis: Differentiated Legal Consciousness in Hong Kong, Shanghai and Toronto." *Law & Society Review* Vol. 41, No. 3 (2007), 511-553.

James, William. *The Principles of Psychology Vol. II*. New York: Henry Holt and Co., 1918.

Jones, James H. *Bad Blood: The Tuskegee Syphilis Experiment*. New York: The Free Press, 1993.

Josipivici, Gabriel. *The World and the Book*. Stanford: Stanford University Press, 1971.

Joyce, A.J. *Richard Hooker and Anglican Moral Theology*. Cambridge: Cambridge University Press, 2012.

Juvin, Hervé. *The Coming of the Body*. Translated by John Howe. London: Verso, 2010.

Kaiser, Brittany. *Targeted*. New York: HarperCollins, 2019.

Kang, Cecelia. "Here Comes the Full Amazonification of Whole Foods." *New York Times*. Feb. 28, 2022. <https://www.nytimes.com/2022/02/28/technology/whole-foods-amazon-automation.html>.

Kant, Immanuel. *Political Writings*. Edited by H.S. Reiss. Cambridge: Cambridge University Press, 2008.

Katwala, Amit. "The Spiralling Environmental Cost of Our Lithium Battery Addiction." May 8, 2018. <https://www.wired.co.uk/article/lithium-batteries-environment-impact>.

Kelly, C.F. *Meister Eckhart on Divine Knowledge*. New Haven: Yale University Press, 1977.

Kenny, Neil. "The Metaphorical Collecting of Curiosities in Early Modern France and Germany." *Curiosity and Wonder from the Renaissance to the Enlightenment*. Edited by Alexander Marr and R.J.W. Evans. Aldershot, England: Ashgate, 2006.

- Khin-Maung-Gyi, Felix A. and Matthew Whalen. "Ethics and Human Subjects Protection," *Responsible Research: A Guide for Coordinators*. Edited by Carol A. Fedor, Philip A. Cola and Christine Pierre. London: Remedica, 2005.
- Kirby, W.J. Torrance. "Reason and Law." *A Companion to Richard Hooker*. Edited by W.J. Kirby. Leiden: Brill, 2008.
- KIRO7 News. "Coronavirus: Two people test 'presumptive positive' in Western Washington," Feb 29, 2020. <https://www.kiro7.com/news/local/coronavirus-2-test-presumptive-positive-western-washington/5B2T22DXRVBJVABTSSJNRFYJ2Y/>
- Klein, Naomi. *No Logo*. New York: Picador, 2009.
- . *The Shock Doctrine: The Rise of Disaster Capitalism*. New York: Henry Holt, 2007.
- Koopman, Colin. *How We Became Our Data: A Genealogy of the Informational Person*. Chicago: University of Chicago Press, 2019.
- Kramer, Adam D.I. "Experimental Evidence of Massive-Scale Emotional Contagion Through Social Networks." *Proceedings of the National Academy of Sciences* Vol. 111, No. 24 (June 17, 2014), 8788-8790.
- Krasniansky, Adriana. "Diving Deeper into Amazon Alexa's HIPAA Compliance." The Hastings Center. Oct 2019. <https://www.thehastingscenter.org/diving-deeper-into-amazon-alexa-hipaa-compliance/>
- Kuhn, Thomas. *The Structure of Scientific Revolutions*. Chicago: University of Chicago Press, 2012.
- Kurilla, Robin. "'Kung Flu' – The Dynamics of Fear, Popular Culture, and Authenticity in the Anatomy of Populist Communication." *Media Governance and the Public Sphere* Vol. 6 (2021).
- Kurzweil, Ray. *The Singularity is Near: When Humans Transcend Biology*. New York: Penguin, 2006.
- La Mettrie, Julien Offrey de. *Anti-Seneca in Machine-Man and Other Writings*. Translated by Ann Thomson. Cambridge: Cambridge University Press, 1996.
- Latour, Bruno. *The Pasteurization of France*. Translated by Alan Sheridan and John Law. Cambridge, MA: Harvard University Press, 1988.
- . *We Have Never Been Modern*, trans. Catherine Porter. Cambridge, MA: Harvard University Press, 1993.
- Le Bon, Gustave. *The Crowd: A Study of the Popular Mind*. New York: MacMillan, 1896.
- Lee, Courtney Hall. *Black Madonna: A Womanist Look at Mary of Nazareth*. Eugene, OR: Cascade, 2017.

- Leibniz, Gottfried Wilhelm. *Theodicy: Essays on the Goodness of God, the Freedom of Man, and the Origin of Evil*. Translated by E.M. Huggard. New Haven: Yale, 1952.
- Locke, John. *Essay Concerning Human Understanding*. London: Rivington, 1824.
- . *Letter Concerning Toleration*. Indianapolis: Liberty Fund, 2010.
- . *Two Treatises of Government*. New Haven: Yale University Press, 2009.
- Lombard, Peter. *The Sentences Book IV, On the Doctrine of Signs*. Translated by Giulio Silano. Toronto: Pontifical Institute of Medieval Studies, 2010.
- Looney, Dennis. *Freedom Readers: The African American Reception of Dante Alighieri and the Divine Comedy*. Notre Dame: University of Notre Dame Press, 2011.
- Lorde, Audre. *Sister Outsider*. New York: Penguin, 2020.
- Lowe, Celia. "Viral Clouds: Becoming H5N1 in Indonesia." *Cultural Anthropology* Vol 25, No 4 (2010), 625-649.
- Luongo, F. Thomas. *The Sainthly Politics of Catherine of Siena*. Ithaca, NY: Cornell University Press, 2006.
- Lyotard, Jean-François. *The Differend: Phrases in Dispute*. Translated by Georges Van Den Abbeele, Manchester: Manchester University Press, 1983.
- . *The Postmodern Condition: A Report on Knowledge*. Translated by Geoff Bennington and Bryan Massumi. Minneapolis: University of Minnesota Press, 1984.
- Luther, Martin. *De captivitate Babyloniae ecclesiae praeludium*, in *Luthers Werke*. Edited by Otto Clemen. Berlin: Berlag, von Malter, de Grunter & Co, 1950.
- . *The Magnificat*. Translated by A.T.W. Steinhäuser. Minneapolis: Augsburg Publishing House, 1967.
- . *Three Treatises*. Translated by C.M. Jacobs, A.T.W. Steinhäuser, and W.A. Lambert. Philadelphia: Fortress Press, 1970.
- Lysaught, M. Therese. "Respect: Or, How Respect for Persons Became Respect for Autonomy." *Social Justice* No. 28 (2004), 665-680.
- Ma, Alexandra and Ben Gilbert. "Facebook understood how dangerous the Trump-linked data firm Cambridge Analytica could be much earlier than it previously said. Here's everything that's happened up until now." *Business Insider*. August 23, 2019.  
<https://www.businessinsider.com/cambridge-analytica-a-guide-to-the-trump-linked-data-firm-that-harvested-50-million-facebook-profiles-2018-3>.

- Machiavelli, Niccolò. *Il Principe*. Oxford: Clarendon Press, 1891.
- Macey, David. *Michel Foucault*. London: Reaktion Books, 2004.
- MacGowan, Amalie. “The TikTok Algorithm Knew My Sexuality Better Than I Did.” *Repeller*, July 8, 2020. <https://repeller.com/tiktok-algorithm-bisexual/>.
- MacIntyre, Alasdair. *After Virtue*. Notre Dame: University of Notre Dame Press, 3<sup>rd</sup> ed. 2007.
- . *Dependent Rational Animals*. Chicago: Open Court, 1999.
- . “The End of Education: The Fragmentation of the American University,” *Commonweal* (Oct 16, 2006), <https://www.commonwealmagazine.org/end-education>.
- . “Medicine Aimed at the Care of Persons Rather than What...?” *Changing Values in Medicine*. Edited by Eric J. Cassell and Mark Siegler. Lanham, MD: University Publications of America, 1979.
- Macpherson, C.B. *Democratic Theory: A Retrieval*. Oxford: Clarendon Press, 1973.
- . *The Political Theory of Possessive Individualism*. Oxford: Oxford University Press, 1962.
- Market listing for Amazon Halo Band. Accessed February 11, 2022. <https://www.amazon.com/Amazon-Halo-Fitness-And-Health-Band/dp/B07QKPCQKW>.
- Marshall, John. “Locke, Socinianism, ‘Socinianism’, and Unitarianism.” *English Philosophy in the Age of Locke*. Edited by M.A. Stewart. Oxford: Clarendon Press, 2000.
- Marx, Karl. *Capital Vol. I*. Moscow: Foreign Languages Publishing House, 1953.
- . *Capital Vol. IV*. Moscow: Progress Publishers, 1863.
- . *Grundrisse: Foundations of the Critique of Political Economy (Rough Draft)*. Translated by Martin Nicolaus. New York: Penguin, 1993.
- . *Wage Labor and Capital*. Translated by Frederick Engels (1891). Accessed at marxists.org April 14, 2022. <https://www.marxists.org/archive/marx/works/1847/wage-labour/ch02.htm>.
- Marx, Karl and Friedrich Engels. *Collected Works Vol. 6*. London: Lawrence & Wishart, 2010.
- Massachusetts General / Brigham and Women’s Biobank Consent Form. Dated 1/17/2022. <https://biobank.massgeneralbrigham.org/form/consent-form-en.pdf>.
- McDonald, Aleecia M. and Lorrie Faith Cranor. “The Cost of Reading Privacy Policies.” *Journal of Policy for the Information Society* Vol. 4, No. 3 (2008), 543-568.
- McGinn, Bernard. *The Foundations of Mysticism: Origins to the Fifth Century*. London: LCM Press, 1991.

- . *The Varieties of Vernacular Mysticism (1350-1550)*. New York: Herder and Herder, 2012.
- McGinn, Marie. "Grammar in the *Philosophical Investigations*." *Oxford Handbook of Wittgenstein*. Edited by Oskari Kuusela and Marie McGinn. Oxford: Oxford University Press, 2012.
- Merrill, Jeremy B.. "These are the Political Ads Cambridge Analytica Designed for You." Yahoo! News. January 10, 2020, <https://www.yahoo.com/video/political-ads-cambridge-analytica-designed-090027392.html>.
- Miendlarzewska, Ewa A. *et al.* "Neurofinance." *Organizational Research Methods* Vol. 22, No. 1 (2019), 196-222.
- Mills, Charles. *The Racial Contract*. Ithaca, NY: Cornell University Press, 1997.
- Mines, Samuel. *Pfizer: An Informal History* (New York: Pfizer, 1978), 227-229.
- Momigliano, Anna. "Why Do Fascists Love Dante?" *The Atlantic*, Feb 10, 2023.
- Monahan, Arthur. *Consent, Coercion, and Limit: The Medieval Origins of Parliamentary Democracy*. Montreal: McGill-Queen's University Press, 1987.
- Moore, Jason W. "The Capitalocene Part II: accumulation by appropriation and the centrality of unpaid work/energy." *The Journal of Peasant Studies* Vol. 45, No. 2 (2018), 237-239.
- Morgan, C, I. Novak, R.C. Dale, N. Badawi. "Optimising motor learning in infants at high risk of cerebral palsy: a pilot study." *BMC Pediatrics* Vol. 15, No. 30 (2015).
- Morozov, Evgeny. "Critique of Techno-Feudal Reason." *New Left Review* No. 133/134 (Jan/Apr 2022), 89-126.
- Morrison, Toni. *Beloved*. New York: Vintage, 2004.
- . "The Site of Memory." *Inventing the Truth: The Art and Craft of Memoir*. Edited by William Zinsser. Boston: Houghton Mifflin, 1995.
- Mueller, Mary-Rose and Laura Mamo. "Changes in Medicine, Changes in Nursing: Career Contingencies and the Movement of Nurses into Clinical Trial Coordination." *Sociological Perspectives* Suppl. (Winter 2007), S43-57.
- Mueller, Mary-Rose and Laura Mamo. "The Nurse Clinical Trial Coordinator: Benefits and Drawbacks of the Role." *Research and Theory for Nursing Practice* Vol. 16, No. 1 (2002) 33-42.
- Murray, Malcolm Murray. *Morals and Consent: Contractarian Solutions to Ethical Woes*. Québec: McGill-Queen's University Press, 2017.
- Murray, Paul, O.P. *Saint Catherine of Siena: Mystic of Fire, Preacher of Freedom*. Park Ridge, IL: Word on Fire Institute, 2020.



- Nagarajan, Rema. "Gates Foundation Now WHO's Biggest Funder," *The Times of India*. June 2, 2020. <https://timesofindia.indiatimes.com/world/us/gates-foundation-now-whos-biggest-funder/articleshow/76145069.cms#:~:text=NEW%20DELHI%3A%20With%20President%20Donald,biggest%20of%20the%20organisation.>
- Najemy, John. *A History of Florence*. Oxford: Blackwell, 2008.
- . "Dante and Florence," *Cambridge Companion to Dante*. Edited by Rachel Jacoff. Cambridge: Cambridge University Press, 2007.
- Nakase, T., J. Moroi and T. Ishikawa. "Anti-inflammatory and antiplatelet effects of non-vitamin K antagonist oral anticoagulants in acute phase of ischemic stroke patients." *Clinical Translational Medicine* Vol. 7, No. 2 (2018).
- National Center for Biotechnology Information. "Severe acute respiratory syndrome coronavirus 2 isolate Wuhan-Hu-1, complete genome," January, 2020. <https://www.ncbi.nlm.nih.gov/nuccore/MN908947>
- National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research. *The Belmont Report*. U.S. Department of Health, Education, and Welfare. April 18, 1979.
- National Institutes of Health. "Grants and Funding." <https://www.nih.gov/grants-funding>. Accessed May 29, 2023.
- . NIH Genomic Data Sharing Policy. August 27, 2014. <https://grants.nih.gov/grants/guide/notice-files/NOT-OD-14-124.html>.
- NBC News. "Edward Snowden: A Timeline." May 26, 2014. <https://www.nbcnews.com/feature/edward-snowden-interview/edward-snowden-timeline-n114871>.
- Nesbit, Jeff. "Google's true origin lies partly in CIA and NSA research grants for mass surveillance." *Quartz*. December 8, 2017. <https://qz.com/1145669/googles-true-origin-partly-lies-in-cia-and-nsa-research-grants-for-mass-surveillance/>.
- Newton, Isaac. "Queries to the *Opticks*" *Philosophical Writings*. Edited by Andrew Janiak. Cambridge: Cambridge University Press, 2004.
- Nguyen, V.K. "Government-by-Exception: Enrolment and Experimentality in Mass HIV Treatment Programmes in Africa," *Social Theory & Health* Vol. 7, No. 3 (August 2009), 196-217.
- Noffke, Susan. "The Writings of Catherine of Siena: The Manuscript Tradition." *A Companion to Catherine of Siena*. Edited by Carolyn Muessig, George Ferzoco, and Beverly Mayne Kienzle. Leiden: Brill, 2012.

- Nussbaum, Martha. *The Therapy of Desire: Theory and Practice in Hellenistic Ethics*. Princeton: Princeton University Press, 1994.
- Oeur, Freedom Blume. "Object Lessons: W. E. B. Du Bois and the *Sturm und Drang* of Race Childhood." *The Journal of the History of Childhood and Youth* Vol. 14, No. 3 (Fall 2021), 437-460.
- Oliver, Simon. *Philosophy, God and Motion*. London: Routledge, 2005.
- Parsons, Gerald. "A National Saint in a Fascist State: Catherine of Siena, ca 1922-1943." *Journal of Religious History* Vol. 2, No. 1 (March 2008), 76-95.
- Pasquale, Frank. *The Black Box Society: The Secret Algorithms that Control Money and Information*. Cambridge, MA: Harvard, 2015.
- Patton, City. "Pandemic, Empire and the Permanent State of Exception." *Economic and Political Weekly* Vol. 46, No. 13 (2011), 103-110.
- Pentland, Alex. *Social Physics: How Good Ideas Spread—The Lessons from a New Science*. New York: Penguin.
- Perez, Marco V. *et al.*, "Large-Scale Assessment of a Smartwatch to Identify Atrial Fibrillation." *The New England Journal of Medicine* No. 381 (Nov 2019), 1909-1917.
- Petryna, Adriana. "Experimentality: On the Global Mobility and Regulation of Human Subjects Research," *Political and Legal Anthropology Review* Vol. 30, No. (2007), 288-304.
- Pettegree, Andrew. *Brand Luther: 1517, Printing, and the Making of the Reformation*. New York: Penguin, 2015.
- Pfau, Thomas. *Minding the Modern: Human Agency, Intellectual Traditions, and Responsible Knowledge*. Notre Dame, IN: University of Notre Dame Press, 2013.
- Pfizer Corporation. "Part 2: What's in a Brand NAME? How Drugs Get Their Names." Accessed September 8, 2021. <https://www.pfizer.com/news/hot-topics/part-2-what-s-in-a-brand-name-how-drugs-get-their-names>.
- Pickstock, Catherine. *Repetition and Identity*. Oxford: Oxford University Press, 2013.
- Plato. *Laws in Plato in Twelve Volumes*. Cambridge, MA: Harvard University Press, 1967.
- \_\_. *Phaedrus*. Translated by Christopher Rowe. New York: Penguin, 2005
- \_\_. *Platonis Protagoras*. Edited by J. Adam and A.M. Adam. Cambridge: Cambridge University Press, 1921.
- \_\_. *Theaetetus*. Translated by M.J. Lovett. Indianapolis: Hackett, 1992.

- Poitras, Laura. *Citizen Four*. Praxis Films, 2014.
- Polybius. *The Histories Vol. IV, Books 9-15*. Greek-facing translation by W. R. Patton. Cambridge, MA: Harvard University Press, 2011.
- Post, Gaines. "A Roman Legal Theory of Consent, *Quod Omnes Tangit*, in Medieval Representation." *Wisconsin Law Review* No. 1 (1950), 66-78.
- The Presidential Commission for the Study of Bioethical Issues. *"Ethically Impossible": STD Research in Guatemala from 1946 to 1948*. Washington, DC: 2011.
- Public Health Insider*. "First Death Due to Novel Coronavirus (COVID-19) in a Resident of King County," Originally posted Feb 29, 2020. <https://publichealthinsider.com/2020/02/29/first-death-due-to-novel-coronavirus-covid-19-in-a-resident-of-king-county/>
- Pusey, William Allen. *The History and Epidemiology of Syphilis*. Springfield, IL: Charles E. Thomas, 1933.
- "Quantified self" blog. Co-founded by Gary Wolf and Kevin Kelly. <https://quantifiedself.com/>
- Rabyn, Roni C. "First Patient with Wuhan Coronavirus is Identified in the U.S." *New York Times*. Jan 21, 2020. <https://www.nytimes.com/2020/01/21/health/cdc-coronavirus.html>.
- Rajan, Kaushik. *Biocapital: The Constitution of Postgenomic Life*. Durham, NC: Duke University Press, 2006.
- Ray, H. Cordelia. "Dante." *Poems*. New York: Grafton, 1910. Initially in *The A.M.E. Church Review*, ed. B.T. Tanner, Vol. 1, No. 3. Philadelphia: Publishing House of the African M.E. Church, January (1885), 251.
- Redell, Petra Carlsson. *Mysticism as Revolt: Foucault, Deleuze and Theology Beyond Representation*. Aurora, CO: The Davies Group, 2014.
- Reynolds, Philip L. *How Marriage Became One of the Sacraments*. Cambridge: Cambridge University Press, 2016.
- "Rockley Photonics Press Release." March 2021. <https://rockleyphotonics.com/wp-content/uploads/2021/03/Rockley-Photonics-Press-Release-2021-03-19.pdf>
- Roman Catholic Church. *Decrees of the Ecumenical Councils*. Edited by Norman P. Tanner. London: Sheed & Ward, 1990.
- Roper, Lyndal. *Martin Luther: Renegade and Prophet*. New York: Random House, 2017.

- Rosenberg, Matthew and Gabriel J.X. Dance, “‘You are the Product’: Targeted by Cambridge Analytica on Facebook.” *New York Times*. April 8, 2018, <https://www.nytimes.com/2018/04/08/us/facebook-users-data-harvested-cambridge-analytica.html>.
- Rossanvallon, Pierre. *Counter-Democracy: Politics in an Age of Distrust*. Cambridge: Cambridge University Press, 2008.
- Rousseau, Jean Jacques. *Of the Social Contract*. Cambridge: Cambridge University Press, 2012.
- Runkevicius, Dan. “As Tesla Booms, Lithium is Running Out.” *Forbes*. Dec. 7, 2020, <https://www.forbes.com/sites/danrunkevicius/2020/12/07/as-tesla-booms-lithium-is-running-out/?sh=6660db191a44>.
- Sadowski, Jathan. “When Data is Capital.” *Big Data & Society* Vol. 6, No. 1 (January 1, 2019).
- Saha, Sashwata. “Why Microsoft’s role in digitizing India’s land records is worrying farmer groups.” *NewsLaundry*. June 2, 2021. <https://www.newsLaundry.com/2021/06/02/why-microsofts-role-in-digitising-indias-land-records-is-worrying-farmer-groups>.
- Sartre, Jean-Paul. *Being and Nothingness*. Translated by Hazel E. Barnes. New York: Washington Square Press, 1956.
- Schildgen, Brenda Deen. “Dante’s Neologisms in the Paradiso and the Latin Rhetorical Tradition.” *Dante Studies, with the Annual Report of the Dante Society*, 1989 No. 7 (1989), 101-119.
- Schlabach, Gerald W. “‘Love is the Hand of the Soul’: The Grammar of Continenence in Augustine’s Doctrine of Christian Love.” *Journal of Early Christian Studies* Vol. 6, No. 1 (1998), 59-92.
- Schmitt, Carl. *The Concept of the Political*. Translated by George Schwab. Chicago: University of Chicago Press, 2007.
- . *The Leviathan in the State Theory of Thomas Hobbes*. Translated by George Schwab. Chicago: University of Chicago Press, 2008.
- . *Political Theology: Four Chapters on the Concept of Sovereignty*. Translated by George Schwab. Cambridge, MA: MIT Press, 1985.
- Schmidt, Eric. and Jared Cohen. *The New Digital Age: Transforming Nations, Businesses, and Our Lives*. New York: Vintage, 2014.
- Schneble, Christophe Olivier *et al.*, “Google’s Project Nightingale highlights the necessity of data science ethics review.” *EMBO Molecular Medicine* Vol. 12, No. 3 (March 6, 2020), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7059004/>.
- Schrödinger, Erwin. *Nature and the Greeks & Science and Humanism*. Cambridge: Cambridge University Press, 1996.

- Schüll, Natasha Dow. *Addiction by Design*. Princeton: Princeton University Press, 2012.
- Scotus, John Duns. *Ordinatio*. Vatican City: Typis Polyglottis Vaticanus, 1954.
- Sedgwick, Peter Sedgwick. *The Origins of Anglican Moral Theology*. Leiden: Brill, 2012.
- Servitje, Lorenzo. *Medicine is War: The Martial Metaphor in Victorian Literature and Culture*. Albany: SUNY Press, 2021.
- Sheldrake, Rupert. "Personally Speaking." *New Scientist*. July 21, 2001.  
<https://www.newscientist.com/article/mg17123005-200-personally-speaking/>. Sheldrake has posted the essay without a paywall here:  
<https://www.sheldrake.org/research/experimenter-effects/personally-speaking>.
- Shiva, Vandana with Kartikey Shiva. *Oneness vs. the 1%*. White River Junction, VT: Chelsea Green Publishing, 2020.
- Shuster, Evelyne. "Fifty Years Later: The Significance of the Nuremberg Code." *The New England Journal of Medicine*. Special Issue (Nov 13, 1997), 1436-1440.
- Siena, Catherine of. *The Dialogue*. Translated by Susan Noffke, O.P. Mahwah, NJ: Paulist Press, 1980
- . *Lettere di Santa Caterina Vol. 4*. Edited by Niccolo Tommaseo and Piero Misciatelli. Florence: Casa Editrice Marzocco, 1940.
- . *The Prayers of Catherine of Siena*, trans. Susan Noffke, O.P. San Jose: Authors Choice Press, 2<sup>nd</sup> Edition 2001.
- Skinner, B.F. Interview: "Operant Conditioning and Free Will." Youtube video dated Jun 18, 2009,  
<https://www.youtube.com/watch?v=yhvaSEJtOV8>.
- Skloot, Rebecca. *The Immortal Life of Henrietta Lacks*. New York: Crown, 2010.
- "SleepIQ Technology," Sleepnumber.com, accessed February 7, 2022,  
<https://www.sleepnumber.com/pages/sleep-technology>.
- "Sleep Number's smart bed stops you from snoring." YouTube video. January 8, 2017.  
<https://www.youtube.com/watch?v=zo6Er9BuxB8>.
- Smith, Ben. "How TikTok Reads Your Mind," *The New York Times*, Dec. 5, 2021,  
<https://www.nytimes.com/2021/12/05/business/media/tiktok-algorithm.html>.
- Snobelen, Stephen. "Socinianism, Heresy and John Locke's Reasonableness of Christianity." *Enlightenment and Dissent* No. 20 (2001): 88-125.
- Snohomish Health District. "Coronavirus update: Addressing questions about a presumptive positive case in an adolescent," Feb 29, 2020. <http://snohd.org/Blog.aspx?IID=13>

- Snowden, Edward. "Edward Snowden: NSA whistleblower answers questions." Q&A Live on *The Guardian*. June 17, 2013. <https://www.theguardian.com/world/2013/jun/17/edward-snowden-nsa-files-whistleblower#block-51bf2e06e4b03725b2ebf323>.
- Spivak, Gayatri. "Can the Subaltern Speak?: Speculations on Widow Sacrifice." *Marxism and the Interpretation of Culture*. Edited by Cary Nelson and Lawrence Grossberg. London: Macmillan, 1988.
- Stocchi-Petrucchio, Donatella. "Giovanni Gentile's Reading of Dante as Prophet of the State in *interiore homine*." *Mediaevalia* Vol. 38 (2017), 169-207.
- Tauler, Johannes. "*Recumbentibus undecim discipulis*." *Die Predigten Taulers*. Edited by Ferdinand Vetter. Berlin: Weidmannsche Buchhandlung, 1910.
- Thaler, Richard and Cass Sunstein. *Nudge*. New York: Penguin, 2008
- Theologica Germanica*. Translated by Susanna Winkworth. London: Macmillan, 1874.
- Truth, Sojourner. "Ain't I a Woman?" Modern History Sourcebook, Fordham University. <https://sourcebooks.fordham.edu/mod/sojtruth-woman.asp>.
- Tauler, Johannes. *Sermons*. Translated by Maria Shradly. New York: Paulist Press, 1985.
- Taylor, Charles. "Atomism." *Philosophy and the Human Sciences: Philosophical Papers, Vol. 2*. Cambridge: Cambridge University Press, 1985.
- . "Buffered and Porous Selves," *The Immanent Frame*. Sep 2, 2008. <https://tif.ssrc.org/2008/09/02/buffered-and-porous-selves/>.
- . *A Secular Age*. Cambridge, MA: Harvard University Press, 2008.
- Terry, Jennifer. *Attachments to War: Biomedical Logics and Violence in Twenty-First Century America*. Durham, NC: Duke University Press, 2017.
- Timmerman, Luke and Meg Tirrell, interview with John La Mattina. STAT Signal Podcast. June 16, 2016. <https://www.statnews.com/2016/06/16/tylenol-drugs-signal-podcast/> Tiwary, Deepthiman. "NDA, UPA Failed to Curb Farmer Suicides." *The Times of India*. Aug 3, 2014. <https://timesofindia.indiatimes.com/india/NDA-UPA-failed-to-curb-farmer-suicides/articleshow/39501676.cms>.
- Townes, Emilie. *Breaking the Fine Rain of Death: African American Health Issues and a Womanist Ethic of Care*. Eugene, OR: Wipf and Stock, 2006.
- . *Womanist Ethics and the Cultural Production of Evil*. New York: Palgrave MacMillan, 2006.
- Tran, Jonathan. *Foucault and Theology*. London: T&T Clark International, 2011

*Trials of War Criminals before the Nuernberg Military Tribunals: Vol 1, The Medical Case.* Washington, DC: U.S. Government Printing Office, 1949.

*Trials of War Criminals before the Nuremberg Military Tribunals under Control Council Law No. 10, Vol. 2.* Washington, D.C.: U.S. Government Printing Office, 1949.

Turpin, Adriana. "The New World Collections of Duke Cosimo I de' Medici and their role in the creation of a *Kunst-* and *Wunderkammer* in the Palazzo Vecchio." Edited by Alexander Marr and R.J.W. Evans. Aldershot, England: Ashgate, 2006.

Tylus, Jane. *Reclaiming Catherine of Siena: Literacy, Literature, and the Signs of Others.* Chicago: University of Chicago Press, 2009.

University of Washington Office of Public Lectures. Interview with Helen Chu: "Coexisting with COVID-19: No Really, Are We There Yet?," [https://www.youtube.com/watch?v=IavuxV1Co&list=PLZvWtyoII-zSQ9m9K8\\_yI-8Lnxqj5uMLs&index=2](https://www.youtube.com/watch?v=IavuxV1Co&list=PLZvWtyoII-zSQ9m9K8_yI-8Lnxqj5uMLs&index=2)

U.S. Department of Health and Human Services. "BARDA's Expanding COVID-19 Medical Countermeasure Portfolio." <https://www.medicalcountermeasures.gov/app/barda/coronavirus/COVID19.aspx>.

—. "Exemptions (2018 Requirements)" to the Common Rule. Accessed March 16, 2022, <https://www.hhs.gov/ohrp/regulations-and-policy/regulations/45-cfr-46/common-rule-subpart-a-46104/index.html> Van den Akker, Robin and Timotheus Vermeulen. *Metamodernism: Historicity, Affect, and Depth after Postmodernism.* London: Rowman & Littlefield, 2017.

Varoufakis, Yanis. "Techno-Feudalism is Taking Over." *Project Syndicate.* June 28, 2021. <https://www.project-syndicate.org/commentary/techno-feudalism-replacing-market-capitalism-by-yanis-varoufakis-2021-06>.

Vedral, Vlatko. *Decoding Reality: The Universe as Quantum Information.* Oxford: Oxford University Press, 2010.

Verna, Inder M. "Editorial Expression of Concern: Experimental Evidence of Massive-Scale Emotional Contagion Through Social Networks." *Proceedings of the National Academy of Sciences* Vol. 111, No. 29 (July 3, 2014), 10779.

Veyne, Paul. "The Final Foucault and His Ethics." Translated by Catherine Porter and Arnold I. Davidson. *Critical Inquiry* 20, no. 1 (Fall 1993), 1-9.

—. *Foucault: His Thought, His Character.* Translated by Janet Lloyd. Cambridge: Polity Press, 2010.

Voegelin, Eric. "The Origins of Scientism." *Social Research* Vol. 15, No. 4 (Dec 1948), 462-494.

- Volkers, Nancy. "Answering Biomedical Questions with Information Technology." *Science Magazine*. July 30, 2010. <https://www.sciencemag.org/careers/2010/07/answering-biomedical-questions-information-technology>.
- Voltaire, *Letters on England*. Translated Leonard Tancock. London: Penguin, 2003.
- . "Letter XIV: On Descartes and Sir Isaac Newton." in *French and English Philosophers: Descartes, Rousseau, Voltaire, Hobbes*. New York: P.F. Collier, 1910.
- Vreeland, Leslie N. and Mary Granfeld, "The Selling of Retin-A." *CNN Money*, April 1, 1989. [https://money.cnn.com/magazines/moneymag/moneymag\\_archive/1989/04/01/85047/index.htm](https://money.cnn.com/magazines/moneymag/moneymag_archive/1989/04/01/85047/index.htm).
- Wainright, Milton. "Hitler's Penicillin." *Perspectives in Biology and Medicine* Vol. 47, No. 2 (Spring 2004), 189-98.
- Wald, Priscilla. *Contagious: Cultures, Carriers, and the Outbreak Narrative*. Durham, NC: Duke University Press, 2008.
- Walker, Alan. "Indexing Commonplace Books: John Locke's Method." *The Indexer* Vol. 22, No. 3 (Apr 2001), 114-118.
- Walsh, P.G. "The Rights and Wrongs of Curiosity (Plutarch to Augustine)." *Greece & Rome* Vol. 35, No. 1 (Apr, 1988), 73-85.
- Washington, Harriet. *Medical Apartheid: The Dark History of Medical Experimentation on Black Americans from Colonial Times to the Present*. New York: Anchor, 2008.
- Weber, Max. *Economy and Society*. Translated by Keith Tribe. Cambridge, MA: Harvard University Press, 2019.
- . *The Protestant Ethic and the "Spirit" of Capitalism, and Other Writings*. Translated by Peter Baehr and Gordon C. Wells. New York: Penguin, 2002.
- . "Science as a Vocation." *Daedalus* Vol. 87, No. 1 (Winter 1958), 111-134.
- Weinmeyer, Richard. "Direct-to-Consumer Advertising of Drugs." *AMA Journal of Ethics: Virtual Mentor* Vol. 15, No. 11 (2013), 954-959.
- Wen, Chu T'ien. *Notes of a Desolate Man*. Translated by Howard Goldblatt and Sylvia Li-Chun Lin. New York: Columbia University Press, 1999.
- Wheeler, John Archibald. "Information, Physics, Quantum: The Search for Links." *Proceedings III International Symposium on Foundations of Quantum Mechanics* (Tokyo, 1989), 354-368.



- Wheelwright, Trevor. "2022 Cell Phone Usage Statistics: How Obsessed Are We?" *Reviews.org*. Jan 24, 2022. [https://www.reviews.org/mobile/cell-phone-addiction/#:~:text=re%20not%20alone,-\\_On%20average%2C%20Americans%20check%20their%20phones%20262%20times%20per%20day,ve%20fallen%20into%20our%20screens.](https://www.reviews.org/mobile/cell-phone-addiction/#:~:text=re%20not%20alone,-_On%20average%2C%20Americans%20check%20their%20phones%20262%20times%20per%20day,ve%20fallen%20into%20our%20screens.)
- White, Graham. "Modal Logic in Luther's Enslaved Will." *The Medieval Luther*. Edited by Christine Helmer. Tübingen: Mohr Sebeck, 2020.
- Wick, Jeanette Y. "What's In a Drug Name?" *Journal of the American Pharmacist's Association* Vol. 44, No. 1 (Jan/Feb 2004), 12-14.
- Wilkinson, A.M. "Jargon and the Passive Voice: Prescriptions and Proscriptions for Scientific Writing." *Journal of Technical Writing and Communication* Vol. 22, No. 3 (1992), 319-325.
- Williams, A.N. "Physician, Philosopher, and Paediatrician: John Locke's Practice of Child Health Care." *Archives of Disease in Childhood* Vol. 91, No. 1 (Jan 2006), 85-89.
- Williams, Charles. *The Figure of Beatrice*. Berkeley, CA: Apocryphile Press, 2005.
- Wittgenstein, Ludwig. *Philosophical Investigations*. Translated by G.E.M. Anscombe. Oxford: Blackwell, 2009.
- Wolf, Susan M. "What Has Covid-19 Exposed in Bioethics? *Four Myths*," *Hastings Center Report* (May-June 2021), 3-4.
- Wu F, Zhao S., Yu B. *et al*, "A new coronavirus associated with human respiratory disease in China," *Nature* No. 579 (2020), 265–269. <https://doi.org/10.1038/s41586-020-2008-3>.
- Wycliffe, John. *Select English Works of John Wyclif* Vol. 3. Edited by Thomas Arnold. Oxford: Clarendon, 1871.
- Yeung, Isobel. "Consent." *Vice on HBO*. Sep 2019. YouTube. <https://www.youtube.com/watch?v=DhFyGz8wQaY>.
- Yolton, John W. *Locke and French Materialism*. Oxford: Clarendon Press, 1991.
- Zippia Recruiting website. "Research Coordinator Demographics and Statistics in the U.S." Accessed May 29, 2023. <https://www.zippia.com/research-coordinator-jobs/demographics/>
- Zittrain, Jonathan. "Engineering an Election." *Harvard Law Review Forum* Vol. 127 (June 20, 2014), 335-341.
- Zuboff, Shoshanna. *The Age of Surveillance Capitalism: The Fight for a Human Future at the Frontier of Power*. New York: Public Affairs.

—. Interview by Kara Swisher. “Google and Facebook have become ‘antithetical to democracy,’ says The Age of Surveillance Capitalism author Shoshanna Zuboff.” *Vox*. February 20, 2019. <https://www.vox.com/2019/2/20/18232469/shoshana-zuboff-age-surveillance-capitalism-book-google-facebook-privacy-data-kara-swisher>.