

Radical Thought from Marx, Nietzsche, and Freud, through Foucault, to the Present: Comments on Steven Lukes's *In Defense of "False Consciousness"*

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Steven Lukes offers a precise, succinct, and forceful defense of the idea of "false consciousness" in his provocative essay by that name, *In Defense of "False Consciousness"*.¹ People can be systematically mistaken about their own best interest, Lukes contends—or, in his words, "they can have systematically distorted beliefs about the social order and their own place in it that work systematically against their interests."² It is not just that sometimes people knowingly but regretfully make compromises, nor simply that they face no alternative choices; people are at times factually mistaken about what will promote their best interest. "There is truth to be attained," Lukes declares, a correct view about where their interests lie, a view that is not itself "im-

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¹ The notion of false consciousness that Lukes develops in this essay is a particular instance of the "third dimension" of power that he sets forth in his book, *Power: A Radical View* (Palgrave Macmillan 2d ed 2005) ("*Power*" hereinafter) (see especially 144–151). The structure of his presentation in this essay—namely, three answers—mirrors the three dimensions of power that he lays out in *Power*. The first answer he offers (positive and negative sanctions, offers and threats) corresponds to the first dimension of power, which addresses the question of who prevails in decision-making situations involving conflicts of interest (the Robert Dahl pluralism perspective). The second answer he offers (lack of alternatives) corresponds to the second dimension of power, which addresses the question of who controls the decision-making such that conflict is avoided (the Peter Bachrach agenda-setting power). It is an aspect of the third dimension of power, namely "the supreme exercise of power [which is] to get another or others to have the desires you want them to have," *Power* at 27, that Lukes develops in this essay. It builds on the final section of the third essay in *Power* ("Real interests' and 'False Consciousness'"). *Power* at 149.

² Steven Lukes, *In Defense of "False Consciousness"*, 2011 U Chi Legal F 19, 27–28.

posed by power.”³ This argument, Lukes suggests, is not vulnerable to the retort that there are multiple, socially constructed “regimes of truth,” which are neither true nor false, because people are at times *wrong* about the *factual* premises of their beliefs. On these occasions, they “hold factual beliefs that are susceptible of truth and falsity (thus meeting the [‘regimes of truth’] objection) [and s]ome of these key beliefs can be shown to be false.”⁴ Lukes’s defense of false consciousness could not be articulated with greater precision or, for that matter, erudition and elegance.

I.

My first concern when I read Steven Lukes’s essay was that the relationship between the theory of false consciousness and the “regimes of truth” critique is more complex and is not properly captured by the notion of *mutual exclusion*.⁵ There are important family resemblances between the theory of ideology in the Marxian tradition, especially as developed by the Frankfurt School, and the critique of truth regimes rooted in the Nietzschean tradition of genealogy, especially as it evolved in the writings of Michel Foucault.⁶ These strong family resemblances make it counterproductive to argue that one theory is correct *at the expense of the other*—to argue, in effect, that one view would make us *reject* the other. And by “counterproductive,” I mean unproductive to the larger critical project that, I sense from the essay, Steven Lukes and I share. The task, as I see it, is not to defend one theory and discard the other, but to explore the overlap and intricate relationship between the two in order to sharpen our own contemporary critical interventions—in order to refine our own critique.

In an interview in *Telos* in 1983, Foucault remarked that “[n]othing is better at hiding the common nature of a problem than two relatively close ways of approaching it.”⁷ Foucault was

³ *Id.* at 19, 28.

⁴ *Id.* at 26–27.

⁵ In *In Defense of “False Consciousness,”* Lukes does view the “regimes of truth” critique as mutually exclusive insofar as it would defeat, or lead us to reject, his false consciousness argument. In this respect, it is interesting to note that, by contrast, Lukes does *not* view the three dimensions of power as mutually exclusive. See Lukes, *Power* at 10 (cited in note 1) (“the other answers should not be seen as mutually exclusive”).

⁶ Although Lukes does not explicitly attribute the “regimes of truth” critique to Foucault, but rather to “postmodernist thinking,” it is clear from the context, but even more from *Power*, that Lukes has Foucault in mind. In *Power*, Lukes specifically associates Foucault with the idea of “regimes of truth.” See Lukes, *Power* at 91 (cited in note 1).

⁷ Michel Foucault, *Dits et écrits* vol 4 #330 at 439 (vol 2 at 1258 in 2001 ed) (Galli-

referring, naturally, to the Frankfurt School. In a very similar vein, my concern is that Lukes's resistance to Foucault's work—his desire to reject, rather than to carefully embrace, or at least to selectively draw from—has the effect of retarding, rather than advancing, the critical project that we share. Let me begin here, then, by reconnecting the two critiques. I am by no means, of course, the first to venture down this path.⁸

II.

The question that Steven Lukes asks in his essay and to which he offers the response of false consciousness—namely, the question “why do people accept governments and follow leaders and vote for politicians when doing so is against their interests?”⁹—is a loaded question. It rests on certain premises that challenge more traditional views about knowledge—premises that not everyone shares. It rests on the radical questioning of people's given desires and beliefs—a radical position, as Lukes emphasized in the very title of his book, *Power: A Radical View*.¹⁰

The more conventional understanding is that behavior is a reliable measure of a person's interests—one of the few, in fact. Outward behavior is revealed preference: it is evidence of a rational choice that reflects what we truly desire far better than what we tell ourselves or others. Putting aside occasional inadvertent mistakes and minor heuristic biases, the conventional view takes at face value our actions as expressions of our real interests. This conventional understanding rests on a traditional

mard 1994) (“Rien ne cache plus une communauté de problème que deux façons assez voisines de l'aborder.”).

⁸ Foucault himself explored this in a number of places in his work. See, for example, *Qu'est-ce que la critique?*, 84:2 Bulletin de la Société française de philosophie 35, 47 (1990) (lecture delivered May 27, 1978); *Adorno, Horkheimer, and Marcuse: Who is a Negator of History?*, in Foucault, *Remarks on Marx: conversations with Duccio Trombadori* (Semiotext(e) 1991); and *Structuralisme et poststructuralisme*, in Foucault, *Dits et écrits*, vol 4 #330 at 431–457 (vol 2 at 1250–76 in 2001 ed) (cited in note 7). For a collection of the Foucault/Habermas debate with excellent contributions from Axel Honneth, Nancy Fraser, Thomas McCarthy and others, see *Critique and Power: Recasting the Foucault/Habermas Debate* (MIT 1994) (Michael Kelly, ed). See also Thomas McCarthy, *The Critique of Impure Reason: Foucault and the Frankfurt School*, 18 *Political Theory* 437, 437–469 (Sage Publications 1990); David Hoy, *Power, Repression, Progress: Foucault, Lukes, and the Frankfurt School*, in David Hoy, *Foucault: A Critical Reader* 123–148 (Basil Blackwell 1986) (explicitly bringing Lukes to bear on Foucault and the Frankfurt School). For another important discussion of Lukes's work, see John Gaventa, *Power and Powerlessness* (U of Illinois Press 1980).

⁹ Lukes, 2011 U Chi Legal F at 20 (cited in note 2).

¹⁰ Id at 22 (The first two dimensions of power “take[] people's desires and beliefs as given”); Lukes, *Power* at 28, 146 (cited in note 1).

view of knowledge, a view that embraces a correspondence theory of truth and set standards of justification. It is often referred to as the “justified true belief model of knowledge.”¹¹ On this view, an individual’s stated interests are to be considered accurate, in the sense that they correspond with reality, when the person has good reasons that can be clearly articulated and that represent the bases for their beliefs and actions. Or, more formally, an individual can be said to know that X is in his interest just in case (1) his belief that X is in his interest is true (where “true,” again, is understood in terms of a correspondence theory of truth) and (2) he has good reasons for his belief that X is in his interest, which reasons he can clearly articulate, and which reasons are the basis for his actions.

As Raymond Geuss argued in his 1984 lectures at Princeton University, and as Steven Lukes suggested in his original essay on power in 1974, radical thinkers challenge this conventional understanding and its underlying view of knowledge—not merely criticizing the reasons that people give for their beliefs, nor simply attacking the beliefs citing better reasons, but instead challenging the very way in which beliefs come to be held by people.¹² They level, in Lukes’s original words, “a *thoroughgoing critique of the behavioral focus*” of the traditional view.¹³ Theirs is a radical view because it assumes “an external standpoint” and speaks of “interests imputed to and unrecognized by the actors.”¹⁴ They

¹¹ I attribute the idea of approaching this with reference to the “justified true belief” model of knowledge to Raymond Geuss and his lectures, at Princeton University, on “Marx, Nietzsche, Freud” in the Spring of 1984. In those lectures, Geuss specifically introduced the idea of “radical thought” as a challenge to the “justified true belief” model. Geuss’s approach, naturally, built on his earlier book, *The Idea of a Critical Theory: Habermas and the Frankfurt School* (Cambridge 1981), which explicitly presented Marxian thought and the Frankfurt School as requiring “drastic revisions in traditional views about the nature of knowledge.” Id at 1. For a succinct definition of the “justified true belief” model, see Matthias Steup, “Knowledge as Justified True Belief,” in the entry on Epistemology, Edward N. Zalta, ed, *The Stanford Encyclopedia of Philosophy* (Spring 2010), online at <http://plato.stanford.edu/archives/spr2010/entries/epistemology/> (visited Sept 6, 2011). For an approach that also explores radical thought in relation to the justified true belief model, see Brian Leiter, *The Hermeneutics of Suspicion: Recovering Marx, Nietzsche, and Freud*, in Leiter, *The Future for Philosophy* 74–105 (Oxford 2006) (originally published 2004), online at http://papers.ssrn.com/sol3/papers.cfm?abstract_id=691002 (visited May 3, 2011). In an interesting way, as Steven Lukes points out to me, Arthur Danto’s discussion of “deep interpretation,” specifically with reference to Marx and Freud, bears a family resemblance here. See Arthur C. Danto, *Deep Interpretation*, 78 *The Journal of Philosophy* 11, 691–706 (Nov 1981).

¹² Personal lectures notes from Raymond Geuss’s lectures on “Marx, Nietzsche, Freud” at Princeton University in the Spring of 1984 (on file with author); Lukes, *Power* at 28 (cited in note 1).

¹³ Lukes, *Power* at 28 (cited in note 1).

¹⁴ Id at 146.

challenge, in essence, the underlying standards of justification and the very idea that people hold beliefs because of their articulated reasons. Rather than questioning a mistaken reason or individual reasoning here or there, radical thinkers attack the larger relation between reasons and beliefs, as well as the view of knowledge upon which it rests. And they offer theories about how it is that people come to believe what they believe, despite their own best interest.¹⁵

The late nineteenth and early twentieth centuries saw the emergence of several important strands of radical thought associated with the classic triumvirate—Karl Marx, Friedrich Nietzsche, and Sigmund Freud.¹⁶ Marx's writings would inspire an approach that portrayed beliefs as ideologies necessary for the reproduction of social systems of oppression—an approach that influenced the idea of hegemony in Antonio Gramsci's *Prison Notebooks*,¹⁷ of false consciousness in Georg Lukács's *History and Class Consciousness*,¹⁸ of ideology critique for the Frankfurt School, and of ideological apparatuses in Louis Althusser's writ-

¹⁵ The distinctions are important and can be illustrated by means of Steven Lukes's ingenious example of the Tea Party movement—which, for present purposes, will be reduced to the belief in limited government. Lukes, 2011 U Chi Legal F at 26 (cited in note 2). To make the more radical claim that members of the Tea Party are deluding themselves, it is not sufficient to demonstrate that the reasons they offer for their belief in limited government are internally inconsistent: it is not enough to show, for instance, that 62 percent of Tea Party members “still think that Social Security and Medicare are worth the cost.” Elbert Ventura, *Teaism*, New Republic, Online Review (Oct 7, 2010), online at <http://www.tnr.com/book/review/teaism-tea-party-> (visited Sept 6, 2011); Kate Zernike, *Boiling Mad: Inside Tea Party America* 135–138, 203 (Times Books 2010). Nor is it enough to show that the reasons they offer are pretextual: it is not enough to show, for example, that “Tea Partiers have always or usually voted Republican 66 percent of the time, compared to 28 percent for the general public.” Ventura, *Teaism*. See also Zernike, *Boiling Mad* at 150–153, 206. Instead, one would have to argue that they hold their beliefs in limited government as a result of forces they are largely unaware of—say, hypothetically, their psychological need to dominate poorer African-Americans in a hierarchized racial-caste society—and that those beliefs are positively detrimental to their future well-being.

¹⁶ The pairing of this triumvirate is, naturally, classic. See Foucault, *Nietzsche, Freud, Marx*, in Foucault, *Dits et écrits*, vol 1 #46 at 564–579 (vol 1 at 592–607 in 2001 ed) (cited in note 7); Paul Ricœur, *Interpretation as Exercise of Suspicion*, in Ricœur, *Freud and Philosophy: An Essay on Interpretation* 32–33 (Yale 1970) (Denis Savage, trans) (famously referring to Freud, Marx and Nietzsche as the “masters of suspicion”); Geuss, *The Idea of a Critical Theory* at 1 (Freud) and at 43–44 (Nietzsche) (cited in note 11); Geuss, Personal lecture notes (cited in note 12); Leiter, *The Future for Philosophy* at 74 (cited in note 11); Alistair Kee, *The Masters of Suspicion: Feuerbach, Marx, Nietzsche, and Freud* (Fortress forthcoming).

¹⁷ See generally Antonio Gramsci, *Prison Notebooks* (Columbia 1992) (Joseph Buttigieg, ed, Joseph Buttigieg and Antonio Callari, trans).

¹⁸ See generally Georg Lukács, *History and Class Consciousness: Studies in Marxist Dialectics* (MIT 1968) (Rodney Livingstone, trans).

ings.¹⁹ Nietzsche's writings would give birth to an approach intimately relating beliefs to the exercise of human will and power, a genealogical approach that would significantly influence later theories of "savoir-pouvoir"²⁰ [knowledge-power] in Michel Foucault's writings and of the *Anti-Oedipus* of Gilles Deleuze and Félix Guattari.²¹ Freud's writings would give rise to a psychoanalytic approach that would interpret beliefs through the lens of the unconscious and of repression, an approach that would strongly influence later thinkers such as, notably, Jacques Lacan,²² Julia Kristeva,²³ Renata Salecl,²⁴ and Slavoj Žižek.²⁵

These different strands of radical thought portrayed the *reasons* that people proffer for their beliefs as forms of mystification, not to be taken at face value, but to be exposed in order to reveal the larger adverse effects on the believers themselves. To be brutally concrete, the factory worker who buys into the dream of one day being a capitalist, the Catholic observant who embraces the imperative of turning the other cheek, the sister-in-law who represses her delight at the death of her sister out of revolt at the attraction she feels for her brother-in-law, in each of these cases the individuals' beliefs are shown to be not only disconnected from their explicit justification but against their better interests in the sense of being deeply detrimental to the well-being of the individuals.²⁶

In this sense, the different strands of radical thought seek to lift a veil from our eyes in order to emancipate us from domination, cowardice, or repression. They unmask in order to liberate. They are quintessential exemplars of "critical theory": they represent, as Raymond Geuss sets forth in *The Idea of a Critical*

¹⁹ See generally Louis Althusser, *Ideology and Ideological State Apparatuses*, in *Lenin and Philosophy and Other Essays* (Monthly Review Press 1971).

²⁰ Michel Foucault, *Naissance de la biopolitique: Cours au Collège de France, 1978–1979* 22 (Paris, Gallimard 2004).

²¹ See generally Gilles Deleuze and Felix Guattari, *Anti-Oedipus: Capitalism and Schizophrenia* (Penguin 2009) (Robert Hurley, Mark Seem, and Helen R. Lane, trans).

²² See generally Jacques Lacan, *Écrits: The First Complete Edition in English* (Norton 2006) (Bruce Fink, trans).

²³ See generally Julia Kristeva, *Powers of Horror: An Essay on Abjection* (Columbia 1982).

²⁴ See generally Renata Salecl, *The Spoils of Freedom: Psychoanalysis and Feminism after the Fall of Socialism* (Routledge 1994).

²⁵ See generally Slavoj Žižek, *The Sublime Object of Ideology* (Verso 1989).

²⁶ See Karl Marx and Friedrich Engels, *The German Ideology* 67 et seq (Prometheus 1998); Friedrich Nietzsche, *On the Genealogy of Morals*, First Essay, Sections 7–10, 33–39 (Vintage Books 1989); Sigmund Freud, *Five Lectures on Psycho-Analysis*, Second Lecture, 24–25 (Norton 1977).

Theory,²⁷ first, a form of knowledge that, second, produces enlightenment and emancipation, in a manner, third, that is reflective as opposed to objectifying. Or, to use Geuss's own words, they each represent "a reflective theory which gives agents a kind of knowledge inherently productive of enlightenment and emancipation."²⁸ The radical interventions spawned by Marx, Nietzsche, and Freud do just that: they serve to displace received meanings and reveal deeper forces at play (whether political, economic, or related to will to power or to psychological desires) that undermine apparent interests and free subjects from various forms of oppression.

III.

In order to better grasp these family resemblances, let me offer illustrations from several critical interventions in the field of punishment and political economy—the field in which I toil. The first intervention traces to Marx through the Frankfurt School. In 1939, Max Horkheimer published Georg Rusche and Otto Kirchheimer's *Punishment and Social Structure*,²⁹ a work that unearthed, beneath the more conventional set of beliefs about the sovereign's legitimate right to punish and the centuries-old debate over the rationales for punishment—deterrence, retribution, correction, etc.—a deeper political economy of punishment. Rusche and Kirchheimer documented, for instance, how the ministers of Louis XIV demanded that magistrates sentence convicts to the galleys, not because of the heinousness of their crimes, nor to deter them, but because the King needed more oarsmen for his ships—citing this chilling letter dated February 21, 1676, directed to the public prosecutors of the *Parlement de Paris*:

[S]ince His Majesty urgently needs more men to strengthen His rowing crews . . . to be delivered at the end of the following month, His Majesty commands me to tell you that He wishes you to take the necessary steps in His name in order to have the criminals judged quickly.³⁰

²⁷ Geuss, *The Idea of a Critical Theory* (cited in note 11). Geuss explicitly developed the idea of a critical theory in relation to the Frankfurt School and added in the margin that it would apply equally well to Freud, and bears important family resemblances with Nietzsche. *Id.* at 1 and 43–44.

²⁸ *Id.* at 2.

²⁹ See generally Georg Rusche and Otto Kirchheimer, *Punishment and Social Structure* (Transaction 2003).

³⁰ *Id.* at 55.

Rusche and Kirchheimer revealed how those same ministers directed magistrates to *not* commute sentences of death to galley labor when the convict was over fifty-five or infirm and missing an arm or leg, given that invalids were of no use on the King's ships.³¹ They demonstrated how, in later periods, to increase productivity, convict labor at the *Hôpitaux Généraux* in Paris would be incentivized to work harder by giving them a share of the profits, or how, still later, prison labor conditions of solitary confinement would be gradually abandoned as the free labor supply became more abundant.³²

Rusche and Kirchheimer revealed that our conventional ways of justifying punishment—the discourse of deterrence or correction—were in fact veils that hid the true political economy of punishment, an economy driven by the need for labor and shaped by modes of production and social relations. People may well have believed, at the time, that galley or solitary confinement was the justified or proportional punishment for wrongdoing because it was appropriately harsh or cured the soul, but in fact the “wrongdoing” itself may simply have been an excuse to get able-bodied men to grow an empire at little cost to the sovereign. In a similar way today, we might be tempted to explore how the mass incarceration of young black men in a post-industrial age where real unemployment hovers around twenty percent relates to the high rates of unemployment in the inner city³³ and to the political needs of adjacent counties whose economies depend entirely on guard labor and prison-related industries.³⁴

A second illustration traces to Nietzsche, who described in *The Genealogy of Morals* how our ideas about the “purposes” of punishment serve only to mask the relations of power that have imposed meaning on punishment practices, and how we fool ourselves constantly into believing that we punish people in order to improve, to deter, or to retribute, etc. “Today it is impossible to

³¹ “His Majesty has instructed me to inform you that in the cases of prisoners who are over fifty-five years of age or who have lost an arm or a leg or are disabled or incurably sick, His Majesty does not wish His judges to invoke this order in order to exempt prisoners from sentences which they really merit [that is, death].” *Id.* at 57 (Letter dated September 11, 1677).

³² *Id.* at 45, 102–11, 128–29. See also Hoy, *Power, Repression, Progress* at 130–132 (cited in note 8).

³³ Steve Clemons, *Real Unemployment Shows US Economy Short 20 Million Jobs*, online at http://www.huffingtonpost.com/steve-clemons/real-unemployment-shows-u_b_843783.html (visited Sept 6, 2011).

³⁴ Brian Mann, *N.Y. Gov. Threatens to Mothball More Prisons*, online at <http://www.npr.org/2011/01/27/133276372/new-york-gov-threatens-to-mothball-more-prisons> (visited Sept 6, 2011).

say for certain *why* people are really punished,” Nietzsche declared; “purposes and utilities are only *signs* that a will to power has become master of something less powerful and imposed upon it the character of a function.”³⁵ The discourse of “just punishment” is a veneer that distracts attention from what really determines punitive practices.

More than a hundred years later, Michel Foucault’s *Discipline and Punish* would draw on Nietzsche’s genealogical approach (as well as the political economic approach of Rusche and Kirchheimer)³⁶ to expose, beneath the modern progress narrative of increasingly enlightened punishments, disciplinary forms of punishment that more effectively render the human body docile.³⁷ The modern progress narrative—reflected so vividly in Emile Durkheim’s discovery of “the two laws of penal evolution” that purportedly push civilization toward greater leniency³⁸—was precisely a type of signification imposed on our punitive practices as a result of complex relations of power in society including, importantly, systems of knowledge that privileged the psy professions.³⁹ By tracing the birth of the disciplinary techniques of the strict control of time and space, the ranking of individuals and activities, the forced repetition of exercises, the examination and accompanying comparisons, measures, hierarchies, and classifications, and the internalization of control through panoptic mechanisms of surveillance, *Discipline and Punish* revealed how these disciplinary forms replaced brutal corporal punishments as more effective means of shaping modern men and women—giving way to a political economy of the body.⁴⁰ The rehabilitative prison project of the mid-twentieth century, it turns out, had less to do with the debate over the “right to punish” than with the production of docile students, workers, soldiers, mothers, and citizens. The birth of the idea of the “delinquent” and the “criminal”—the modern human subject whose soul needs to be

³⁵ Nietzsche, *On the Genealogy of Morals*, Second Essay, Section 13 at 80 (cited in note 26) (emphasis in original) (The passage continues, “all concepts in which an entire process is semiotically concentrated elude definition; only that which has no history is definable.”).

³⁶ See Michel Foucault, *Surveiller et punir: Naissance de la prison* 29–30 (Gallimard 1975).

³⁷ Id (developing the idea of a political economy of the body).

³⁸ See generally Emile Durkheim, *Deux lois de l'évolution pénale*, in *L'Année Sociologique* 1899–1900 (Presses Universitaires de France 1901), translated and included in Chapter 4 of Steven Lukes and Andrew Scull, *Durkheim and the Law* (St Martin's 1983).

³⁹ See Foucault, *Surveiller et punir* at 137–229 (cited in note 36); see also Nikolas Rose, *Inventing Our Selves: Psychology, Power, and Personhood* (Cambridge 1998).

⁴⁰ See generally Foucault, *Surveiller et punir* (cited in note 36).

straightened out in an orthopedic way—reflects larger shifts in relations of power in society, including new professions and systems of knowledge, rather than a valid “reason” for our belief in the necessity of the prison.

A third illustration traces to Freud, who proposed, in *Civilization and Its Discontents*, that punishment is best understood as a collective act of repression that serves to reinforce feelings of guilt in order to control our desires and to tame human subjects. The sense of guilt, born of the tension between desire and restraint, Freud wrote, “expresses itself as a need for punishment. Civilization, therefore,” Freud continued, “obtains mastery over the individual’s dangerous desire for aggression by weakening and disarming it and by setting up an agency within him to watch over it, like a garrison in a conquered city.”⁴¹ Recall that the front piece of *Civilization and Its Discontents* represented “The Prisoner’s Dream”—the docile image of a dreaming prisoner whose passions had been tamed. For Freud, beneath the surface, beneath the dominant talk of wrongdoing and culpability, desires and drives to life, death, pleasure, and destruction shaped our punitive practices.

Contemporary theorists, such as Jack Katz in *The Seductions of Crime* and Donald Black in *Crime as Social Control*, draw on these Freudian insights to explore the deeper psychological attractions to deviant behavior: the sexual thrill of shoplifting, the self-righteous indignation of domestic murder, the hard manliness of the stick-up.⁴² William Connolly, in *The Desire to Punish*, draws on similar insights (as well as on the writings of Nietzsche and Foucault) to expose the vengeful desire that permeates our contemporary punitive excess—“desire,” by which Connolly intends to capture “something closer to an organization of energy, beyond [simple] needs, to possess, caress, love, emulate, help, befriend, defeat, stymie, boss, fuck, kill, or injure other human beings, both as individuals and as types.”⁴³ These subliminal drives, Connolly maintains, do far more to shape contemporary punishment techniques than all the explicit reasons that the magistrates and prosecutors articulate at sentencing.⁴⁴

⁴¹ Sigmund Freud, *Civilization and Its Discontents* 70–71 (Norton 1961) (James Strachey, trans).

⁴² See generally Jack Katz, *Seductions of Crime: Moral and Sensual Attractions in Doing Evil* (Basic Books 1988); Donald Black, *Crime as Social Control*, 48 *American Sociological Review* 34, 34–45 (1983).

⁴³ William Connolly, *The Desire to Punish*, in *The Ethos of Pluralization* 41, 49 (Minnesota 1995).

⁴⁴ *Id.* at 65.

Notice the strong family resemblances between these different traditions of radical thought (even as they undergo important shifts throughout the twentieth century). Notice the shared idea that our dominant ways of talking about “just punishment” somehow mask the true forces at play—or, to put it in another way, that our beliefs about just punishment (no matter how strongly we believe them to be true) are an illusion produced in unanticipated ways by forces that are unrelated to the *reasons* we give (for instance, by labor supply, modes of production, and capital accumulation; will to power, relations of force, and systems of knowledge; or unconscious drives, repression, and desires). The explicit reasons on which we ground our judgments about punitive practices (such as, for instance, that the death penalty is or is not a deterrent to homicide, that rehabilitation does or does not work, that individuals are or are not responsible for their behavior, or that poverty and difficult social conditions do or do not “cause” crime) are not really, in the end, the driving force behind those punitive practices.

IV.

At this first stage, then, there seem to be far too many family resemblances to view the relationship through the lens, essentially, of mutual exclusion, of an “either-or” decision—to suggest that what Lukes refers to as the “regimes of truth” critique would pose an objection or make us reject a Frankfurt School approach. To the contrary, it would seem that critical theorists could borrow from various strands of each tradition to enrich their analyses. So, for instance, in the area of punishment and modern society, a critical theorist could draw inspiration from these different variations of radical thought to discern a role for the structural transformation of economic relations or perhaps for a political economy of the body, to give room to relations of power and resistance, to find a place for human desire, all the while trying to articulate interpretations that push the critical intervention even further.

The different strands of radical thought push in a similar direction: they make us ask how it is, exactly, that people begin to believe things that may ultimately undermine their own interests, how they come to embrace desires and beliefs that may be detrimental to them, and how they participate actively in that process. It is important to remember that both Marx, in his discussion of the fetishism of commodities, and later Lukács in his discussion of false consciousness, were precisely concerned with

giving an account of how the reproduction of capitalist social relations gave rise to a false belief. More specifically, to the false belief that certain *socially generated* attributes of things and patterns of behavior (for Marx, for example, the attribute of exchange value, which constitutes the commodity form) are “naturally given,” that is, given independently of the reproduction of the very social relations. Marx and Lukács were deeply concerned with giving an account of how those beliefs were born and came to be seen as true.

Their endeavor is a close cousin to Foucault’s study of *véridiction*, of how beliefs come to be perceived as true—to what Lukes refers to as the “regimes of truth” critique. The relationship, naturally, is complex, and Foucault himself, in a number of significant passages, addressed the intricate overlap and important distinctions between the notion of ideology and his work on truth and *véridiction*.⁴⁵ Foucault maintained that the idea of falsity (what he referred to as “error” or “illusion”) was misleading because the beliefs held are “a set of practices and real practices that establish them and mark them imperiously in the domain of the real”;⁴⁶ in other passages, Foucault historically contextualized the Frankfurt School writings and suggested that the shifting political situation in France might bring them in closer intellectual proximity to his critical enterprise.⁴⁷

Without doubt, though, there remain significant differences among the truth claims that these social theorists asserted. The Marxist tradition, as we all know, is informed by a historical narrative and theory of class conflict that infuses the concept of ideology with a far more robust notion of truth or falsity.⁴⁸ This is reflected well, for instance, in Max Horkheimer’s claim that: “The facts of science and science itself are but segments of the life process of society, and in order to understand the significance of facts or of science generally one must possess the key to the historical situation, *the right social theory*.”⁴⁹ By the “right” so-

⁴⁵ In his 1976 lectures, *Society Must be Defended*, for instance, Foucault specifically explained how his work on power/knowledge intersected but differed from the Marxist idea of ideology. See Michel Foucault, *Il faut défendre la société. Cours au Collège de France, 1975–1976* 30 (Gallimard 1997). See also Foucault, *Naissance de la biopolitique* at 21–22 (cited in note 20); Foucault, *Qu’est-ce que la critique?* at 42–46 (cited in note 8).

⁴⁶ Foucault, *Naissance de la biopolitique* at 22 (cited in note 20).

⁴⁷ Foucault, *Qu’est-ce que la critique?* at 43–44 (cited in note 8).

⁴⁸ While this is undoubtedly true of the Marxist tradition and of the reading that Steven Lukes proposes in defense of false consciousness, there are other readings of Marx that differ on this point.

⁴⁹ Max Horkheimer, *The Latest Attack on Metaphysics*, in Max Horkheimer, *Critical Theory: Selected Essays* 132–187, 159 (Continuum 2002) (emphasis added).

cial theory, Horkheimer had in mind a proper understanding of oppression and conflict in society: only when the social theorist was able to distinguish distorted impressions would she be able to properly understand the world and conduct social research.

Similarly, the Freudian strand, at least at its origin, contained a robust notion of defect, of psychosis, of an end state, or state of being, that evidently worked *against* one's best interest. And Nietzsche's writings incorporated a notion of will to power that often referenced victors and losers, thereby signaling what he believed to be true and false, or at least normatively valuable. The "*slave revolt in morality*," the revolt that inverted aristocratic values, Nietzsche lamented, "we no longer see because it has been victorious."⁵⁰ Nietzsche explicitly wrote that values had been flipped on their head: "the wretched alone are the good; the poor, impotent, lowly alone are the good; the suffering, deprived, sick, ugly alone are pious . . . and you, the powerful and noble, are on the contrary the evil, the cruel, the lustful, the insatiable, the godless to all eternity. . . ."⁵¹ We knew where Nietzsche stood. We knew what he believed to be morally superior.

By contrast, in certain contemporary radical strands, the objective truth of what people come to believe plays less central stage, but that in no way detracts from our ability to explore the consequences of those belief systems. In Foucault's writings, for instance, it is clear by the end of *Discipline and Punish* that the Enlightenment story is not entirely accurate (despite the fact that practically everyone believes it still today) given that the disciplinary techniques serve a similar function, only more effectively, of rendering human subjects docile.⁵² Many readers will doubt that modern society has become more lenient, and see instead how it has become better at punishing—or, as Foucault provocatively wrote, how it learned "not to punish less, but to punish better; to punish with a severity perhaps attenuated, but to punish with greater universality and necessity; to insert the power to punish more deeply into the social body."⁵³ There may be no claim of error, but nevertheless the implications are clear. The consequences of the belief system are apparent. They are visible. Once again, there is nothing in the text or argument that claims that this is "a correct view that is not itself imposed by

⁵⁰ Nietzsche, *On the Genealogy of Morals*, First Essay, Section 7 at 34 (cited in note 26).

⁵¹ *Id.*

⁵² See generally Foucault, *Surveiller et punir* (cited in note 36).

⁵³ *Id.* at 84.

power.”⁵⁴ As Foucault remarked in the English preface to *The Order of Things*, “[i]t would hardly behove me, of all people, to claim that my discourse is independent of conditions and rules of which I am very largely unaware. . . .”⁵⁵ Nor is there anything in the text or argument that makes an explicit normative evaluation of how, for instance, disciplinary practices compare to brutal corporal punishment. Yet we can explore at what price people came to believe the progress narrative of history.

There are, indeed, significant differences in the *quality* of the truth claims. Steven Lukes, in his defense of the idea of false consciousness, emphasizes that there is “truth to be attained,” a more purified form of truth, a “correct view that is not itself imposed by power.”⁵⁶ By contrast, Lukes maintains that on Foucault’s view, there can be no normative judgment because it is power all the way down. Lukes writes that for Foucault, “there can be no liberation from power, either within a given context or across contexts; and there is no way of judging between ways of life, since each imposes its own ‘regime of truth’”⁵⁷ For Foucault, apparently, it is turtles all the way down. But that charge, I take it, is neither very constructive, nor entirely accurate: Foucault’s genealogies denaturalize in a manner that allows the reader to see, quite well, the consequences of belief systems. Showing how the idea of the delinquent or of the criminal is born and emerges—how this truth is produced—denaturalizes the turn to actuarial criminology and the theory of social defense. It creates the condition of possibility for critique. It makes possible our own critical interventions.

V.

Rather than rehash the problem of infinite regress, it is more productive for social theory to see how the subtle differences within these family resemblances push us to ask slightly different sets of questions. In Steven Lukes’s essay, for instance, the focus on the question of “falsity” has effects: it centers the inquiry on identifying false reasons and reasoning, on revealing the incompatibility of beliefs with true interests, in order ulti-

⁵⁴ Lukes, 2011 U Chi Legal F at 19 (cited in note 2).

⁵⁵ Michel Foucault, *The Order of Things* xiv (Pantheon Books 1970).

⁵⁶ Lukes, 2011 U Chi Legal F at 28 (last paragraph) and 19 (first paragraph) (cited in note 2).

⁵⁷ Lukes, *Power* at 91–92 (cited in note 1), citing Foucault, *Power/Knowledge: Selected Interviews and Other Writings, 1972–77*, 38 (Vintage 1980).

mately to identify what the true interests of the ordinary citizen are and how they are best promoted. By contrast, focusing on the production of truth may have a different emphasis and pose a slightly different set of questions: how it is, exactly, that people come to believe what they believe, how belief systems relate to shifting relations of power, how certitude is born and evolves, how subjects participate in the very processes that turn them into subjects, how beliefs naturalize and hide from view problematic practices, what are the distributional consequences with regard to resources, social status, stigma, relations of power, etc.

The shift in focus, I would argue, is productive for contemporary critical theory. This is especially so because the truth of ideologies, beliefs, or knowledge—however one wishes to describe the cognitive set of beliefs held by persons—is actually far more complex than the simple notion of “falsity” would seem to convey. Let me explain by using the helpful illustration that Steven Lukes discusses: the case of the repeal of the estate tax.⁵⁸

As Lukes and others have shown, the repeal of the estate tax benefitted only a very small fraction of Americans, approximately two percent of the wealthiest taxpayers. Yet there was a groundswell of support for repeal, especially among those on the right. The best evidence, as Lukes recounts, suggests three possible explanations for this puzzle: optimism bias, factual ignorance, or symbolism. The first, optimism bias, is the exaggerated or unrealistic hope of enrichment. The second is the inaccurate belief that a majority of Americans pay estate tax. The third is the negative associations that emerged with what became known as the “death tax.”

In his essay, Lukes characterizes ordinary, middle-class citizens who favored the repeal of the estate tax as suffering from false consciousness. It is precisely with regard to these citizens that Lukes writes, “[they] are mistaken about what their interests are, what harms them, what would best serve them, and who can be trusted to look after them.”⁵⁹ Moreover, it is precisely here that Lukes rebuts the ‘regimes of truth’ objection: “[They] hold factual beliefs that are susceptible of truth and falsity (thus meeting the [regimes of truth] objection) [and s]ome of these key beliefs can be shown to be false.”⁶⁰

⁵⁸ The example is also discussed in Leiter, *The Hermeneutics of Suspicion* at 86–87 (cited in note 11), with a useful reference to Paul Krugman, *The Tax-Cut Con*, NY Times Magazine 54, 59 (Sept 14, 2003).

⁵⁹ Lukes, 2011 U Chi Legal F at 26 (cited in note 2).

⁶⁰ Lukes, 2011 U Chi Legal F at 26–27 (cited in note 2).

The difficulty is that the *specific* reasons these citizens may have articulated for supporting repeal (for instance, the fact that a majority of Americans are burdened by this estate tax) can easily be shown to be false, but this does not necessarily undermine their *larger* belief system (for instance, the belief in more limited government). To put it another way, there are different kinds of truth at play, and these important differences are elided by using the single or simple concept of “falsity.” In the same way that Ian Hacking discerns different “kinds of making up people,” there are here different kinds of truths that we need to pull apart.⁶¹

One truth claim involves the factual question of what ordinary Americans believed regarding how many of their fellow citizens paid estate taxes. For present purposes, let us assume, with Michael Graetz and Ian Shapiro, that a majority of Americans believed that the majority of their fellow citizens would have had to pay an estate tax.⁶² This first truth claim is subject to easy empirical counter-demonstration: it would have been easy in the 1990s to take a poll of what Americans believed and to compare that to a reliable assessment of the number of Americans who did in fact pay estate tax. And we could thus empirically demonstrate that the majority of ordinary Americans were “factually wrong” about how many Americans paid estate tax.

But the truth of that claim differs markedly from the truth of the belief that repealing the estate tax would benefit them. This second truth claim rests on a larger set of beliefs about liberty and governance—namely, that smaller government is going to be better for Americans, that individual responsibility and a limited state is better for everyone in the long run. This latter claim is not subject to the same type of empirical falsification as the first.

To put this perhaps more precisely, the political belief in the advantages of limited government has different truth value than the assertion that a majority of Americans pay estate tax. It is relatively easy to demonstrate that the latter assertion is false and that its opposite is true: a tiny fraction of Americans paid estate tax. The latter assertion calls for a binary “true or false” judgment. But the former claim is not of that type. It is not possible to say, “the belief in limited government is false and its opposite, the belief in a welfare state, is true.” To be sure, some

⁶¹ Ian Hacking, *Making up People*, in *Historical Ontology* 99–114, 113 (Harvard 2002).

⁶² Michael J. Graetz and Ian Shapiro, *Death by a Thousand Cuts: The Fight over Taxing Inherited Wealth* 118 (Princeton 2005).

people might disagree and argue that the welfare state actually does, truly, promote the interests of the ordinary American better; but here, I would have to disagree.⁶³

Faith in big government is just as manufactured as faith in limited government. In this regard, Lukes generously points to the argument in *The Illusion of Free Markets*.⁶⁴ There, I argue precisely that the idea of small versus large government is itself an illusion. There is regulation in both “deregulated” and “hyper-regulated” contexts; the government, in effect, is always present. It may be more visible when it nationalizes Bank of America or Citibank, as it did in 2008; but it was equally present and regulating before that as well—and after. We tend to think of the Chicago Board of Trade as a quasi-private self-regulatory institution, but as I show in *The Illusion of Free Markets*, it is regulated through-and-through and owes its very existence to pervasive state intervention in, among other things, forcibly closing competing bucket-shops and regulating everything from corners to modified-closing calls.⁶⁵ We delude ourselves when we characterize different economic forms of organization as “more” or “less” regulated, “more” or “less” free. The notion of freedom is orthogonal to the organization of economic exchange and markets.

In this sense, the idea of limited government in the economic sphere—as opposed to the political sphere—is no more than a story we tell ourselves. It could possibly even be characterized, loosely, as “false,” but *not* because the opposite is “true.” Rather, both the category of “limited” and that of “overregulated” states are tropes that have had significant consequences for American politics and punitive policies. The key questions to ask are how such ideas are born, how they become natural, how they come to be seen as true, and with what consequences.⁶⁶ In the process, it starts to become clear how someone who believes in the ideal of limited government might also be predisposed to believe that the estate tax affects more Americans. In other words, we begin to

⁶³ I should note here that I am not entirely sure from his essay whether Lukes would agree or disagree with me on this specific point. His generous discussion of *The Illusion of Free Markets* does not resolve whether he believes that (a) the belief in limited government is an illusion and that the welfare state promotes people’s real interests, or (b) all economic spaces are essentially regulated and that it makes no sense to even speak of a welfare state. Lukes’s reference to a “truth to be attained” militates in favor of the first reading (a), but the discussion of the illusion of deregulation would tend to support the second reading (b).

⁶⁴ Bernard E. Harcourt, *The Illusion of Free Markets: Punishment and the Myth of Natural Order* (Harvard 2011).

⁶⁵ Id.

⁶⁶ Id at 49–50.

see how even factual errors can be a product of certain belief systems—or how facts can be selectively interpreted.⁶⁷ The power of truth, I take it, is that it can lead individuals to interpret known facts—and guess at unknown facts—in systematically distorted ways. Falsely-held facts may at times be less a proof of false consciousness, than the product of a set of beliefs.

VI.

The shift in emphasis away from “falsity” is productive for critical theory for other reasons as well. In particular, it facilitates implicating the subject—implicating *ourselves*—in the production of truth. I should emphasize, of course, that all three strands of radical thought focus attention on the subject and the question of subjectivity—on the way in which individuals implicate themselves in their own subjection and at times defeat their own self-interests, whether by embracing a particular set of ideological beliefs, by experiencing a form of *ressentiment* that turns against the nobler instincts, or by repressing drives and desires. In his essay as well, Steven Lukes underscores the subjective dimension at several points, observing for instance that “we can be fully engaged in bamboozling ourselves.”⁶⁸ Nevertheless, this subjective dimension is an element of critique that more comfortably blossoms when we move away from accusations of “falsity.”

Foucault’s explorations of subjectivity—a theme which traversed his entire corpus of writings and lectures—is an excellent place to begin.⁶⁹ In a series of lectures delivered at Louvain-la-Neuve in Belgium in 1981, titled *Mal faire, dire vrai: Fonction de l’aveu en justice* [“Wrong-doing, Truth-telling: The Function of Avowal in Justice”], Foucault focused our attention on how the subject, through the avowal, participates in his own *subjectivation* and governance.⁷⁰ As my colleague and coeditor, Fabienne

⁶⁷ In this regard, Dan Kahan and his colleagues in the Cultural Cognition Project at Yale University are conducting interesting ongoing research. See, for example, Dan M. Kahan, et al, *Who Fears the HPV Vaccine, Who Doesn’t, and Why? An Experimental Study of the Mechanisms of Cultural Cognition*, 34 *Law and Human Behavior* 501, 501–16 (2010).

⁶⁸ Lukes, 2011 U Chi Legal F at 22 (cited in note 2); see also id at 24 (“[T]he third answer allows that they, in turn, can be subject to the power of others and of themselves.”).

⁶⁹ Foucault’s emphasis on the subject and subjectivity is evident from his earliest work, as is clear from a reading of his supplemental doctoral project, his *Introduction to Kant’s Anthropology* (MIT 2008).

⁷⁰ See generally Michel Foucault, *Mal faire, dire vrai: Fonction de l’aveu en justice*

Brion, and I articulate in our preface to his Louvain lectures, Foucault developed there the third piece to his critical apparatus: beyond power and knowledge, he focused our attention on the subject—something which, he maintained, was essential to properly engage in critique. Several years later, in *Le Courage de la vérité*, Foucault would make the point even more clearly, emphasizing that it is a “pure and simple caricature” to present the knowledge/power critique (or what has been referred to earlier as “the regimes of truth critique”) through an account “in which the subject does not have a role.”⁷¹

In our preface to *Mal faire, dire vrai*, Brion and I underscore the importance of the subject’s implication in his own *subjectivation* through Foucault’s discussion of the Homeric chapter on Antilochus and Menelaus, the famous episode of the chariot race. Through the Homeric episode, a certain social hierarchy—one in which gods take precedence over humans, and senior heroic figures over the younger—is reproduced through Antilochus’s own act of deferring to Menelaus, whom he admits is older and wiser than he. What Foucault emphasizes in the episode is that the order of truth, the specific social hierarchy, is not simply imposed on Antilochus by means of a traditional conception of power—namely, by someone “more” powerful imposing a regime of truth on another who would be “subject” to that power. Nor is it merely maintained or produced through knowledge; it is no mere product of a *savoir*. Rather, Antilochus implicates himself in the production of the social order through a quasi-avowal that functions to establish that very social order in a new way—one, in fact, that may extend even greater legitimacy to the social order. For had Menelaus imposed his victory over Antilochus by means of a jury composed of more senior heroic figures, the victory itself would not have been received in the same way. By offering Antilochus the opportunity to take an oath, Menelaus allows Antilochus to blame his own youth and exuberance and, in effect, to embrace and restore an order of truth that governs him and subjects him in relation to Menelaus.

In the same way, contemporary subjects are deeply implicated in the orders of truth in which they are inscribed and inscribe themselves. *The Illusion of Free Markets* offers a helpful illus-

(Presses Universitaires de Louvain (French), University of Chicago (English) forthcoming 2011) (Fabienne Brion and Bernard Harcourt, eds).

⁷¹ Michel Foucault, *Le Courage de la vérité: Cours au Collège de France, 1984* 10 (Seuil/Gallimard 2009) (“[L]a présentation de pareilles recherches . . . dans des structures où le sujet n’a pas de place, ne peut être qu’une pure et simple caricature.”).

tration again. One potential criticism of the thesis of the book—especially in Europe where a more robust acceptance of the welfare state still (precariously) survives—is that the real culprits responsible for mass incarceration are neoconservative law-and-order policies involving “three-strikes,” mandatory minimums, preventative detention, harsh sentencing guidelines, and the War on Drugs. Why then focus on neoliberalism?

The answer turns on the question of subjectivity. It is far too easy to point fingers at neoconservative policies and thereby absolve everyone else. The critical intervention in *The Illusion of Free Markets* is to explore precisely how it is that we allowed hyperincarceration to happen. One important aspect, I contend, is the widely shared belief—shared, that is, by a vast majority of the American people⁷²—in the incompetence of government in economic regulation, coupled with the belief in the legitimacy of government when it comes to policing and punishing. This mindset has facilitated the growth of the penal sphere.

The idea of natural order in economics emerged in the eighteenth century hand-in-hand with an ideal of punishment despotism, or in other words with the idea that the quasi-exclusive competence of the state was in the area of security.⁷³ It is this paradoxical juxtaposition that has facilitated the growth of the penal sphere—not just during the period of neoliberalism during the past forty years, but also at the beginning of the nineteenth century with the birth of the penitentiary. Periods of strong belief in free market ideals have gone together with the birth and expansion of the carceral domain.⁷⁴ It is important not to lose sight of our own implication in these outcomes—and to do so may require a lighter touch on the accusation of “falsity.”

VII.

This brings us back to Steven Lukes’s essay—more specifically, to the issue of whether one strand of radical thought could possibly present an obstacle to another. If, as I have argued, the family resemblances are indeed such that the different radical strands build on each other on the first go-round, could it be that, in later iterations, Lukes’s conviction that we can “attain a truth” that is “not itself imposed by power” might hinder further critical

⁷² The polling data support this empirical claim. See Harcourt, *The Illusion of Free Markets* at 11–12 (cited in note 64).

⁷³ Id at 92–102.

⁷⁴ Id at 208–20.

interventions? Could it possibly be that Lukes's emphasis on hard notions of truth and falsity presents an obstacle to critical theory the next time that we need it?

I suspect that the answer is yes. As I have explored elsewhere, it often happens that useful categories—perhaps I could even say useful and *truthful* categories, categories that serve to reveal illusions at one point in time—get in the way of addressing new problems at later points. The notion of *discipline*, for instance, may have been extremely useful at a certain historical moment to question the progress narrative of punishment and to destabilize a certain modern self-righteous complacency; but once that task has been accomplished, the idea itself may become a hindrance to further critical interventions in the larger effort to destabilize punishment *per se*.⁷⁵ In a similar vein, the category of *repression*—or, for that matter, of *the repressive hypothesis*—may serve a useful purpose in one historical context, but later may begin to mask troubling forms of governance. The notion of “beheading the king” may be a productive political intervention in the study of power at one time, but may stymie critical thought at a later date.

To return one final time to *The Illusion of Free Markets*: in his lectures in 1978 at the Collège de France on *Sécurité, territoire, population*, Foucault used the Parisian policing of grain markets as a leading illustration of the concept of *discipline* in order to help identify another form of governance—what he called *sécurité*—and to destabilize the notion of liberty at the heart of liberalism.⁷⁶ Foucault went so far, in fact, as to create the neologism of the “*police disciplinaire des grains*”—inscribing discipline into the practices of the period.⁷⁷ What I suggest in the book is that, at a later time, that useful category of *discipline* can turn into a hindrance that solidifies the differences between

⁷⁵ See Bernard E. Harcourt, *Supposons que la discipline et la sécurité n'existent pas – Rereading Foucault's Collège de France Lectures (with Paul Veyne) in Carceral Notebooks – Vol 4* (2008) (Harcourt, ed) (where I argue that the categories of *discipline* and *sécurité* may shield us from having to ask harder questions about the need for punishment); Harcourt, *The Illusion of Free Markets* at 47–48 (cited in note 64) (where I suggest that the category of *discipline* may reify, rather than undermine, the notion of free markets).

⁷⁶ In *Sécurité, territoire, population*, Foucault uses the *police des grains* as an example of disciplinary mechanisms in contrast to the security approach of the Physiocrats. *Sécurité, territoire, population: Cours au Collège de France 1977–1978*, 46–47 (Seuil/Gallimard 2004). Foucault refers to these forms of policing as being “in the world of discipline.” Id at 348. See also id at 351, 354–55, 361. Foucault offers the same reading in his recap of those lectures at the beginning of his next annual lectures, *Naissance de la biopolitique* at 9 (cited in note 20).

⁷⁷ Foucault, *Sécurité, territoire, population* at 46 (cited in note 76).

“free” markets and “overly-regulated” markets in the current American neoliberal context, in such a way as to mask an illusion—that there could even be such a thing as an unregulated space. It also hides the fact that much of the policing of grain markets in eighteenth-century Paris was trivial, to say the least.⁷⁸ In effect, it reifies the discipline of the “over-regulated” space.

In this sense, it is equally important to *resist truth*. A genuinely nominalist approach demands the recurrent abandonment of the very categories that identify illusions and emancipate at earlier times. By this, I certainly do not mean to embrace a kind of relativism that I sense, from the essay, troubles Steven Lukes most. Rather, I mean to suggest that the critical path does not rest on *truer* knowledge—a deeper *kind* of truth to attain—but on constantly destabilizing what we come to believe. Knowledge, I would suggest with Foucault, is “murderous.”⁷⁹ It is only when we know who the accused really is, that we can sentence him to death. It is only when we know how to rehabilitate, that we institutionalize people *en masse* in asylums and mental hospitals. It is only when we know that incapacitation works, that we systematize mass incarceration. In the field of crime and punishment, the moments of punitive excess are inextricably linked with moments of certitude. The critical task ahead is not simply to reveal “falsity” or even illusions in order to establish the “truth,” but to constantly challenge the crystallization and solidification of our own truth telling.

VIII.

Steven Lukes traces the notion of false consciousness to Étienne de la Boétie’s tract, *De la servitude volontaire*.⁸⁰ As Fabienne Brion and I underscore in our preface to Foucault’s Louvain lectures, it is important to recall that Foucault himself de-

⁷⁸ Harcourt, *The Illusion of Free Markets* at 153–171 (cited in note 64).

⁷⁹ Foucault made this precise point in his essay in 1971 titled *Nietzsche, la généalogie, l’histoire*, where he wrote:

L’analyse historique de ce grand vouloir-savoir qui parcourt l’humanité fait donc apparaître à la fois qu’il n’y a pas de connaissance qui ne repose sur l’injustice (qu’il n’y a donc pas, dans la connaissance même, un droit à la vérité ou un fondement du vrai) et que l’instinct de connaissance est mauvais (qu’il y a en lui quelque chose de meurtrier, et qu’il ne peut, qu’il ne veut rien pour le bonheur des hommes).

Dits et écrits, vol 2 #84 at 155 (vol 1 at 1023 in 2001 ed) (cited in note 7).

⁸⁰ Étienne de la Boétie, *De la servitude volontaire* 33 et seq (Droz 1987).

fined the critical impulse by inverting the very title of de la Boétie's short book. What Foucault called for was "inservitude volontaire"—in English, "voluntary inservitude" (using the negative or privative force of the Latin prefix *in*) or "voluntary unsertitude" (using the negative force of the Old English prefix *un*).⁸¹ By this, Foucault had in mind the idea of resistance to being governed—or, more precisely, to being governed *in this or that way*.⁸²

I would go further and call for resistance, not simply to this or that way of being governed, but *resistance to truth*. Not in the sense, again, that truth is merely socially constructed—not the sense in which Lukes criticizes the "regimes of truth" critique. But, rather, in the sense that all of our own useful categories—*truthful* categories that help pierce illusions—themselves need to be constantly re-examined, questioned, and ultimately abandoned. New categories of thought that expose misleading forms of rationalization, that unveil entrenched and debilitating categories of thought, are only useful at a moment in time, and become a hindrance when they too become crystallized or entrenched.

The task, as I see it, is to unmask and enlighten, but then to shed the tools we have used, before those very beliefs become oppressive themselves. As a historical matter, I suspect, our twentieth-century experience with certain forms of communism confirms this instinct.⁸³ At a theoretical level, I believe, resisting truth is intimately related to the crucial nominalist dimension of critical theory.⁸⁴ In the end, knowledge may indeed allow us to master relations of power; but mastery itself may be a dangerous thing.

⁸¹ Foucault, *Qu'est-ce que la critique?* at 39 (cited in note 8).

⁸² *Id.* at 38.

⁸³ This is the central problem with calling the emancipatory impulse that has animated political revolutions since the French Revolution the "communist hypothesis," as Alain Badiou does in *L'hypothèse communiste* (Nouvelles Éditions Lignes 2009).

⁸⁴ See Harcourt, *The Illusion of Free Markets* at 44–45 (cited in note 64).

