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ENJOYING LAW: PSYCHOANALYSIS AND SOVEREIGN BODIES

Michel Foucault's influential historicization of psychoanalysis charges that the latter is a technology of biopolitics: that 'talking about sex' became not only possible but imperative at a certain moment in history, when traditional relationships of political sovereignty, including above all else the power of taking life (*faire mourir*), were revolutionized by the project of making life (*faire vivre*).¹ After the transition from monarchic sovereignty to popular sovereignty (arguably the Glorious Revolution, but more often the French Revolution), the body politic is commissioned to head itself. Where liberal republicanism celebrates this new post of the people, Foucault anatomizes the way the ascension of "the people" as the subject of power unfortunately also entails that the mass or "population" becomes the object of power *par excellence*. In the epoch of knowledge-power, this objectification takes the shape of the bureaucrat-scientific "administration of bodies and calculated management of life" of which psychoanalysis is the regional manager, the storied lieutenant "of a general deployment of sexuality."²

One ambitious goal of Eric Santner's beautifully composed and brilliantly observed *The Royal Remains: The People's Two Bodies and the Endgames of Sovereignty* is counter-intuitively "putting Freud and Foucault on the same team" (xiii), brokering a rapprochement between psychoanalysis and the biopolitical

¹ The chiasmus "faire mourir ou laisser vivre...faire vivre ou laisser mourir" is Foucault's as he defines the transition from "sovereignty" to "the power of regularization." *Il faut défendre la Société* 17 March 1976, page 214 / *Society Must Be Defended* page 247. In the chapter "Right of Death and Power over Life" of *The History of Sexuality* Volume 1, Foucault levies his charge that psychoanalysis is part "of a general deployment of sexuality," that "the genius of Freud had placed it (sex) at one of the critical points marked out for it since the eighteenth century by the strategies of knowledge and power, how wonderfully effective he was - worthy of the greatest spiritual fathers and directors of the classical period - in giving a new impetus to the secular injunction to study sex and transform it into discourse...the irony of this deployment is in having us believe that our "liberation" is in the balance." (New York: Vintage, 1990), 159.

² *History of Sexuality*, 140, 159.

paradigm (Foucault, Giorgio Agamben, Roberto Esposito) by, as it were, enfleshing the concept of “life” at the heart of this account of the political. Foucault’s formulation that “the body of the king, with its strange material and physical presence...is at the opposite extreme of the new physics of power” provides Santner with an opening to investigate a historically specific magnetic strangeness that issues from the jointure of physical bodies and the symbolic order.³ Psychoanalysis is marvelously—both masterfully and surprisingly—advanced here as a “science of the flesh” (63) uniquely attuned to “the fundamental mutation in the physiology of the body politic” (158) in post-revolutionary modernity. Although the book engages more extensively with Agamben than with Foucault, Santner’s Foucauldian commitment to this periodization of biopolitics countermands Agamben’s assertion that biopolitics, rather than a specifically modern technique of power, constitutes the transcendental structure of the political as such. Reprising the emergence of “biopolitical pressures” in sovereign “transition” after the French Revolution, Santner argues that the vesting of the people with sovereignty is something akin to a trauma, an inassimilable enigma repeatedly reactivated in disturbances of the flesh and borne out in the anxious tenor of modernist aesthetics (xi).

Anxiety, the affect around which Santner’s discussion implicitly revolves, always pertains, Lacan maintains, to the specter of bodily fragmentation produced by the contrastive encounter with a whole image (as in the mirror stage).⁴ We can see in what sense this immediately attends sovereignty of both types: the localization of law-forming, law-executing power in the image of the king is undermined by the mortal body of the king (cf Kantorowicz’s *The King’s Two Bodies*); the displacement of sovereignty to the body popular intensifies this threat of fragmentation by incarnating political agency in the contested, indistinct shape of “the people.” The perpetual threat of bodily fragmentation, the irrefutable fact that sovereignty “can never absolve itself of its own groundlessness” (xxi), correlates anxiety in general, and the anxieties of sovereignty in particular, to the paradoxes of the real, the primordial disunity, “the essential object which isn’t an object any longer, but this something faced with which all words and categories fail, the object of anxiety *par excellence*.”⁵ We can also see in what sense this threat of fragmentation immediately attends the process of psychoanalysis, a space and discourse designed to dispel ego and host encounters with the *objet petit a*, the remainder of the real that is the cause of desire.⁶ The parallel drawn between the real of the subject (her mass of libido) and the real of the political (“the impossible,” that which is un-integratable vis-à-vis law) forms the basis of psychoanalytic political theory (what Freud called

³ *Discipline and Punish*. (New York: Vintage, 1995), 208.

⁴ “The Mirror Stage as Formative of the I Function as Revealed in Psychoanalytic Experience” Jacques Lacan, *Ecrits* (trans. Bruce Fink), 75-82.

⁵ *The Seminar of Jacques Lacan, Book II: The Ego in Freud’s Theory, and in the Technique of Psychoanalysis, 1954-1955*. (ed. Jacques Alain Miller) (New York: Norton, 1988), 164.

⁶ The *objet petit a* is the irreducible mass of libido that provokes anxiety. *Le Seminaire X: L’angoisse, 1962-1963*. 16 Jan 1963.

“mass psychology”).⁷ There are perhaps two fundamental concepts of such a theory: an understanding of “the political” as neither sphere nor substance, but as a site or stuff of antagonism or void; and an insight that every social formation, in installing provisional bonds across this void, is sutured by libido.⁸

In inviting readers to reconceive biopolitics as a symptom of the paradoxes of popular sovereignty, rather than a sovereign drive in itself, Santner adumbrates a broader, more intricate account of socio-political relations than often offered by biopolitical theory. This breadth comes by way of the question of excess, which is always at issue at when “putting Freud and Foucault on the same team.” Rather than locating excess in positively existing social relations, as in the case of a self-supporting, voracious biopower consuming life from ancient Greco-Roman jurisprudence through The Camp, psychoanalytic political theory has traditionally insisted on the excess radically exterior to any given formation, the non-historicizable surplus that is irreducible to power, and on account of which the regime takes hold.⁹ Foucauldian historicism, Joan Copjec forcefully argues, “disallow(s) any reference to a principle or subject that ‘transcends’ the regime of power,” amounting to a “reduction of social space to the relations that fill it.”¹⁰ We might say, in a Lacanian idiom, and following Mladen Dolar, that Foucauldian power is putatively independent of the symbolic (the law, the master signifier) and the imaginary (consciousness, recognition) and is rather a self-sufficient real which pervades political space, whereas Lacan, maintaining the interdependence of symbolic, imaginary, and real, conceives the real as impossible, as pure negativity that cannot appear within political space.¹¹ In staging a confrontation between psychoanalysis and historicism, Copjec, Dolar, and others zero in on this problem of transcendence, the gap between the social and the political, the impossible real that Freud’s theory of sovereignty figured as the preposterous obscenity of the primal father.¹² While this political limit that

⁷ *Massenpsychologie und Ich Analyse* was Freud’s German title for *Group Psychology and the Analysis of the Ego*, The Standard Edition of the Works of Sigmund Freud, Volume XVIII, 1920-1922. For the real qua “the impossible” see *The Seminar of Jacques Lacan, Book XI: The Four Fundamental Concepts of Psychoanalysis, 1963-1964*. (ed. Jacques Alain Miller) (New York: Norton, 1998), 167.

⁸ For an elegant induction of the antagonism concept of the political from Freud’s thought, see Mladen Dolar, “Freud and The Political,” *Theory and Event*, Volume 12, Issue 3, 2009, 15-29. *Massenpsychologie* formulates this necessity of libidinal support; Slavoj Žižek regularly invokes this sustaining function. See for example *For They Know Not What They Do: Enjoyment as a Political Factor*. (London: Verso, 2002)

⁹ For this paradigmatic universalization of biopower, see Giorgio Agamben’s *Homo Sacer: Sovereign Power and Bare Life*. (Stanford: Stanford University Press, 1998)

¹⁰ Joan Copjec, *Read My Desire: Lacan Against the Historicists*. (Cambridge: MIT Press, 1996), 7.

¹¹ For Dolar’s thorough discussion of these issues, see “Where Does Power Come From?” *New Formations*, Volume 35, 1998: 79-92.

¹² For an elaboration of this idea of the political as the ontological substrate against which every particular social takes shape, see Yannis Stavrakakis, *Lacan and the Political*, (London and New York: Routledge, 1999). Freud’s account of the primal father is advanced in *Totem and Taboo, The Standard Edition of the Works of Sigmund Freud, Volume XIII, 1913-1914*. Lacan’s remark that “no one has ever seen the least

contours politics thus means that any given regime is “groundless,” it also means that ungroundedness is a *necessary* condition, which in its brute facticity opens an occasion for freedom as much as it entrenches domination.

Departing from this tradition, Santner’s less partisan teamwork presents itself as a slight modification of biopolitical theory, a friendly supplement of the paradigm of immanence with a stealth transcendence he calls “a too much of immanence” (28) or “surplus of immanence” (141, 243, *passim*). Through this rapprochement, Santner proposes a historicization of the psychoanalytic subject that modifies Foucault’s historicization of psychoanalysis: the psychoanalytic subject is the subject of biopower; therefore psychoanalysis can complement biopolitical theory’s objective analysis with a subjective one. These supplements compensate for the biopolitical paradigm’s tendency to “neglect the conceptual tools” of psychoanalysis (31). It is characteristic of Santner’s generosity as a thinker that such a description stands as the book’s strongest formulation of the divergence (or antagonism) between psychoanalysis and biopolitical theory. While admirable, such attenuation of the differences here leaves readers with interests in or allegiances to the tradition of psychoanalytic political theory hungry for more elaboration of the aetiology of that neglect, which is principled rather than careless, and for exploration of the benefits—conceptual, political, and psychic—of reserving the real as excess, and as seat of enjoyment.

In its focus on the miseries of anxiety, enjoyment seems rather oddly to have fallen out of the tale told by *The Royal Remains*. After all, Freud’s repeated exploration of law as endowing enjoyment suggests the possibility, however slim, that the sovereignty of the people, far from depriving law of its guarantee and therefore debilitating enjoyment, might occasion a new mode of relation to the contingencies of desire and the vicissitudes of the drive.¹³ Is the epochal transition to popular sovereignty not only an occasion for anxiety, but also an occasion for the exuberant experimentation with what transindividual or collective power? Or, to put it another way, is there no freedom in anxiety? Surely, anxiety is deep torment (Santner’s subjects—Daniel Paul Schreber,

trace of the father of the human horde” indicates this non-historicizability of the origin of law. *Le Semaire Livre XVII, L’Envers de la Psychanalyse, 1969-1970*, 130. Copjec’s illuminations are instructive here also. “What strikes us as most remarkable about Freud’s analysis is that it does not limit itself to a description of these relations, does not attempt to make this “regime of brothers” coincide simply with the elations that exist among them. Instead Freud insists on going beyond these relations to posit the existence of some preposterous being, a primal father who once possessed all the power the brothers now equally share and whose murder is supposed to have issued in the present regime...to call it crackpot is to miss the point that if this father of the primal horde is indeed preposterous, then he is objectively so. That is to say, he is unbelievable within the regime in which his existence must be unthinkable if relations of equality are to take hold” (12).

¹³ For a dynamic companion to Santner’s book, exploring a transition from prohibition against enjoyment to injunction to enjoy that renders enjoyment all the more elusive, see Todd McGowan, *The End of Dissatisfaction? Jacques Lacan and the Emerging Society of Enjoyment*. (SUNY Press, 2003).

Hamlet, Malte Laurids Brigge—are none too happy), but it is less a barrier to enjoyment than a portal, and is for this reason a privileged stage within the psychoanalytic process: bodily fragmentation might synonymize “subjective destitution,” the analytic cure.¹⁴ Similarly, the assumption, or subjectivation, of the fragmented body, of the inoperative community, comprises the promise of the sovereignty of the people, which must subjectivize the void of its being, the insuperable fact that it is, in the Lacanian formulation, “not all.”¹⁵ A sovereign people is a fragmented body. Articulating joints and filling out curves is an intractable challenge, but liberating for all that—prompting provisional responses and makeshifts that just may result in surprisingly strong movement.

At the conclusion of Santner’s evocative notes on the ways of the flesh, Melville’s *Bartleby* makes a dashing cameo, hinting at the possibility of “enjoying the *dignitas* of being human” (247). The author declines to elaborate on this possibility, bowing out with the Melvillean prerogative “I prefer not to” (252). Even if this leaves the reader wishing for a concerted discussion of the libidinal economy of collective sovereignty, *The Royal Remains* leads us to richly consider the anxieties of the people, and the aesthetics of that anxiety, in nuanced ways that convincingly demonstrate the indispensability of psychoanalysis to thinking biopolitical modernity.

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¹⁴ On this relation of anxiety to enjoyment, see Lacan, *Le Séminaire Livre X*.

¹⁵ Lacan’s most direct discussion of the “not all” (*pas tout*) comes in *Le Séminaire Livre XX, Encore 1972-1973*, where he presents the formulae of sexualization, which must be understood as schematizations of logical categories pertaining to universality, exception, and negation (rather than as genders).