# Foucault Studies

ARTICLE

## The Augustan Principate and the Emergence of Biopolitics: A Comparative Historical Perspective

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**ABSTRACT:** This paper uses Foucault's concepts "discipline" and "biopower" to expose the complexity of power relations in Augustan Rome and its historiography. Focusing on Augustus' *Res Gestae* and Tacitus' *Annales*, I argue that the absolute sovereignty of the emperor did not preclude the advancement of techniques to classify, hierarchize and normalize individuals, nor did Imperial sovereignty work against the development of a discourse about the enhancement and protection of the population. By demonstrating the conceptual and historical relevancy of Foucault's modern power triad of "sovereignty-discipline-government" to first century CE Rome, the paper suggests that biopolitical societies have a far more extensive history than the one said to have started around the turn of the eighteenth century.

**Keywords:** Sovereignty, Augustus, Tacitus, Agamben, *Auctoritas*, Biopolitics, Security.

## Introduction

> The discourse of discipline is alien to that of the law; it is alien to the discourse that makes rules
> a product of the will of the sovereign. The discourse of disciplines is about a rule: not a juridical
> rule derived from sovereignty, but a discourse about a natural rule, or in other words a norm.[1]

Foucault's genealogy of the transformation from sovereignty to government produces something of a puzzle for scholars of Roman history. If we follow Foucault, pre-modern forms of power and the writings of such are limited to a discourse of law and legitimacy in which power moves downward from a single center, "dealing simply with legal subjects over whom the ultimate do-

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[1] Michel Foucault, *Society Must Be Defended: Lectures at the Collège de France 1975-1976,* edited by Mauro Bertani and Alessandro Fontana, translated by David Macey (New York: Picador, 2003), 38.

minion was death."[2] In distinction to sovereignty—according to Foucault's notably broad usage of the term—and law, "whose arm *par excellence* is death,"[3] the softer, positive and productive forms of domination that emerged in modernity (discipline, biopower, government) are deeply complex: they are capable of the "production of truth,"[4] "the manufacture of subjects,"[5] the "subjugation of bodies and control of populations,"[6] and the "distribution of the living in the domain of value and utility."[7] Modern biopower, emerging from the middle of the eighteenth century onwards, is not the type of power that reduces life but, on the contrary, works to "improve" and "invest" in life.[8]

In what appears to be a correction of his earlier position on the place of sovereignty in political philosophy (his notorious call for a "cutting off of the King's head"[9]), in his final lectures on governmentality Foucault recalled law and put sovereignty back into his analysis of the modern power nexus: "We need to see things not in terms of the replacement of a society of sovereignty by a disciplinary society and the subsequent replacement of a disciplinary society by a society of government; in reality one has a triangle, sovereignty-discipline-government, which has as its primary target the population and as its essential mechanism the apparatuses of security."[10] Thus, what changed after the eighteenth century was not the replacement of the "legal age" by the "dis-

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[2] Michel Foucault, *The History of Sexuality*, *Volume 1: An Introduction*, translated by Robert Hurley (New York: Pantheon Books, 1978), 143.

[3] Ibid., 144.

[4] Michel Foucault, "Truth and Power" in C. Gordon (ed.) *Power/Knowledge: Selected Interviews and Other Writings by Michel Foucault, 1972-1977*, (London: Pantheon, 1980), 109-133; cf. Michel Foucault, *Discipline and Punish: The Birth of the Prison*, translated by Alan Sheridan (London: Vintage Books, 1995), 194 and Michel Foucault, *Society Must be Defended*, 24.

[5] Foucault, *Society Must be Defended,* 46.

[6] Foucault, *The History of Sexuality 1,* 139-140.

[7] Ibid., 144.

[8] Ibid., 139-140.

[9] On his famous regicide of political philosophy see *The History of Sexuality 1,* 139-140 and *Society Must be Defended,* 34 on the "model of the Leviathan." On the debate surrounding Foucault's position on sovereignty and law (the "expulsion thesis") see Tom Frost, "Agamben's Sovereign Legalization of Foucault" in *Oxford Journal of Legal Studies,* 30.3 (2010), 545-577, here 549-552, and Andrew Dilts, "Law" in *The Cambridge Foucault Lexicon*, edited by Leonard Lawlor and John Nale (Cambridge: Cambridge University Press, 2014), 243-250. On law in Foucault, see especially Victor Tadros, "Between Government and Discipline: The Law and Michel Foucault" in *Oxford Journal of Legal Studies*, 18.1 (1998), 75-103 (https://doi.org/10.1093/ojls/18.1.75) and Ben Golder and Peter Fitzpatrick, *Foucault's Law* (New York: Routledge, 2009). On Foucault's return to sovereignty in his Collège de France lectures see Verena Erlenbusch, "The Place of Sovereignty: Mapping Power with Agamben, Butler and Foucault" in *Critical Horizons,* 14, (2013), 44-69 (https://doi.org/10.1179/15685160X13A.0000000003).

[10] Michel Foucault, *Security, Territory, Population: Lectures at the Collège de France 1977-1978*, edited by Arnold I. Davidson, translated by Graham Burchell (New York: Palgrave McMillan, 2007), 107.

ciplinary age," but a shift in "the system of correlation between juridico-legal mechanisms, disciplinary mechanisms, and mechanisms of security."[11]

Foucault's triangular conception of modern power, as well as his outlining of an analytics centered on shifts in the systems of correlation between sovereignty, discipline and government, provides a fruitful model for the analysis of power in Augustan Rome, allowing a conception of Augustan government both within and beyond perspectives centered on constitutionalism, violence, ideology or consensus – themes which are prevalent in Augustan historiography.[12] The historiography of Augustan Rome offers fertile territory for exploring the increasing correlation between sovereignty, discipline and government. While "the sword" remained the ultimate and distinct weapon of the *princeps*,[13] there is a case to be made for more complex modalities of domination (such as the operation of the norm, the disciplining and "docilification" of bodies through systems of surveillance and utility, the regulation of the population in terms of its longevity and the management of the conditions in which one can be free). Paradoxically, then, the more intense localization of sovereignty—through the evolution of the political system from an oligarchy to monarchy—was not antagonistic to the diversification of forms of domination. In this perspective, Foucault's matrix of sovereignty-discipline-government appears not modern at all, but provides a viable, trans-historical framework for the analysis of Roman Imperial sovereignty. Furthermore, the Augustan analysis demonstrates quite clearly that sovereignty, discipline and government were not alternate or contradictory modes of doing politics, but were mutually reinforcing manifestations of social and political power to the extent that the intensification of modes of domination that we see in the Augustan period required the enhanced operation of each of these modes.

In this paper I deploy Foucault's triangle in a consideration of Augustan society and politics. I start by outlining techniques of Roman normalization under the Republic in order to show that violence was not the only means by which social order and societal conduct was regulated.[14]

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[11] Ibid., 8.

[12] See e.g. Egon Flaig, "The Transition from Republic to Principate: Loss of Legitimacy, Revolution and Acceptance" in J.P. Arnason and K.A. Raaflaub (eds.) *The Roman Empire in Context: Historical and Comparative Perspectives* (Malden MA: Wiley-Blackwell, 2011), 67-84 (https://doi.org/10.1002/9781444390186.ch3); Clifford Ando, *Imperial Ideology and Provincial Loyalty in the Roman Empire* (Berkeley: University of California Press, 2000); Alain Gowing, *Empire and Memory: The Representation of the Roman Republic in Imperial Culture,* (Cambridge: Cambridge University Press, 2005) (https://doi.org/10.1017/CBO9780511610592); Andrew Wallace-Hadrill, *Rome's Cultural Revolution* (Cambridge: Cambridge University Press, 2008); Alexander Lobur, *Consensus, Concordia, and the Formation of Roman Imperial Ideology,* (London: Routledge, 2008). See also Giorgio Agamben, *State of Exception,* (Chicago: University of Chicago Press, 2005), 80-88 (https://doi.org/10.1215/9780822386735-013).

[13] Cf. Tacitus (*Histories*, 3.68) on Vitellius' *pugio* (sword), the symbol of his "right of life and death over citizens" (*ius necis vitaeque civium*).

[14] I should note from the beginning that my focus on discipline/biopower is not an attempt to undermine the role of violence–a fundamentally endemic and *foundational* feature of the late Republic and early Imperial period–but to show that there existed other techniques designed to nudge or shape individual conduct towards the ends of the state. On the endemic nature of violence in the Republican period, see Andrew Lintott, *Violence in Republican*

Looking at the *mos maiorum* (a moral code centered on ancestral customs) and its extensive pene-tration of Republican politics, law and rhetoric, I show that Foucault's conception of the "dis-course of discipline" was already at work in Republican society. Furthermore, I argue that the discourse of discipline was not "alien" to the discourse of law, but capable of integration with law. I then turn to Augustan Rome, and with reference to Augustus' *Res Gestae* I argue that Au-gustus bound himself to existing discourses of law and morality; at once positioning himself in ideological continuity with the past, and elevating his status by *embodying* the political, legal and moral order of Rome. In the second section, I turn to the writing of Imperial sovereignty in later historiography (focusing on the Roman historian Tacitus) in order to expose the integration of sovereignty and biopolitics. With reference to Agamben's and Foucault's distinct conceptions of biopolitics, I argue that biopolitics was not heterogeneous to sovereignty (*pace* Foucault), nor a form of "thanatopolitics" (*pace* Agamben), but a supplementary weapon to violence used by the sovereign for the purposes of social security and the provision of social goods. In the final section, I trace the interplay between freedom and security definitive of what Foucault calls "Liberalism"[15] through a Roman Imperial re-definition of *libertas* (freedom) as *securitas* (security) and *obsequium* (compliance).

By using Augustan Rome as a case study for exposing a historical parallel in which the Foucauldian notion of biopower would seem applicable, the paper aims to show that biopolitical societies have a far more extensive history than the one said to have started around the turn of the eighteenth century. This parallelism is far from exact and its institutional representation was very different (the Augustan period, like the modern, being in many ways particular in the operation of power and sovereignty). Nevertheless, the absolute sovereignty of the emperor did not pre-clude the advancement of techniques to classify, hierarchize and normalize individuals, nor did sovereignty work against the development of a discourse about the enhancement and protection of the population. Such similarities between the principles upon which ancient and modern pow-er were exercised undermine any claim for exceptionalism in the modern conjunction that Fou-cault label's biopower, while the Roman writing of biopower offers a critical perspective on both the Foucauldian formulation of biopower in the modern world and the operation of power in an-tiquity.

## Republican regimes and Augustan regimes

> The King's head may not be as firmly on his shoulders as Foucault believes.[16]

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*Rome,* Second edition, (Oxford: Oxford University Press, 1999) in whose analysis the very ethos of Roman society is exposed as supporting violence.

[15] Michel Foucault, *The Birth of Biopolitics: Lectures at the Collège de France 1978-79,* translated by Graham Burchell (Hampshire: Palgrave, 2008), 65.

[16] Jon Simons, *Foucault and the Political,* (London: Routledge, 1995), 52.

Foucault's concept of "regimes of truth" enables a different framework for the analysis of the nature of the regime shift that took place upon Augustus' foundation of the Principate in 28-27 BCE.[17] Rather than analyzing the shift in terms of the replacement of a republican oligarchy by monarchic autocracy, or constitutionalism by exceptionalism, we can accept that the political-legal structure of the Principate was fundamentally paradoxical and trace, instead, certain fluctuations in the *régime* – the techniques, mechanisms and procedures by which truth and power were produced and validated.[18] In this perspective, the question is not to do with whom or what is legitimate, but with mutations in the underlying conditions which *make* the authority of the law (or the King) legitimate. I begin with a brief analysis of the means by which discourses of acceptability were produced in Republican Rome. I then trace Augustus' appropriation of the Republican *régime* through an analysis of the centering of laws and morals upon the monarch.

Under the Republic, the means by which notions of acceptability were produced and sanctioned involved continual negotiation and re-negotiation with past ideas and values. The unwritten system of Roman constitutional law was in itself a combination of rights (*iura*), laws (*leges*) and ancestral custom (*mos maiorum*).[19] The *mos maiorum*—a "notional-stock of time-honoured

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[17] The bibliography on this subject is vast, starting from Mommsen, but see e.g. K. A. Raaflaub and M. Toher (eds.) *Between Republic and Empire: Interpretations of Augustus and His Principate* (California, 1993) and references cited there. More recently, see the new perspectives offered by Egon Flaig, *The Transition from Republic to Principate*, 67-84, and, on the constitutional paradoxes of the Principate, Aloys Winterling, *Politics and Society in Imperial Rome,* (Malden MA: Blackwell, 2009), 123-140. On the problem of dichotomies see Karl Galinsky, "Introduction" in *The Cambridge Companion to the Augustan Age,* edited by Karl Galinsky, (Cambridge: Cambridge University Press, 2005), 1-9, here 8.

[18] On Foucault's definition of "regimes of truth," see *Truth and Power,* 131-133: "Each society has its regime of truth, its "general politics" of truth: that is, the types of discourse it accepts and makes function as true; the mechanisms and instances which enable one to distinguish true and false statements, the means by which each is sanctioned; the techniques and procedures accorded value in the acquisition of truth; the status of those who are charged with saying what counts as true." (131).

[19] On the normative nature of the Republican constitution see especially Benjamin Straumann, *Crisis and Constitutionalism: Roman Political Thought from the Fall of the Republic to the Age of Revolution* (Oxford: Oxford University Press, 2016) and Andrew Lintott, *Violence,* 1-8 on the relationship between *mos* and *ius*. An extensive bibliography on the *mos maiorum* can be found in Valentina Arena, "Informal Norms, Values, and Social Control in the Roman Participatory Context" in *A Companion to Greek Democracy and the Roman Republic,* edited by Dean Hammer (Chichester: John Wiley & Sons, 2015), 217-238; to this I add Chapters 6-9 in the recent volume *Exemplarity and Singularity: Thinking Through Particulars in Philosophy, Literature and Law,* edited by Michèle Lowrie and Susanne Lüdemann (New York: Routledge, 2015). On the connection between the practice of rhetoric and the formation of ideals of civic identity see Joy Connolly, *The State of Speech: Rhetoric and Political Thought in Ancient Rome* (Princeton: Princeton University Press, 2007). For a Foucauldian analysis of the operation of discipline under the Republic see Hammer (this volume).

principles"[20] such as freedom (*libertas*), moderation (*moderatio*) and civil duty (*pietas*) —was established (in part) through a historical body of *exempla*—a collection of anecdotes and exemplary men of old (*maiores*) that provided templates for behaviors and behavioral norms. These norms not only formed a guide for the *speaking* and *representation* of moral conduct in political oratory and historiography,[21] but also constituted an unwritten code for *institutional* practices, such as the practice of politics (election procedures, the rights and responsibilities of the senate, provincial conduct), the organization of military hierarchy and the education of the elite.[22] An edict of the censors of 92 BCE, for example, condemns new schools of rhetoric on the grounds of their violation of the *mos maiorum*: "these new things which are being done contrary to the tradition and customs of the ancestors seem neither acceptable nor right…we do not approve."[23]

The status of the *mos maiorum* as a form of indirect legislation (a moral and social "code of conduct") and direct legislation (a source of constitutional practice capable of competition with new statute[24]) points, above all, to its discursive operational value.[25] The *mos maiorum* worked to demarcate a "discourse of laws" and a "discourse of norms," and although these could be contested, partly due to the fact that the *mos maiorum* referred to an abstract and fluid set of concepts (notably, *exempla* referred to ideas as well as individuals),[26] it constituted a fundamental facet of the Republican *régime,* operating as a discursive-referential framework that served to validate and imbue truth into the words of the person invoking or practicing it. Irrespective, then, of whether or not adherence to the *mos maiorum* equated to the stability of the present, the past persisted as a differential space of excellence in the present regime of truth.

Upon Augustus' foundation of the Principate in 28-27 BCE, the discourses of discipline and law became more complex in their integration. Under Augustus, the differential space of excellence retained by the *maiores* can be seen to converge with the emperor's own person. The two

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[20] Karl-J Hölkeskamp, *Reconstructing the Roman Republic: An Ancient Political Culture and Modern Research* (Princeton and Oxford: Princeton University Press, 2010), 17-18.

[21] See e.g. Sallust, *Catiline,* 9.1, *Bellum Iugurthinum,* 41; Livy, *Praefatio* 11, Cicero, *Pro Archia,* 14.

[22] On *disciplina militaris* see Sara Elise Phang, *Roman Military Service: Ideologies of Discipline in the Late Republic and Early Principate* (Cambridge: Cambridge University Press, 2008).

[23] "*haec nova, quae praeter consuetudinem ac morem maiorum fiunt, neque placent neque recta videntur…nobis non placer.*" Suetonius, *De Rhetoribus,* 25.2.

[24] Benjamin Straumann, *Crisis and Constitutionalism,* 48-49. Cf. Cicero, *De Legibus* 2.23.

[25] Cf. Michèle Lowrie, "Sovereignty before the Law: Agamben and the Roman Republic" in *Law and the Humanities* 1, (2007), 31-55: "Although the Romans in the Republican period had laws, the primary regulatory institution – if we can call it such – was rather the *mos maiorum*." (55).

[26] Compare Quintilian, *Institutio Oratoria,* 12.2.30 on Fabricius, Regulus, Decius, Mucius as unrivalled exemplars of *iustitia, fides, frugalitas* and Tacitus' questioning of the extent to which the habits of the past were better than those of the present (*Annales,* 3.55.4-5). On the flexible and diverse nature of the *mos maiorum* see Maurizio Bettini, *The Ears of Hermes: Communication, Images, and Identity in the Classical World* (Columbus: The Ohio State University Press, 2011), 128-130.

passages below from Augustus' *Res Gestae*, a detailed record of deeds achieved during his reign, illustrate such convergence:

> By new laws passed with my sponsorship, I restored many exemplary ancestral practices which were falling into disuse [*multa exempla maiorum exolescentia…reduxi*], and I myself handed down exemplary practices of many things to be imitated in later generations [*ipse multarum rerum exempla imitanda posteris tradidi*].[27]

> In my sixth and seventh consulships [28-27 BCE], after I extinguished the civil wars, having obtained all things by universal consent [*per consensum universorum*], I gave the Republic from my power back to the senate and people of Rome. […] After this time I exceeded all in *auctoritas* but possessed no more *potestas* than my colleagues in the magistracy.[28]

These excerpts point to a central feature of Augustan government: its claims of restoration powerfully echoed in the *History* of Velleius Paterculus, who notes that upon the settlement of 28-27 BCE, "power was restored to the laws, authority to the courts, and dignity to the Senate and … power of magistrates was brought back to its former parameters."[29] For Velleius, Augustus "had restored the ancient and traditional form of the state."[30] However, in contrast to Velleius' claims, the above passages also reveal the fundamental paradox of the Augustan Principate: on the one hand, the new regime revived certain traditions (such as the formal purification of the citizen body after the census, the *lustrum*, which before 28 BCE had not been conducted for 42 years) and restored certain moral behaviors (through a programme of new legislation which sought to regulate marriage, encourage childbirth and deter adultery by bringing it into the sphere of public law).[31] On the other hand, the new system was essentially a monarchy with Augustus at the center. The centrality of Augustus' position is underlined at *Res Gestae* 34.3, cited above, in the reference to *auctoritas* and equally at *Res Gestae* 8.5 where Augustus asserts his legitimacy through be-

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[27] *Res Gestae,* 8.5.

[28] Ibid., 34.1/3.

[29] "*restituta vis legibus, iudiciis auctoritas, senatui maiestas, imperium magistratuum ad pristinum redactum modum.*" Velleius Paterculus, 2.89.3.

[30] "*prisca illa et antiqua rei publicae forma revocata.*" Ibid. Notably, though, the apparent ease with which Velleius associates the Principate and the Republic should be read with caution and is in contrast to other accounts (see further below). On the many different ways in which the Republican past was remembered during the Augustan period, see the collection of papers in Joseph Farrell and Damien P. Nelis (eds.), *Augustan Poetry and the Roman Republic,* (Oxford: Oxford University Press, 2013). As Alain Gowing puts it in the volume's Afterword, "the fact is that the Augustan period was *not* a simple iteration of or continuation of the Republic." (330).

[31] On the *lex Julia de maritandis ordinibus* and the *lex Julia de adulteriis coercendis* of 18-17 BCE see Karl Galinsky, *Augustan Culture: An Interpretive Introduction* (Princeton: Princeton University Press, 1996), 130.

havior, particularly his *own* behavior: "I myself handed down exemplary practices of many things to be imitated in later generations."[32]

The elevation of status through behavior also involved the eradication of certain problematic knowledge, particularly that of Augustus' own violent behavior during the twenty years of civil war which preceded the settlement, such as that in the formation of the triumvirate, the violence of the proscriptions, and his disloyalty towards friends.[33] Augustus' modulation of dangerous memories is latent in *Res Gestae* 24, where he records that he had eighty silver statues of himself ("spouting self-assured gestures of himself"[34]) melted down, the proceeds of which were used to dedicate tripods in the temple of Apollo (an act exemplifying religious piety).[35] Furthermore, the *Res Gestae* not only records Augustus' shows of duty to the Gods, but also asserts parallels between his own person and the religious underpinnings of Roman society.[36]

Foucault saw the moral reforms that took place under Augustus as "raising moral standards in a more or less authoritarian way,"[37] but the workings of Augustus' power appear to be more multifaceted (indeed more "Foucauldian") than the notion of authoritarianism allows. Augustus bound his person to existing discourses of discipline in order to position himself as an *exemplum.* His unparalleled *auctoritas* (according to his own interpretation at least) sealed that position, acting as a kind of non-legal legality which made his position "legitimate" and *sacred* without any obvious infringement on or development of the constitution since his *potestas* (legal/magisterial power) was the same as that of the magistrates*.*

We may, then, conceive of Augustus' power and place in society as discursive, involving a circular relationship between the enactment of power and the formation of knowledge. Notably, for Foucault "discourse" and "discursive practices" do not merely refer to the linguistic, but to complex knowledge formations which are "embodied in technical processes, in institutions, in *patterns for general behavior*, in forms for transmission and diffusion, and in pedagogical forms

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[32] On *Res Gestae* 34.3 see further Greg Rowe, "Reconsidering the *Auctoritas* of Augustus" in *Journal of Roman Studies*, 103 (2013) 9-11 (https://doi.org/10.1017/S007543581300004X) and the response by Karl Galinsky, "Augustus' *Auctoritas* and *Res Gestae* 34.3" in *Hermes*, 143 (2015) 244-249. On *auctoritas* see Galinsky, *Augustan Culture*, 10-20 and also Michèle Lowrie, *Writing, Performance, and Authority in Augustan Rome* (Oxford: Oxford University Press, 2009), 279-308 on *auctoritas* as a "performative" form of political power.

[33] On which see Suetonius, *Augustus* 27, cf. Seneca, *de Clementia*, 1.9-11 and Dio, 51.21.34-5.

[34] Paul Zanker, *The Power of Images in The Age of Augustus*, translated by Alan Shapiro (Ann Arbor: University of Michigan Press, 1990), 86.

[35] In that same year, Augustus issued an edict annulling all illegal acts he had committed up until 29 (Tacitus, *Annals*, 3.28.1-2; Dio, 53.2.5).

[36] See the juxtaposition of Augustus' reference to the sacrificial ritual symbolizing the cleaning of the population at *Res Gestae* 8.2 with *Res Gestae* 9.1-2 in which Augustus records sacrifices made for his *own* health and finally the reference to his own person as "*sacrosanctus*" in *Res Gestae* 10.1

[37] Michel Foucault, *The History of Sexuality*, *Volume 3: The Care of the Self*, translated by Robert Hurley (New York: Pantheon Books, 1986), 40. But later on in the work Foucault allows for more complexity, noting that during the first two centuries CE "fortunes, influence, prestige, authority, and power were always interconnected." (83).

which, at once, impose and maintain them" (my emphasis).[38] Augustus' monumental record of his deeds is precisely one such transmission of "patterns for general behaviour" since by positioning himself as a central locus of identification, he becomes a mechanism of social regulation in reference to which future generations are to measure right and wrong. At *Res Gestae* 8.5, Augustus personalizes Republican regimes of truth (the possible field of moral action as defined by the ancestors) and by so doing he constitutes his own being as the source of ancestral custom and the presiding moral presence.

Of note here is the significance of Augustus' request that his deeds be inscribed on bronze. As Cooley notes: "The use of bronze set the *Res Gestae Divi Augusti* on a par with Roman legal and other important official documents…By choosing bronze, Augustus was implicitly elevating his account of his achievements, evoking the moral authority usually enjoyed by texts inscribed on bronze, in accordance with his ambition to act as a role model for the rest of society."[39] And this is indeed precisely what happened; Augustus' words and acts—the informal and pedagogical discourses of his reign—became institutionalized through the legal and political apparatus of Roman society. This can be seen in Tacitus' writing of Augustus' successor, Tiberius, who justifies the controversial act of reviving the law of treason by claiming that it would not be right (*fas*) to interfere with any *responsum* of the divine Augustus.[40] On a later occasion, Tiberius explicitly attributes to Augustus' life the force of law, claiming that "I observe as if law his every deed and word."[41] The Republican referential discourse whereby references to the *mos maiorum* were strategies that possessed a validating linguistic function can thus be seen to shift: under Tiberius, references to Augustus come to serve as the new source of validity.

In both form and content, then, the *Res Gestae* discloses a rationality whereby the restoration of a moral code centered on old ideas of moderation was not enough: it required support of new laws and, more importantly, needed embodiment in the person of the sovereign, Augustus. Furthermore, the *Res Gestae* allows us to trace a certain logic to Augustus' practice of moderation (or at least his own representation of that practice): though he refused to hold any position which was against the *mos maiorum* (such as the title *curator legum et morum* [*Res Gestae* 6], the dictatorship and consulship offered to him in 22 BCE [*Res Gestae* 5], or the gold designated for crowns [*Res Gestae* 21]), he did not refuse the official responsibility of the corn supply (traditionally a function of the aediles), by which "he liberated the entire city from the fear and danger in which it stood" (*Res Gestae* 5.2).

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[38] Michel Foucault, "History of Systems of Thought, summary of a course given at Collège de France – 1970-1971," 200.

[39] Alison Cooley, *Res Gestae Divi Augusti: Text, Translation and Commentary*, (Cambridge: Cambridge University Press, 2009), 3. Cf. Suetonius, *Augustus* 31.5, which echoes the inscription in bronze with an inscription in architecture.

[40] Tacitus, *Annales*, 1.77.

[41] "*qui omnia facta dictaque eius vice legis observem.*" Tacitus, *Annales*, 4.37.3.

The provision of social goods and social security is central to Augustus' presentation of his regime, and four central chapters of the *Res Gestae* (15-18) focus on Augustus' generous distributions of materials necessary for survival in Rome. Yet, Augustus' deeds were not limited to the provision of money, grain and peace (*pax*) alone; as we shall see further below, they also involved the safe-guarding of the population through laws which encouraged procreation and the continuation of specific demographic groups (the upper classes and native Italians) from one generation to the next.[42] In this perspective, the *Res Gestae* allows us to trace a developing set of ideas and practices concerned with the state's "control of the biological."[43] In contrast to Foucault's conception of the "classical model of sovereignty" in which power is essentially and ultimately "the right to kill,"[44] the *Res Gestae* reveals a more complex discourse about sovereign power and how it worked to invest in and "regularize" life itself.[45]

At this point, the Roman historian Tacitus becomes a fruitful interlocutor for both Foucault and Augustus' *Res Gestae*. In what appears to be an extension of *Res Gestae* 8.5, the prologue to Tacitus' *Annales* works to underline the regulatory and formative nature of Augustus' place in society, as I explore in the next section; Tacitus states that all looked to the "*iussa principis*" (the orders of Augustus) and "nobody had any worries so long as Augustus retained his strength and his health."[46] However, the Tacitean treatment also provides nuance by narrating some of the omissions in Augustus' *Res Gestae*, such as the history of civil violence which preceded the Augustan settlement, the rigorous enforcement of proscription lists and the persistence of sovereign exceptionalism. In Tacitus, the King's head is firmly on his shoulders; at the same time, however, biopolitics is revealed as dialectical with absolute sovereignty.

### *Pugio et Otium*: the biopolitics of sovereignty in Tacitus and Agamben

In this section I extend the analysis of the operation of power through law and discipline to encompass biopower.[47] I focus on the first few chapters of Tacitus' *Annales* and I then move onto a wider comparative analysis of biopolitics in Foucault, Agamben and Tacitus.[48]

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[42] See further Andrew Wallace-Hadrill, "Family and Inheritance in the Augustan Marriage Laws," *Proceedings of the Cambridge Philological Society (New Series)*, vol. 27 (1981), 58-80 (https://doi.org/10.1017/S0068673500004326), on the *lex Papia Poppaea* of 9 CE, which worked to "stabilise the transmission of property and consequently of status, from generation to generation." See also Livy, *Periochae*, 59 and Suetonius, *Augustus*, 89.2 on Augustus' publication by edict of a speech of Metellus Macedonius, *On Increasing Offspring* (*de prole augenda*) which proposed that all should marry for the sake of rearing children. See further the lengthy speech of Augustus as reported by Dio (56.1-10) on the importance of marriage and procreation.

[43] Foucault, *Society Must be Defended*, 242-243.

[44] Ibid., 240.

[45] Ibid., 247: "Sovereignty took life and let live. And now we have the emergence of a power that I would call the power of regularization, and it, in contrast, consists in making live and letting die."

[46] Tacitus, *Annales* 1.4.

[47] Foucault first referred to biopower in the final section of Volume 1 of *The History of Sexuality*. The highest function of biopower is to "invest life through and through" by "an explosion of numerous and diverse techniques

Unlike Augustus' *Res Gestae*, Tacitus begins his history of the Principate by underlining the violence and exceptions that provided the basis of Augustus' rise to power:

> When he had seduced the army with gifts, the people with cheap grain and all with the sweetness of leisure, he, gradually rising up, absorbed the functions of the senate, the magistrates and the laws – with no opposition, as the boldest would have been taken in battle or proscription. The rest, according to how eager they were for slavery, were elevated by wealth and honors, and besides, they had profited from the revolution so now they preferred security and the present, rather than the old and the dangerous.[49]

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for achieving the subjugation of bodies and the control of populations." (139-140). The term was further developed in the lectures of 1975-1976 (*Society Must Be Defended*, 254) where Foucault outlined biopower's essential function as one which seeks: "to improve life, to prolong its duration, to improve its chances, to avoid accidents, and to compensate for failings." In a subsequent series of lectures given between 1978-1979 (*Security, Territory, Population,* 1), Foucault describes biopower as "the set of mechanisms through which the basic biological features of the human species became the object of a political strategy, of a general strategy of power, or, in other words, how, starting from the eighteenth century, modern western societies took on board the fundamental biological fact that human beings are a species." A similar definition was given in a lecture delivered the following year (*The Birth of Biopolitics,* 317), where Foucault posits biopolitics as "the attempt, starting from the eighteenth century, to rationalize the problems posed to governmental practice by phenomena characteristic of a set of living beings forming a population: health, hygiene, birth rate, life expectancy, race." What is notable, especially in terms of how we might differentiate biopower and disciplinary power, is that the latter is not explained in terms of positive or improving effects. Rather, discipline works to manage or to regulate (the verb Foucault often uses is "*gérer,*" "to administer"). Biopower on the other hand, as well as being regulatory, is also concerned with "improving" and "increasing" life (*majorer la vie/multiplier la vie)* and not just disciplining it. On biopower, see further Sven-Olov Wallenstein, "Introduction: Foucault, Biopolitics and Governmentality" in *Foucault, Biopolitics and Governmentality*, edited by S. Wallenstein and J. Nilsson (Södertörn Philosophical Studies 14) 2013, 7-34 and references there cited. On the relationship between biopower and government, see Thomas Lemke, ""The Birth of Bio-politics" – Michel Foucault's Lecture at the Collège de France on Neo-Liberal Governmentality" in *Economy and Society* 30.2 (2001), 190-207 and Johanna Oksala, "Neoliberalism and Biopolitical Governmentality" in *Foucault, Biopolitics and Governmentality*, (Soderton Philosophical Studies, 2013), 61-66 (https://doi.org/10.1080/03085140120042271).

[48] There has been some confusion around the distinct meanings of the terms "biopolitics" and "biopower," partly because Foucault's own use of the two terms appears to shift. In *The History of Sexuality 1*, "anatomo-politics" and "bio-politics" are presented as two subtly different subsets of "biopower" (139), whereas in *Society Must Be Defended* the terms are used synonymously (243). In later lectures the terms appear to share features characteristic of other terms Foucault was developing, such as "government" and "liberalism" (compare for example the aims and techniques of "government" defined at Michel Foucault, *Security, Territory, Population*, 136-137 with those of biopolitics at Michel Foucault, *Society Must Be Defended*, 254). What remains consistent throughout Foucault, and important for the purposes of the present argument is that both "biopower" and "biopolitics" are empirically, conceptually and (for the most part) historically distinct from sovereignty. On Foucault's use of the terms "biopolitics," "biopower" and "government," see further Mark G.E. Kelly, *Foucault's History of Sexuality Volume 1, The Will to Knowledge,* (Edinburgh: Edinburgh University Press, 2013), 93-108.

[49] Tacitus, *Annales,* 1.2.2.

> *ubi militem donis, populum annona, cunctos dulcedine otii pellexit, insurgere paulatim, munia senatus magistratuum legum in se trahere, nullo adversante, cum ferocissimi per acies aut proscriptione cecidissent, ceteri nobilium, quanto quis servitio promptior, opibus et honoribus extollerentur ac novis ex rebus aucti tuta et praesentia quam vetera et periculosa mallent.*

Tacitus' interpretation counters the smooth operation of the Augustan *régime*: in place of the "restoration discourse," in Tacitus' view, Augustus transformed the state and nothing remained of old, unblemished *mores*.[50] Whilst Augustus claims that he saved the Republic from factional struggles and then gave power back to the senate and people of Rome,[51] in Tacitus' narrative, finding "the state exhausted by civil dissensions, he accepted all things under his power in the name of *princeps.*"[52] This was followed by a process of gradual absorption of the duties (*munia*) of the senate, the magistrates and the laws. Tacitus' idea of "absorption" (*in se trahere*) is of particular importance and again directly oppositional to Augustus' *Res Gestae* 8.5 regarding the restoration of past legislation and magisterial positions: Tacitus underlines the absorption of the law and the magistrates (the vital elements through which constitutional power [*potestas*] operated under the Republic) not the disciplinary (non-legal and/or normalizing) power of Augustus. Notably Tacitus makes no explicit reference to *auctoritas principis*,[53] but on the contrary emphasizes his absolute sovereignty.

The power of Augustus, as well as his absorption and modification of the constitutional framework, is also referred to later in Book 3 during Tacitus' digression on the origins and transformations of Roman law:

> Eventually, in his sixth consulship Caesar Augustus, with power [*potentia*] composed, annulled the decrees of his triumvirate, and gave us rights [*iura*] which we might enjoy with peace and the Principate. Then our chains became tighter, and guardians [*custodes*] were imposed, stimulated by prizes under the *Papia Poppaea* law, so that if men avoided the privileges of fatherhood, the State, as if universal parent, might obtain their empty properties. But these guardians were penetrating deeply, and the city and Italy and citizens everywhere were seized, and the status of many men was ruined. (3.28.2-4)

In the passage above, Tacitus draws attention to the surveillance operated by the regime, by which the operation of power, biopolitical in its supervision of marriage and fertility, is embedded both in the disciplinary (exemplary) regimes centered on the emperor, and the sovereign power of the Princeps. The *lex Papia Poppaea* of 9 CE, which was an amendment to the *lex Julia de*

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[50] "*nihil…prisci et integri moris*" Tacitus, *Annales*, 1.3.6. Cf. Cassius Dio, 53.17-18 on Imperial modifications of Republican institutions, laws and offices.

[51] *Res Gestae* 1, 34.

[52] "*qui cuncta discordiis civilibus fessa nomine principis sub imperium accepit*" *Annales*, 1.1.2.

[53] Though it is implied in the reference to Augustus' absorption of the *munia senatus.*

*maritandis ordinibus* of 18 BCE, imposed various penalties on the childless and guaranteed rewards for informers who discovered those without children. In Tacitus' view, however, laws which were intended to revive tradition and ensure the continuation of the population eventually devolved into "bonds" (*nexus*), and had Tiberius not asked the senate to loosen them, a "terror" would have extended over all. A crucial marker of this terror is the growing personalization (or "monarchicalization") of criminal law, in particular the increasing scope of the *lex maiestatis* (the treason law),[54] whereby words and acts that defamed the emperor and the Imperial *domus* came to be defined as criminal acts against the state.[55]

Tacitus' construction of Augustus' sovereignty and its appropriation of the law constitutes a literal exemplification of Foucault's theoretical understanding of the relationship between the law and the sovereign before modernity: "Besides its immediate victim, the crime attacks the sovereign: it attacks him personally, since the law represents the will of the sovereign; it attacks him physically, since the force of the law is the force of the prince."[56] In contrast to Augustus' *Res Gestae*, then, Tacitus' writing of Augustus' position in society takes us back to Foucault's "juridico-institutional" framework of power: the non-legal terminology used in the *Res Gestae* (*auctoritas*, *sacrosanctus*) is replaced with specifically military-territorial forms of control (*potentia, imperium, iussus*) and extra-legal, exceptional powers (the absorption of the law and the annulment of decrees).

Tacitus' account of the foundation of the Roman Principate and Giorgio Agamben's theory of the sovereign exception and biopolitics can be compared. Agamben's theory of sovereignty mediates between Carl Schmitt's definition of sovereign as "he who decides on the exception"[57] and Walter Benjamin's assessment of the state of exception as the rule.[58] In *State of Exception*, Agamben traces the Roman descendants of modern exceptional spaces (such as the concentration camp[59]) in the *senatus consultum ultimum* and *iustitium* (the legal suspension of law during times of necessity), which he reads as markers of the limitations of the Roman constitutional order.[60] From this basis, he develops his theory of the state of exception, which is premised on a certain paradox of sovereignty. The paradox of sovereignty refers to the notion that during the state of

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[54] The *lex maiestatis* was directed at those *qui contra imperatorem vel rem publicam aliquid moliti sunt* (Justinian, *Institutiones*, 4.18.3).

[55] See e.g. Tacitus, *Annales,* 1.73, 1.74, 2.50.

[56] Foucault, *Discipline and Punish,* 47.

[57] Carl Schmitt, *Political Theology: Four Chapters on the Concept of Sovereignty*, translated by G. Schwab (Chicago and London: Chicago University Press, 1985), 1.

[58] Walter Benjamin, "Theses on the Philosophy of History" in *Illuminations*, edited by Hannah Arendt, translated by Harry Zohn (London: Fontana, 1973) 259.

[59] See Giorgio Agamben, *Homo Sacer: Sovereign Power and Bare Life,* translated by D. Heller-Roazen (Stanford: Stanford University Press, 1998), 181 on the concentration camp as the fundamental biopolitical paradigm of the West.

[60] Agamben, *State of Exception*, 41-46.

exception, which makes obvious who the sovereign is (because only he can declare it), the sovereign is both inside and outside the law (because he is able to suspend the law legally). Once the paradoxical suspension of the law is declared, creating the state of exception, Agamben claims that all are susceptible to being reduced to a status of "bare life" (*nuda vita*), a de-politicized form of biological life wherein the citizen loses their political identity by being stripped of the right to legal protection.

While Foucault sees the sovereignty model as a limited one from which to analyze biopower, Agamben posits an originary relation between sovereignty and biopolitics. This is because the production of bare life is the essential sign of the sovereign, since the conditions of bare life only become possible in the state of exception, which can only be declared by the sovereign. For Agamben, then, biopolitics has much more to do with sovereignty and death than it does for Foucault.[61] This biopolitical logic of sovereignty, and again in distinction to Foucault, is not for Agamben a modern emergence, but rather an ancient one.[62]

In the final chapter of *State of Exception,* Agamben traces the biopolitical activity of sovereign power with reference to the Augustan Principate, the "constitutional novelty" of which is the "incorporation of the state of exception and anomie directly into the person of the sovereign, who begins to free himself from all subordination to the law and asserts himself as *legibus solutus* [unbound by the laws]."[63] Central to Agamben's reading of the Augustan Principate is the concept of *auctoritas*, which he understands as "the power to suspend or reactivate the law," but one which is "not formally in force as law."[64] The "metajuridical" and "anomic" status of *auctoritas*, of which the Augustan Principate was an "extreme form" (Agamben focuses here on *Res Gestae* 34.3, cited above), is extended to disclose the "originary biopolitical character of the paradigm of *auctoritas*"[65] from which basis Agamben concludes the following:

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[61] But cf. Foucault, *Society Must be Defended,* 260, where the violence of the Nazi State is explained on account of the coinciding of biopower and the sovereign right to kill.

[62] "The inclusion of bare life in the political realm constitutes the original – if concealed – nucleus of sovereign power. It can even be said that the production of a biopolitical body is the original activity of sovereign power. In this sense, biopolitics is at least as old as the exception." (*Homo Sacer*, 6). On Agamben's correction of Foucauldian biopolitics, see *Homo Sacer,* 9-11, and for useful overviews, see Johanna Oksala, "Violence and the Biopolitics of Modernity" in *Foucault Studies,* 10 (2010), 23-43; Jacques Derrida, *The Beast and the Sovereign Volume 1,* edited by Michel Lisse, Marie-Louise Mallet and Ginette Michaud, translated by Geoffrey Bennington (Chicago and London: University of Chicago Press, 2011), 329-331 and Tom Frost, *Agamben's Sovereign Legalization of Foucault*. For a re-assessment of Agamben's *Homo Sacer*, see especially Mika Ojakangas, "Impossible dialogue on Bio-power: Agamben and Foucault" in *Foucault Studies,* 2, (2005), 5-28. On Foucault's influence on Agamben and Agamben's development (as opposed to "correction") of Foucault's conception of biopolitics, see especially Anne Snoek, "Agamben's Foucault: An Overview" in *Foucault Studies,* 10 (2010), 46-50.

[63] Agamben, *State of Exception,* 69.

[64] Ibid., 79.

[65] Ibid., 85-86.

> As long as the two elements [*auctoritas* and *potestas*] remain correlated yet conceptually, tempo-
> rally, and subjectively distinct (as in republican Rome's contrast between the Senate and the
> people, or in medieval Europe's contrast between spiritual and temporal powers) their dialec-
> tic—though founded on a fiction—can nevertheless function in some way. But when they tend
> to coincide in a single person, when the state of exception, in which they are bound and blurred
> together, becomes the rule, then the juridico-political system transforms itself into a killing ma-
> chine.[66]

Agamben provides a useful mediatory point between the language of the *Res Gestae* and that of
Tacitus. Tacitus consistently exposes the link between the growth of supreme power and the pro-
duction of "bare life" (*pace* Tiberius "power swells up in the diminishing of rights").[67] However,
although the Principate saw the normalization of the state of exception, and *auctoritas* and *potestas*
(in Tacitus' interpretation at least) continued to coincide in Augustus' own person, thanatopolitics
(the "killing machine") did not continue. Thanatopolitics is not compatible with Tacitus' overall
perception of the Principate, which, as in Augustus' *Res Gestae* and Velleius' *History*, maintains
that the foundation of the Principate restored peace. Although there is a fundamental link be-
tween sovereignty and exception, sovereignty and bare life (and sovereignty and *terror* in *Annales*
3.28.4), there is also one between peace and the prince ("*pax et princeps*"): in *Histories* 1.2, Tacitus
explains that after Actium it was necessary for peace (*pax*) for power to be concentrated in the
hands of one man. In *Annales* 1.2-3, peace (*otium, tuta, tranquillum*) is directly linked to Augustus'
foundation of the Principate and we may infer that it is because (not in spite) of Augustus' all-
absorbing *imperium* that social order was restored. Furthermore, the exceptionality embodied in
Augustus' person was maintained due to what appears to be the willed consent of the citizenry.
As Tacitus tells it, the citizens were not reduced to a situation of servitude and we need not as-
sume that Augustus seized power; rather, the elite "accepted" Augustus' power and "enjoyed"
peace and the *princeps*, along with the laws.[68]

The Tacitean treatment allows us to reconcile the differences in Foucault and Agamben, as
well as modify some of their conclusions on the relationship between sovereignty and biopolitics.
Starting with Agamben, there are certain reductions in his conception of the sovereign-bare life
dialectic. Aside from the historical inconsistencies[69] and the problematic sweeping of *Princeps*,
*Duce* and *Führer* into a single conceptual frame, Agamben's search for the originary biopolitical
character of sovereignty hinges on *Res Gestae* 34.3 and thus privileges *auctoritas* above what may
be the more obvious (or visible) signs of the sovereign's power over life: his *imperium*, "an office,

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[66] Ibid., 86.

[67] "*minui iura quotiens gliscat potestas*" Tacitus, *Annales,* 3.69.6.

[68] "*…deditque iura quis pace et principe uteremur*" Tacitus, *Annales,* 3.28.2.

[69] On which see Lowrie's historical testing of Agamben's theorizing of homo sacer and the sovereign exception
(Michèle Lowrie, *Sovereignty before the Law*, 39-44).

magistracy, or command involving supreme power," or the territory of "Empire."[70] In a Roman (Republican and Imperial) context, *auctoritas* is a personal quality or form of prestige as Agamben rightly notes, but it can also be compared to the interminable "pre-established form"[71] of the magistracies: there was always a pre-established space for *auctoritas* which *had* to be filled, given, as we saw above, the long Roman tradition of the necessary relation between laws/magistrates and the extra-legal power forms (*auctoritas maiorum, senatus auctoritas, auctoritas principis*) that guaranteed their legitimacy (see also Hammer, this volume).[72] In this perspective, *auctoritas* is enmeshed as much in an originary sovereign (legal) character as in biopolitics.

Secondly, Agamben's conceptualization of biopolitics through the figure of *homo sacer* ("the originary figure of life taken into the sovereign ban"[73]) is a limited framework for the analysis of the subtler signs of the merging of life and politics. Turning back to Tacitus, it is crucial to note that Augustus targeted biological life in two ways: first the violent production of bare life, and then a gradual absorption of the juridico-political order and the "seduction" of all by the sweetness of leisure (*cunctos dulcedine otii pellexit*). In Tacitus, the focus is as much on the useful things provided by sovereignty: the provision of social and political goods, such as leisure (*otium*), gifts (*dona*), grain (*annona*), wealth (*ops*), honors (*honores*), security (*tuta*).[74] In this perspective, we may understand *auctoritas principis* as a *derivative* quality: in Tacitus, absolute sovereignty is underpinned by the principle of utility (the provision of security and means of subsistence) *and* the sword (*pugio*).

Contrary to Agamben, then, the result of the coinciding of *auctoritas* and *potestas* in a single person is not the sudden and bloody reduction to life alone; rather, it entailed a subtler abandonment and removal of man's political clothing through *otium* (a space external to politics and business [*negotium*]). By pushing the elite out of the arena of politics and business, seducing them with inactivity, they are excluded from active participation in power and also, in their docile state, rendered more subject to and dependent on the workings of sovereign power. This returns us to Foucault, for whom biopower "optimizes forces, aptitudes, and life in general *without at the same time making [subjects] more difficult to govern*" (my emphasis).[75] However, *contra* Foucault, it was not the modern state that first started to use biopolitical methods extensively for the care and control of populations. Rather, if we follow Tacitus, Augustan sovereignty and biopolitics emerge as deeply intertwined.

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[70] P.G.W. Glare (ed.) *Oxford Latin Dictionary*, Second Edition, Vol 1. (Oxford: Oxford University Press, 2012), 927.

[71] Agamben, quoting Richard Heinze, "Auctoritas" in *Hermes* 60 (1925), 356.

[72] Cf. Michèle Lowrie, *Sovereignty before the Law*, 39-44 and passim, and Michèle Lowrie, *Writing, Performance, and Authority in Augustan Rome*, 285 on the interrelation between *auctoritas* and *potestas*.

[73] Agamben, *Homo Sacer*, 83. *Homo sacer* (the sacred man, exile or interdictus) is a figure in Roman law who could be killed by anyone with impunity. The term is first recorded in Festus' *de verborum significatu* (424L), a Latin dictionary dating to the Imperial period.

[74] Tacitus, *Annales*,1.2.2.

[75] Foucault, *History of Sexuality 1*, 141.

Tacitus allows us to see the fundamental similarity between Foucault and Agamben, which is that both conceptualize sovereignty as inherently and fundamentally violent – for Agamben this is marked by the sovereign exception and the production of bare life; for Foucault, the violence of sovereignty is represented in the arm of the law "and its arm, par excellence, is death."[76] For Foucault and Agamben, the sovereign asserts his status through the power to kill with impunity. However, with the interlocution of Tacitus, it appears that Agamben, by ontologizing biopolitics, misses some of the nuances of biopower and the various forms it may take. In the same way, Foucault, by placing sovereignty in a strictly repressive framework, simplifies how sovereignty and its institutions may support the flows of biopower and the productive forces of norms and discipline. The sovereignty of Augustus was certainly violent and exceptional; for instance, violence underpinned the *leges novae* of 18-17 BCE since, under the Augustan adultery law, fathers had the right to kill adulterous daughters and their partners.[77] However, at the same time, Augustan government also worked to keep the people happy, well-fed and safe, and this in turn made them useful and obedient (usefully obedient). In that obedience (*obsequium*), the citizenry provided the structural props of sovereignty and its exceptionality.

### *Securitas, obsequium, utilitas* **and the management of** *libertas*

In the above two sections, I used Foucault's concepts to unpack the complexity of Augustan government. In doing so, it has emerged that the modern state was not original in its use of disciplinary and biopolitical methods of domination. In this closing section, I turn to Foucault's final lectures on modern liberalism—a form of limited government centered on making subjects easier to govern.

In *The Birth of Biopolitics*, Foucault pays more attention to the concept of liberalism than to biopolitics itself (as he himself notes at the start of the lecture on 7th March 1979).[78] This is because the analysis of biopolitics can only get under way once the "governmental regime called liberalism" is first understood.[79] Foucault's liberalism takes on a specific meaning – it is not a philosophy about the enhancement of individual rights and freedoms, but one that entails a "productive/destructive" relationship with freedom:

> The formula of liberalism is not "be free"… Liberalism must produce freedom, but this very act entails the establishment of limitations, controls, forms of coercion, and obligations relying on threats.[80]

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[76] Ibid., 144.

[77] See further Richard Bauman, *Crime and Punishment in Ancient Rome,* (London: Routledge, 1996), 24-26 (https://doi.org/10.4324/9780203428580).

[78] Foucault, *The Birth of Biopolitics,* 185.

[79] Ibid., 21-22.

[80] Ibid., 63-64.

Foucault argues that the "liberal art of government" (which came into being during the eighteenth century) was "not so much the imperative of freedom as the management and organization of the conditions in which one can be free."[81] The management of freedom takes place through the complex interplay between the production of freedom and its destruction, between increasing certain freedoms on the one hand and imposing security measures on the other, and it is from this interplay that biopolitics is born.

Foucault develops his understanding of the liberal art of government in theoretical and historical contradistinction to *raison d'état*;[82] and *raison d'état* for Foucault is what defines ancient methods of writing politics and history ("What does Tacitus talk about? *Raison d'État*. Of what does he show the operations? *Raison d'État*").[83] Yet, Foucault's idea of liberalism as a governmental rationality that "manages" freedom is a fruitful way of identifying the particularities of Augustan government, which, despite the claims in the *Res Gestae*, did not ultimately achieve the restoration of *libertas*.[84] Rather, we may understand the freedom offered by Augustus as security; as Galinsky has argued, under the Republic "the excess of *libertas* had degenerated into license (*licentia*); the reaction to it is the redefinition of *libertas* in terms of *securitas*."[85] Peace and security are the crucial symbols of the Augustan age.[86] Augustus did not restore *libertas*, but rather liberat-

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[81] Ibid.

[82] Ibid., 27-28. *Raison d'état* in Foucault is one of the two main phases in the development of governmentality (covered in lectures 9-11 in *Security, Territory, Population*), which gave way to liberalism in the middle of the eighteenth century.

[83] Foucault, *Security, Territory, Population*, 317.

[84] See for e.g. Tacitus, *Annales* 1.74-75 on the corruption of freedom under Tiberius, *Agricola* 3 on the irreconcilability of freedom and Principate and Dio 56.43 on "moderate freedom."

[85] Karl Galinsky, *Augustan Culture*, 54. See also Peter Herz, "Emperors: Caring for the Empire and their successors" in Jörg Rüpke (ed.) *A Companion to Roman Religion*, (Chichester: Wiley-Blackwell, 2011) 304-316 and Chaim Wirszubski, *Libertas as a Political Ideal at Rome during the Late Republic and Early Principate*, (Cambridge: Cambridge University Press, 1950), 104 (https://doi.org/10.1017/CBO9780511518607), who sees the association between the Augustan regime and freedom, as encapsulated in the phrase *rem publicam in libertatem vindicavi* at the beginning of the *Res Gestae*, as a general assertion of Augustus' service to the public good, as opposed to the restoration of civil liberties.

[86] Note the symbolic associations on a cistophorus coin of 28 BCE, bearing Augustus' image, the legend *libertatis populi Romani vindex* ["champion of the freedom of the Roman people"], and *Pax* on the obverse inside a laurel wreath. On Augustus' visual uses of *pax* and associated terms see, e.g., Andrew Wallace-Hadrill, "Image and Authority in the Coinage of Augustus" in *Journal of Roman Studies*, 76 (1982), 76; Zvi Yavetz, "The *Res Gestae* and Augustus' Public Image" in Fergus Millar and Erich Segal (eds.) *Caesar Augustus Seven Aspects*, (Oxford: Oxford University Press, 1989), 1-36; Karl Galinsky, *Augustan Culture*, 141-152 and Phillip de Souza, "*Parta victoriis pax*: Roman emperors as peacemakers" in *War and Peace in Ancient and Medieval History*, edited by Phillip de Souza and John France (Cambridge: Cambridge University Press, 2008), 79-86.

ed the people from fear and danger,[87] and this paved the way for the Principate as the *necessary* security mechanism.

The interplay between fear, security and peace is a crucial indicator of the management and organization of the conditions in which one can be free. In such a context, Augustus' discourse of peace was more than ideology or propaganda; it was a core element of a regime of truth that had the potential to alter the way people spoke about living politically. That the security of the person came to be defined as an essential element of the *libertas* of the citizen is also underlined in Tacitus. In Tacitus, living politically appears to have shifted from living "democratically" to living "securely" (to living "abundantly") at the *cost* of certain freedoms. As we saw above, Tacitus links the foundation of the Principate with peace *and* increased surveillance measures ("every house was being overturned by the interpretations of informers").[88] The interplay between security and freedom which Foucault calls the liberal arts of government is at work in early Imperial Rome, according to the historiography.

Another indicator of the management of freedom under the Principate is in the valorization of certain other qualities above *libertas*, in particular the pertinence of useful and/or rational acts above moral acts. In his reading of Foucault's later lectures, Thomas Lemke notes that one of the key features of liberal government is:

> the congruence it endeavours to achieve between a responsible and moral individual and an economic-rational individual. It aspires to construct responsible subjects whose moral quality is based on the fact that they rationally assess the costs and benefits of a certain act as opposed to other alternative acts.[89]

Lemke's comments point to the intersection of two separate strands in Foucault's work: the genealogy of the state and the formation of the subject. Foucault himself invites us to bridge the two themes when he states that an essential characteristic of liberalism—"the new art of the least possible government"—is "to limit the exercise of government *internally*" (my emphasis).[90] The effect of the diverse tactics of government on the subject's position towards freedom may be read alongside the question of how far the politics of the Principate engendered *obsequium*, which denotes a kind of docility towards authority as well as the ability to blend the rational and the moral. In Tacitus, the notion of morality appears to shift to encompass the ability to rationally assess

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[87] *Res Gestae*, 5.2.

[88] *Annales*, 3.25. The destruction of certain freedoms and rights previously enjoyed under the Republic for the sake of security is written throughout Tacitus' Tiberian narrative, which pinpoints the effects of monarchical rule on the revival of the treason laws and the associated increase in the practice of informing (*Annales*, 1.72, 3.28).

[89] Thomas Lemke, *Foucault, Governmentality and Critique,* Paper presented at the Rethinking Marxism Conference, University of Amherst (MA), September 21-24, 2000, 12.

[90] Foucault, *The Birth of Biopolitics*, 27-28.

costs and utility. This is especially apparent in his valorization of *obsequium* above *libertas*, which comes through most powerfully in his biography of his father-in-law, Julius Agricola. For Tacitus, the *modestia* and *obsequium* of Agricola was more admirable than any "pointless display of freedom."[91] Here Lemke's comments perfectly describe Tacitus' particular assessment of Agricola, who was "skilled in compliance and trained to blend the useful with the honourable."[92] This is in contrast to the senatorial elite of Tiberian Rome, few of whom could distinguish the honorable from the worse (*honesta ab detorioribus…discernunt*) and the useful from the harmful (*utilia ab noxiis discernunt*).[93]

Tacitus' inclusion of *obsequium* and *utilitas* in the sphere of moral action exposes the increasing governability of the individual subject, both in terms of his own self (Tacitus' own position on freedom) and those he writes about. It also allows us to read in Tacitus the essential Foucauldian project, which is not to question the morality or truth of a certain notion, but to find the historical conditions which made that moral notion or "truth" come to be defined or believed as such. Arguably, *obsequium* is a problematic "virtue" given that it is closer in meaning to servitude (*servitium*) than *libertas*. Yet, at the same time, given the complexity and extent of power's penetration under the Principate, it is not entirely surprising that compliance and usefulness shifted to mean something more valuable than freedom, and that rational and useful acts came to be more effective than moral ideas.[94] Once the system comes to be permeated with sovereign power, working within and accepting that system has greater utility and is more practical than the declaration of freedom from that system. In such a context, freedom may only refer to the freedom to accept servitude (to be *obsequens*), which would explain why Tacitus imbued (and perhaps had no choice but to imbue) *obsequium* and *utilitas* with a newly moral value.

**Conclusion**

The aim of this paper was to utilize Foucault's tools and concepts to uncover the complexity of the workings and representations of power in Augustan historiography; particularly the intensive linkage of biopower and sovereignty. A wider aim was to trace the emergence of Foucault's triangle sovereignty-discipline-government in the context of Augustan Rome. Without wanting to place too firm a date on when this matrix first emerged (and I also remain reluctant to define with too much precision the nature of the "revolution" that occurred under Augustus),[95] as discussed

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[91] "*inani iactatione libertatis*" Tacitus, *Agricola,* 42.4.

[92] "*peritus obsequi eruditusque utilia honestis miscere*" Tacitus, *Agricola,* 8.1.

[93] Tacitus, *Annales*, 4.33.2.

[94] On the disjunction between freedom and biopolitical regimes, see Richard Alston and Efrossini Spentzou, *Reflections of Romanity: Discourses of Subjectivity In Imperial Rome,* (The Ohio State University Press, 2011), 228-229 and Alston (this volume).

[95] On the question of political revolution, see Ronald Syme, *The Roman Revolution,* (Oxford: Oxford University Press, 1939) who argues that the fall of the Republic and the foundation of the Principate was not a "revolution," but rather the replacement of one oligarchy with another. See also Richard Alston, *Rome's Revolution: Death of the*

above, it is indisputable that the "tactics" of government became increasingly diverse upon the foundation of the Principate, operating both within and beyond the sphere of sovereignty – through legalized violence, violent laws, *auctoritas maiorum*, *auctoritas principis*, the modification of *libertas* as *securitas*, and the promotion of rational, useful acts above moral or "free" acts. In this perspective, instead of posing "the manufacture of subjects" as heterogeneous to "the genesis of the king,"[96] it has emerged that the genesis of the king (Augustus) was the moment when the manufacture of subjects became increasingly enmeshed in networks of biopower.

In an interview in 2005 with Abu Bakr Reiger, Agamben's attention was drawn to Foucault's research method, particularly his recourse to historical periods only a few hundred years ago, which some readers criticized for being rather "unhistorical." In response Agamben said:

> Foucault once said something quite beautiful about just this. He said that historical research was like a shadow cast by the present onto the past. For Foucault, this shadow stretched back to the seventeenth and eighteenth centuries. For me, the shadow is longer. For me they reach into the deepest past…There is no great theoretical difference between my work and Foucault's; it is merely a question of the length of the historical shadow.[97]

By drawing historical parallels between Foucault's modernity and Augustan Rome, I have also brought the length of the "historical shadow" into question. This questioning has less to do with a direct engagement with Foucault's genealogical project (as it does for Agamben) than with Foucault's conceptual apparatus: "discipline," "biopower" and "liberalism" do not appear to me to be concepts which define modern phenomena alone. Rather, these concepts cut across Augustan Rome and Foucault's modernity, which indirectly offers a different perspective on Foucault's genealogies. Such conceptual equivalences, as discussed above, are to do with the disciplining of bodies through notions of acceptability, through systems of value and utility, through apparatuses of security, and through diverse and extensive techniques that worked to invest in life and safeguard the population, all of which operated alongside sovereignty and the law. Whilst such ancient forms of discipline and biopower are different in their institutional form and in terms of their scientific make-up, the point is that the dominant mode of power in Augustan Rome was not one that moved downward from a single center, "dealing simply with legal subjects over whom the ultimate dominion was death."[98]

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*Republic and Birth of the Empire* (Oxford: Oxford University Press, 2015), in which the provision of social goods is built into a narrative account of regime formation and in which revolution is a process of destruction of the existing regime and construction of a new regime of the distribution of social goods.

[96] Foucault, *Society Must be Defended*, 46.

[97] Giorgio Agamben, "Der Papst ist ein weltlicher Priester" (Interview with Abu Bakr Rieger), *Literaturen* (2005), 21-25 (quoted in Leland de la Durantaye, *Giorgio Agamben: A Critical Introduction*, (Stanford: Stanford University Press, 2009), 246).

[98] Michel Foucault, *The History of Sexuality 1*, 143.

The application of Foucault's tools and concepts in an Augustan context, then, serves a double purpose: on the one hand, they provide a unique lens to uncover the complexity of power structures in antiquity, which allows us to move beyond the question of *potestas* and/or *auctoritas*, Republic and/or Principate. On the other hand, when Foucault's tools and concepts do apply in an ancient context, especially those that work to establish "modernity" as a unique historical/political phenomenon, it naturally raises various implications for Foucault's own genealogy of the modern state and subject. We can either accept or reject Foucault's genealogy of the diversification of sovereign power through time, or we can use it as a trans-historical analytics for exposing the potential for diversity which sovereignty always already retains. Either way, I do not think Foucault was "wrong" in his assessments of modernity and antiquity, but the relationship between the two periods was much closer than he allowed.[99]

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