Foucault Studies

ARTICLE

What's In a Norm?
Foucault's Conceptualisation
and Genealogy of the Norm

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ABSTRACT. In this article I survey Foucault's remarks on norms and normalisation from across his oeuvre, with a view to reconstructing his genealogy of norms, leaning at points – following Foucault himself – on Georges Canguilhem's seminal work on the topic. I also survey in tandem the existing secondary scholarship on this question, maintaining – *pace* other scholars – that Foucault's position has not been adequately explicated despite sophisticated attempts. I argue that Foucault's idiosyncratic conception of the norm, overlooked or misunderstood by other readers, is consistently of an ideal model guiding human action in any particular sphere. This concept is a relatively modern one that may be contrasted to the older form of restricting human behaviour according to binary discriminations that may be called 'laws' or 'rules'. Foucault traces the form of the norm specifically to medieval processes for dealing with the plague, which later become highly generalised and diffused to produce a normalising society. I conclude with a more speculative discussion of how this society of the norm continues to utilise binarising rules, arguing that norms are typically used in order to ground binarising condemnations of abnormal cases, but that the nebulousness of norms ultimately allows any particular case to be condemned by such standards.

Keywords: Canguilhem, Foucault, genealogy, norm, normalization

INTRODUCTION

The concept of the norm and a suite of related concepts, including normality, abnormality, and normalisation, constitute key terms in the lexicon of Michel Foucault's thought and its discussion. Notwithstanding some admirable explorations which I deal with below, I do not believe his use of these has been fully analysed. In this article, I provide two things that I do not think have been clearly explicated in the secondary literature to date: first, a definition of this terminology on the basis of Foucault's characteristically fragmentary remarks and, second, a reconstruction of his genealogy of the norm.

In this effort, I follow the same methodology as all my work on Foucault – which runs quite contrary to certain other readings – in attempting to read him maximally coherently. That is to say, I try to read his various statements over time as compatible with one another to the greatest extent possible. This methodology of reading is itself not Foucauldian, but I do follow Foucault in claiming no superiority for my approach. Rather, I present it as one way of reading among others that are valuable and informative.

I will begin by considering Foucault's concept of the norm, that is, what he takes the word "norm" to mean. Before embarking on this enterprise, I consider the main contribution to the study of Foucault's conception of the norm to date, namely Stéphane Legrand's,[1] and his opposing position on the question of defining this conception. I then move on to offer my own interpretation of Foucault. This begins with a consideration of Georges Canguilhem's account of the emergence of the norm, approvingly cited by Foucault, though I also note differences between Canguilhem and Foucault's positions. I then consider Foucault's differential attempts to problematise the notion of the norm in his own work.

From this conceptual discussion, I move on to consider Foucault's genealogical account of the emergence of the norm. This leads me in turn to a detailed consideration of his account of the relationship between norms and the law, since the explication of the Foucauldian norm and its development cannot avoid correlative study of the older form which Foucault claims the norm displaced: what Foucault ultimately designates as the "law," but which I prefer to designate as the "rule." I conclude with a speculative final section, in which I suggest a partial answer to the question of what Foucault means by a remark that today the law has come to function more and more as a norm.

The purpose of this philological disquisition is to clarify our understanding of Foucault's conceptual framework in order to apply this in future analytical study. I will not yet attempt this application here, however.

DEFINING NORMS, CONTRA LEGRAND

To state my central definition clearly at the outset, I take Foucault – for reasons I will elaborate – to conceive the norm as a model of perfection that operates as a guide to action in any particular sphere of human activity, and normalisation correlatively as the movement by which people are brought under these norms. I will argue that this implies that it is in the nature of normalisation that no person is ever fully in accordance with any norm.

This conception differs from the most common current uses of the term, and this I think is one factor preventing Foucault's meaning from being grasped. In sociology in particular, "norm" is often defined to mean any informal social convention.[2] In other contexts, "norm" can be applied contrariwise to refer to any explicitly stated standard. Foucault makes no stipulation as to whether a norm must be stated, but his concept is not

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[1] Stéphane Legrand, *Les normes chez Foucault* (2007).
[2] Gordon Marshall, *A Dictionary of Sociology* (2003).

synonymous with social conventions in general (he in particular does not apply the term to conventions of pre-modern societies), nor does he apply it to "rules" as we would ordinarily understand them. Foucault's conception of the norm rather distinguishes itself by positing the norm as radically historically novel, thus as not reducible to any previously existing social form or concept.

Legrand in his *Normes chez Foucault* – which is inter alia surely the most concerted attempt to date to provide an account of Foucault's views regarding norms – takes an entirely opposite approach to mine to the question of defining the norm. On Legrand's reading, Foucault deliberately avoids the kind of definition I am imputing to him, rather addressing himself to the full ambiguity of the usage of the term. I believe Legrand is mistaken about this. Legrand thus reads Foucault as having at once a more ambiguous notion of the norm than I think he ultimately arrives at, while also effectively circumscribing Foucault's investigation into the genealogy of norms to late modernity, when it is much further reaching (and I would argue could be extended much further back even than Foucault himself pursues it).

In support of his reading, Legrand cites methodological reflections of Foucault's, including the archaeological demand that we analyse a discourse only by treating actual statements therein, taking this to imply that one should not axiomatically define terms but treat them as they occur in natural language. Legrand also cites the way Foucault deals with the concept of 'sex' in the first volume of his *History of Sexuality*, namely to criticise it qua concept for its insidious heterogeneity, as a pattern for his treatment of the 'norm'.[3] While Legrand is quite correct in presenting these approaches of Foucault's, I do not think that Foucault adopts them in investigating norms. In particular, I would contend that Foucault's approach to the word 'sex' is unique in his oeuvre: in no other case does Foucault ever focus his critique on a word-concept, but rather only on broader discourses. In particular, he elsewhere freely uses concepts in an anachronistic way, for example using 'subjectivity' when reading ancient texts, despite himself noting that this was a concept entirely foreign to the ancients.[4] This is relevant to the case in hand inasmuch as, while Foucault's reflections on the notion of the norm do bear some relation to the history of the term, he conceptualises it in a way that is not fully synonymous with its actual use at any point in history.

Now, Foucault's own use of the term 'norm' is manifestly not entirely consistent and develops across his work. My disagreement with Legrand here depends on my evidence that he does develop an effective working definition of the concept. My a priori is precisely the opposite to Legrand's in this regard: I have set out to find a working definition of the norm in Foucault and thus infer the best one I can. Legrand, by contrast, never seeks one.

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[3] Legrand, *Normes chez Foucault*, 13.

[4] Michel Foucault, "Nietzsche, Genealogy, History" [1971], in *Aesthetics, Method and Epistemology*, ed. James Faubion (1998), 253.
I have dealt with Foucault's concept of subjectivity at length elsewhere, viz. Mark G. E. Kelly, *The Political Philosophy of Michel Foucault* (2009), 78ff.; Mark G. E. Kelly, "Foucault, Subjectivity, and Technologies of the Self," in *A Companion to Foucault*, ed. Christopher Falzon, Timothy O'Leary and Jana Sawicki (2013), 510-525.

Legrand reads Foucault with both Derrida and Marx, criticising Foucault where he differs from those thinkers. Here again, my approach is quite the opposite of Legrand's, both in that I am primarily engaged in the exegesis rather than critical reading of Foucault, and in that I follow Foucault in rejecting the Derridean philosophy of language that Legrand employs in reading him.[5] Legrand argues that any attempt to demarcate concepts (as I attempt, after Foucault, to do) is flawed because of the stubborn ambiguity of the usage of concepts (although in point of fact Legrand defines concepts himself later in the work and relies ultimately on the argument that the concept of the norm is special in being indefinable – a claim I will deal with in due course).[6] Certainly Legrand, after Derrida, is right that the ambiguity of the signifier can never be entirely banished. Foucault himself, nevertheless, in full awareness of this fact, deliberately engaged in conceptual clarification. Indeed, Foucault in this regard explicitly declares his sympathy for the methods of Anglo-American analytical philosophy.[7] A major difference between Foucault and analytical philosophy however is that he does not attempt to define words through an appeal to intuition or to ordinary usage. Rather, he does so doxastically, through a more or less arbitrary act of designation, designed to employ a concept within a coherent conceptual scheme (though Foucault always deliberately stops short of developing this into a full 'theory').

Similarly, Legrand is right to point out that Foucault studies statements and discourses as he finds them in their existing dispersion. Foucault, however, does not *only* do this, but also seeks to intervene pointedly in the discursive field through the construction and interpretation of concepts. Indeed, his use of the very terms 'statement' and 'discourse' follows this pattern, redefining the first term in particular. To give another clear and privileged example of the kind of approach to concepts that I think Foucault typically takes, his conceptualization of power was not at all intended as an explanation of the many senses in which the word was already used, but rather to provide a novel conception of power that relates to what is ordinarily called 'power' but understanding it in a new way such that both the sense and meaning of the word are altered.

Similarly, Foucault's aim – and hence mine here – in relation to the norm is to identify an historical phenomenon as an analytical basis for a genealogical critique of a longstanding technique of power. Against this, one might perhaps invoke Legrand's stance that, for the norm and the concepts derived from it, "there is no common real *signified* to which they correspond."[8] Here, much hinges on how strongly one construes the idea of a signifier "corresponding to a real signified." It is foundational to Derrida's philosophical orientation as indeed to Foucault's that signifiers *never* simply correspond to real signifieds. This might be invoked from a Derridean perspective as an objection to defining any term whatsoever, but this is a stance that Foucault rejects, and indeed Legrand does not seem

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[5] I have dealt with Foucault's relation to Derrida elsewhere in more detail in Kelly, *Political Philosophy of Michel Foucault*, 23–25.

[6] *Normes chez Foucault*, 10.

[7] Michel Foucault, "The Analytic Philosophy of Politics" [1978], *Foucault Studies* 24 (2018), 188–200.

[8] *Normes chez Foucault*, 148 – emphasis in the original.

to say this either. Moreover, this cannot be invoked as a reason not to try to refine the concept of the norm *in particular*, because it has not picked out a problem peculiar to this concept.

Foucault's position in any case is, as Legrand says, ultimately not the 'substantialist' view that norms are reducible to extra-discursive material entities, nor indeed that there is some general form of the norm that exists as a reified phenomenon.[9] What does exist for Foucault is the general phenomenon of the norm qua organising principle of power relations.

Legrand claims in line with this that norms signify 'a prescription (and not, for example, a description)'.[10] For Legrand, this is aligned with the idea that the norm is ultimately a matter of simply pointing to the negative failure of real agents to conform. I do not at all disagree that this is a correct characterisation of the functioning of the norm. However, it does not seem to me that to accept the fundamental negativity of the operation of norms requires the claim that norms are not to be defined, or indeed that they *signify* only their prescription. That is, acknowledging the ambiguous functioning of any given norm – and indeed the ambiguous functioning of the term 'norm' itself – does not require us to have a peculiarly ambiguous concept of the norm. I take it that a norm on Foucault's account must establish a relation to an ideal, which might be a definite, say quantitative one, or might be something more in the order of a nebulous fantasy.

In his study, Legrand is ultimately concerned with two important tasks, neither of which overlap much with mine here. One, which can be associated with Legrand's Derrideanism, is an ontological-cum-semantic investigation of the norm and its operation. The question of the being of Foucault's norms is an interesting one which produces conclusions with which I am substantially sympathetic, namely that the norm is essentially discursive and negative in its operation. I will explore how Legrand's insight into the nature of norms relates to my account in detail below, but this is ultimately an inquiry with a quite different scope to my present one: I cleave closer to Foucault's texts and position, so follow him in bracketing ontological and semantic questions from consideration. The Derridean position, of course, is that one always has ontological commitments that can be deconstructed, but I am offering an exegesis (and to some extent an extension) rather than a deconstruction of Foucault here.

Legrand's second task, which occupies much of his book, is to ask how Foucault's history of norms might be linked up to Marx's (critique of) political economy. Here, Legrand finds deficiencies in this relation in Foucault's position in *Discipline and Punish* in particular. These considerations are still further from my remit here, however, though I do not mean to diminish their importance.

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[9] Ibid., 47.

[10] Ibid., 152.

CANGUILHEM AND THE ETYMOLOGY OF THE NORM

The greatest single influence both on Foucault's conception and his genealogy of the norm was Georges Canguilhem. I mention Canguilhem not primarily in order to contrast Foucault's position with his, but rather to fill in some detail of Foucault's position by understanding his direct influence on Foucault. Canguilhem was apt to influence Foucault both because of their personal relationship (the more senior Canguilhem was an important sponsor of the younger man's career), and simply because Canguilhem's *On the Normal and the Pathological* was the extant landmark work on the topic.

Foucault refers to Canguilhem at two crucial points in his earlier reflections of on the norm during his Collège de France lecture series of the early 1970s. At the beginning of one lecture of his 1973–74 series *Psychiatric Power*, Foucault quotes Canguilhem's book "as an epigraph."[11] In the following year's series, *Abnormal*, ending his second lecture, Foucault makes a pointed reference to Canguilhem's book again, in this case taking the unusual step of orally mentioning the page number.[12] Both times Foucault refers to the first section of new material that Canguilhem appended to the 1966 edition of the book. These "New Reflections" of Canguilhem's are quite conceptually distinct from the original 1943 book. Foucault's preference for the later reflections is natural enough: where Canguilhem's original work had inter alia produced a vitalist ontology of the norm, his later reflections comprise more of a political history. It is no coincidence that, in the interval, Canguilhem had himself been influenced by Foucault's own research.[13]

While Foucault in *Abnormal* references Canguilhem's political reflections on the process of normalisation, in *Psychiatric Power* he quotes Canguilhem in relation to etymology, inveighing that the conceptual development of norms (or more specifically of the related concept of the "normal") was politically important: "It seems to me that, in the end, the diffusion of psychiatric power takes place by way of this development of the concept of the 'normal.'" While etymology is not automatically politically significant, here Foucault is right, I think, that the development of the very concept of the "normal," as outlined by Canguilhem, is. I will now therefore briefly detail this etymology.

"Norm" and its cognates in other European languages derive from the Latin *norma*, which referred in its earliest recorded usage to a carpenter's square. This word came into English rather late, only in the 19th century, well after an adjective derived from it, "normal," had entered into the language from the continent. In other European languages, however, cognates of "norm" were long in use before any terms were derived from them. For most of the period of their usage, these cognates were synonymous with words derived from the Latin word *regula*, originally meaning a carpenter's ruler, whence the English word "rule" (and indeed the word "ruler") are derived. Two words with very similar literal meanings were thus used for centuries to mean more-or-less the same thing

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[11] Michel Foucault, *Psychiatric Power* [2003] (2006), 202.

[12] Michel Foucault, *Abnormal* [1999] (2003), 49.

[13] Canguilhem makes approving reference to Foucault's *Birth of the Clinic* towards the end of this section – Georges Canguilhem, *The Normal and the Pathological* [1966] (1978), 177.

metaphorically: these instruments, used to ensure that edges were straight, came to emblematise "rules" in the general sense of that word in English today.

However, at a certain point a novel sense of the word "norm" appeared. Canguilhem traces this to seventeenth century French grammar.[14] Grammarians had long tried to discern the rules that governed language use, but now there was an impetus to establish a standard model of the French language, related to the centralisation of the French state. The word "norm" was now applied to refer to this standard model. This usage is clearly related to the older meaning of the norm, that is to rules, but where rules define specific things one should or should not do, this 'norm' is a template. To be sure, one might draw up a template to comply with all the relevant rules, or derive rules from the template, but the two things are not one and the same, nor does one simply give you the other without nontrivial addition.

Official norms for other areas, military, industrial, and sanitary, followed. Canguilhem goes on to trace the first emergence of the adjectival concept of the "normal" – normal things being those in conformity with norms – to 1759.[15] In 1834, a further, verbal concept, to "normalise," appeared, suggesting a shift from mere analysis of conformity with the norm to its proactive production. Canguilhem argues in relation to the word "norm," however, that the thing appears before the word to describe it.[16] This suggests that it cannot be directly inferred from the order of the appearance of concepts that the things they refer to emerge in the same chronological sequence. Still, this suite of concepts at least suggests that the norm operates or has come to operate as a standard against which things can be judged as to their deviation, and with which things are enjoined or induced to conform.

FOUCAULT'S CONCEPTUALISATION OF THE NORM

Foucault's own explicit thematisation of the "norm" is in fact a rather limited episode in his thought, consisting of scattered remarks between 1973 to 1978. While much of Foucault's oeuvre can be related to questions of normalisation in some sense, my focus here is on Foucault's explicit attention to the norm as such. In particular, I am avoiding the question of the fate of these reflections in Foucault's later thought. I also agree with Legrand that Foucault's earlier, archaeological works do not deal with norms as such.[17]

That said, I would locate an extraordinary precursor to Foucault's account of norms in one peculiar earlier writing, namely his influential 1967 lecture, "Of Other Spaces." This is a thematic isolate in Foucault's work, focused on a neologism, "heterotopia," mentioned nowhere else, and never intended by him for publication. Foucault's definition of "utopias" here as presenting "society itself in a perfected form" is, I would suggest, effectively an anticipation of his later concept of the norm.[18] Admittedly, Foucault does not invoke

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[14] Ibid., 150.
[15] Ibid., 151.
[16] Ibid., 150.
[17] *Normes chez Foucault*, 15ff.
[18] Michel Foucault, "Of Other Spaces" [1967], *Diacritics* 16:1 (1986), 24.

the concept of the norm in this relation in this text, and if such a utopian vision is a norm, it is a norm of a very specific – namely societal – type. Foucault's sole actual use of the term "norm" in this essay comes when he speaks of "heterotopias of deviation: those in which individuals whose behavior is deviant in relation to the required mean or norm are placed."[19] We can reinterpret the dialectic of utopias and heterotopias that Foucault sketches here in light of his later work on norms: while norms are strictly speaking fantastical, never entirely realised, normalisation nonetheless does exist in reality as a kind of heterotopia generated by the norm.

Foucault's explicit thematisation of the norm as such begins in the final two lectures of his 1972–1973 lecture series at the Collège de France, *The Punitive Society*. The term "norm" is invoked here quite without prior discussion or definition, but already entirely in line with what I am suggesting is his mature conception. Foucault states that "an external norm . . . presents a fictive image of society the function of which is to give individuals both a certain conception of the society in which they live and a certain model for their future."[20] The notion of an "external norm" here is almost identical to his earlier concept of a "utopia"; Foucault indeed speaks now of "an image of society" as "a social norm."[21] He also speaks of the combination of "something that is both prohibition and norm, and that has to become reality: . . . institutions of normalization," which would correspond to at least one form of what he earlier called a "heterotopia."

In his next Collège lecture series, *Psychiatric Power*, Foucault's conceptual focus shifts towards his new notion of "discipline," of which "normalization" is conceived as an essential aspect. More concretely, he investigates the use of the medical notion of "normality" in the nascent discourse of psychiatry in the nineteenth century. The notion of the norm itself only figures now "as the principle of division and normalization, as the universal prescription for all individuals constituted" by disciplinary power.[22] It is in this context that he first engages with Canguilhem's remarks on the topic.

The notion of the norm seems to recede yet further in the following year's lectures, *Abnormal*. Here, Foucault uses the term "norm" in a special sense only when discussing Canguilhem's work. Otherwise, he uses the terms "norm" and "rule" interchangeably (appropriately inasmuch as, unlike the previous two years' lecture series, *Abnormal* is concerned largely with a period when these terms were still synonymous in French). That which he both earlier and later calls a "norm" he here refers to only allusively as a "mechanism" distinct from earlier "norms" of medicine and justice. He does, however, continue to develop his conceptualisation of the terms *derived* from "norm" prominently in these lectures, as indicated in the very title of the series. He introduces the convoluted phrase "the power of normalization" as a term of art, albeit with the caveat that he is using this phrase "provisionally."[23] He reuses this formulation once in his lecture series of the

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[19] Ibid., 25.

[20] Michel Foucault, *The Punitive Society* [2013] (2015), 214.

[21] Ibid., 215.

[22] Foucault, *Psychiatric Power*, 55.

[23] Foucault, *Punitive Society*, 42.

following year, *Society Must Be Defended*,[24] but thereafter never again. Indeed, Foucault stops using the very term "normalisation" itself later: he hardly uses it at all in the first volume of *The History of Sexuality*, published in 1976, and explicitly disavows his earlier use of the term in his next lecture series after that, 1978's *Security, Territory, Population* – as I will detail below.

As Foucault's attention to normalisation wanes, he returns to the question of the norm. While the terms "norm" and "rule" are also used somewhat interchangeably in *Discipline and Punish*, published the same year *Abnormal* was delivered, there is a clear thematisation of the norm as such. He introduces an opposition here between the concepts of "norm" and "law",[25] albeit while also referring to the norm itself as "a new form of 'law'".[26] In the following year's lectures, *Society Must Be Defended*, Foucault again pointedly distinguishes the norm from the law, glossing the norm this time as "a natural rule."[27] In the first volume of his *History of Sexuality*, published later the same year, he at last makes a clear-cut conceptual distinction, now schematically holding that where "laws" once directed people to do things through an exclusionary logic, the newer "norms" constitute standards against which people are measured incessantly; he uses the word "rule" now exclusively as synonymous with laws according to this conceptual division.

An apparent ambiguity does remain, however, inasmuch as he also claims now that the *institution* of the law has, in the age of the norm, itself come to operate "more and more as a norm".[28] It is primarily to avoid this confusion that I will emphasise a different terminological division to Foucault that makes "rule" rather than "law" the primary antonym of "norm." This derives, of course, from my etymological narrative above, where the differentiation of the cognates of "norm" and "rule" figures as a crucial conceptual disjuncture in creating the modern notion of the norm. This distinction is consistent with Foucault's usage post-*Society Must Be Defended*, inasmuch as after that text he never uses the word "rule" synonymously with "norm," and sometimes uses it synonymously with "law" and thus antonymously to norm.[29]

Of course, such nomenclatural considerations are of limited import. The point is, beneath his lexical vacillations, that Foucault distinguishes between, on the one hand,

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[24] Michel Foucault, *Society Must Be Defended* [1997] (2003), 256.

[25] Michel Foucault, *Discipline and Punish. The Birth of the Prison* [1975] (1977), 183.

[26] Ibid., 304.

[27] Foucault, *Society Must Be Defended*, 38.

[28] Michel Foucault, *History of Sexuality. Volume I. An Introduction* [1976] (1978), 144.

[29] Ibid., 83. Here Foucault states critically that a "principal feature" of contemporary political theory is "*The insistence of the rule.* Power is essentially what dictates the law." His point is that, by continuing to cleave to the older model, political theory has failed to keep pace with the displacement of rules/laws by norms.

The notion of the rule might itself be said to suffer from unfortunate ambiguity due to the breadth of its application, but I am not aware of any overlap in its meaning with what Foucault means by "norm." One could point to his invocation of "the rule of the normal and the pathological" as a confusing factor (ibid., 67), inasmuch as it implies a certain combination of the rule and the norm. The French here is, in point of fact, *régime* and not "rule" at all (Michel Foucault, *La volonté de savoir* [1976], 90), but, in any case, as I will explain below, I think this is precisely a case of a rule as opposed to a norm, that is, that the application of norms is itself rule-governed.

negative injunctions forbidding specific practices or limited positive injunctions requiring specific actions (which I call "rules," and Foucault primarily refers to as "laws"), and positive ideals that guide actions (which I, after Foucault, call "norms"). Rules may thus be enacted pursuant to any given norm, but, as Foucault says as early as *Abnormal* in exegesis of Canguilhem, "The norm's function is not to exclude and reject. Rather, it is always linked to a positive technique of intervention and transformation."[30] As I will make clear, the application of norms still fundamentally involves negation, but its positive focus is what distinguishes norms from earlier rules and laws.

NORM(ALIS)ATION

Foucault goes on to define most clearly what he himself takes the norm to be in his last serious engagement with the topic, his 1978 Collège lectures, *Security, Territory, Population*. However, he simultaneously complicates his terminology in relation to normalisation.

In this series, Foucault follows his research into "biopolitics" in a new direction, for which the totem is his new notion of "governmentality." This direction leads Foucault to study the development of statistics and so engage with a statistical conception of the norm. Foucault seeks to differentiate this conception terminologically from that which he had previously conceptualised. At first he does this by qualifying the sense in which he had previously talked about normalisation as being "disciplinary"– discipline being the technology of power for the control of individual bodies that he had been primarily concerned with in his work. Now, in 1978, he defines this normalisation thus:

> Disciplinary normalization consists first of all in positing a model, an optimal model that is constructed in terms of a certain result, and the operation of disciplinary normalization consists in trying to get people, movements, and actions to conform to this model, the normal being precisely that which can conform to this norm, and the abnormal that which is incapable of conforming to the norm. In other words, it is not the normal and the abnormal that is fundamental and primary in disciplinary normalization, it is the norm. That is, there is an originally prescriptive character of the norm and the determination and the identification of the normal and the abnormal becomes possible in relation to this posited norm.[31]

I adduce this as the strongest single piece of textual evidence for my interpretation of Foucault's conception of the norm. He defines the norm here with precision as a prescriptive, optimal model, that is, a positive idea of how a thing should be, at its best. Not only is this definition clearly stated, but moreover comes at the very end of Foucault's years of work on normalisation, representing, therefore, a final position.

I imagine it might also be objected that Foucault himself positively uses the notion of the rule, for example setting methodological "rules" for himself (Foucault, *History of Sexuality I*, 98). However, this simply indicates how ubiquitous and deeply rooted the model of the rule is, and is no contradiction, since he does not oppose its use per se, but rather criticises theories that see *everything* in terms of "rules" – and even then his prescription is, by his lights, "at most" "cautionary" (ibid.).

[30] Foucault, *Abnormal*, 50.

[31] Michel Foucault, *Security, Territory, Population* [2004] (2007), 58.

Foucault, however, follows this passage by proposing a terminological redistribution:

> Due to the primacy of the norm in relation to the normal, to the fact that disciplinary normalization goes from the norm to the final division between the normal and the abnormal, I would rather say that what is involved in disciplinary techniques is a normation rather than normalization.[32]

This neologism "normation" is meant to refer to what he had previously (indeed, as recently as two sentences before) consistently called "normalisation." The rationale for this change is to reserve "normalisation" for instances where the norm is derived from what is normal, specifically from statistical averages. In disciplinary normalisation, by contrast, the norm comes first, providing the basis for judgments of what is normal.

This suggestion of Foucault's is tentative and apparently abortive, since he never uses the term "normation" again: he only ever mentions it in this one lecture, and even there only twice. He does not even in this context refrain from using "normalisation" to refer to what he is now suggesting we call "normation."

The replacement term "normation" has, however, been taken up by commentators (including Legrand) since the publication of *Security, Territory, Population* and has thus latterly found some currency. This is unproblematic in and of itself. Once again, the terminological question – whether we say "normalisation" or "normation" – is not crucial. The important points are that Foucault does distinguish what has previously called "norms" and "normalisation" from the statistical senses of these terms and that he himself never conceptualises them statistically. He does not do so in *Security, Territory, Population*, and on the rare occasions he mentions norms and normalisation in his later work, for example in the following lecture series, *The Birth of Biopolitics*, it is only to refer back to his pre-1978 work on "normalizing and disciplining society".[33]

However, I think problems arise when readers implicitly apply this novel terminological distinction from 1978 to Foucault's other work to conclude that his remarks on normalisation have a statistical bent, when in fact the very point of his 1978 remarks is that his conceptualization of normalisation had previously always been essentially non-statistical. This feeds into a broader, more longstanding tendency to construe Foucault's concept of normalisation as statistical simply because this is a common conception of normalisation.

A major voice against this statistical conception is Canguilhem, who argues that medical conceptions of normality cannot be derived statistically, because the average person is not perfectly healthy, hence the norm is a desideratum rather than the empirical norm.[34] Since Canguilhem's influence is seminal to Foucault's research, this can be counted ceteris paribus as a factor pushing Foucault too in a non-statistical direction. Canguilhem instead casts norms as "normative," as Foucault himself does in *Abnormal*, where he also invokes Canguilhem's characterisation of norms as "polemical."[35]   Indeed, Foucault credits

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[32] Ibid.

[33] Michel Foucault, *The Birth of Biopolitics* [2004] (2008), 146.

[34] Canguilhem, *Normal and the Pathological.*

[35] *Abnormal*, 50; *Normal and the Pathological*, 146.

Canguilhem in *Abnormal* with the insight that "the norm is not at all defined as a natural law but rather by the exacting and coercive role it can perform in the domains in which it is applied."[36] One should note, however, that Canguilhem does not, as Foucault suggests, actually reduce the norm to a "coercive role," and that Foucault's own tendency here to view power negatively in terms of coercion is one he would soon renounce.

Mary Beth Mader has recently offered a diametrically opposite reading of Foucault in relation to statistics, claiming in relation to the first volume of the *History of Sexuality* that "it could not be clearer that the notion of norm at issue is, or is based upon, the statistical sense of a norm as the mean of a normal curve."[37] *Pace* Mader, I maintain that there is no evidence to support this reading. Foucault makes no mention in the first volume of the *History of Sexuality* of the "mean" or even of any kind of "average"; he mentions "statistics" only once, pages away from any mention of norms. There is no mention at all of statistics in *Discipline and Punish* or *Abnormal* either, and only three mentions of it in *Society Must Be Defended* the following year. It is rather only in *Security, Territory, Population* that we find Foucault's sole extended engagement with statistics, and here he explicitly quarantines his earlier work on norms (including the *History of Sexuality*) from this engagement.

Mader, by contrast, claims that all norms are based in statistics, and imputes this belief also to Foucault.[38] She knows that Canguilhem disputes this, but here differentiates Foucault from Canguilhem on the basis that Canguilhem has a vitalist-organicist conception of the norm. It is true Foucault does not share Canguilhem's vitalism, but this vitalism does not affect Canguilhem's empirical historical observations of how norms operate. Mader alleges that Canguilhem conflates rules with norms, but I would contend he does not on either of the two pages in *The Normal and the Pathological* that she cites, certainly not to the extent that Foucault himself conflates the two in some of his writings.[39] Mader rightly upbraids Pierre Macherey for failing to understand the historical relativity of Foucault's notion of the norm, wrongly grounding his account of Foucault in a Spinozist organicism, and is also right to point out that Macherey does lean on Canguilhem in his account, but this does not imply that Canguilhem is guilty by association.[40]

In addition to the influence of Canguilhem, we can attribute Foucault's non-statistical conception of the norm also to the fact his studies of normalising discourses focused solidly on the period before the notion of the norm had been taken up by statistics. This happened only at the end of the nineteenth century, to refer to a mathematical notion that was established under other names as early as the eighteenth. This renaming was influenced by the general expansion of the jargon of normality in the nineteenth century.[41]

This does not mean, however, that Foucault's neglect of the statistical connection is a mere accident. Foucault in fact took a pointedly anti-statistical stance even before his

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[36] *Abnormal*, 50.

[37] Mary Beth Mader, *Sleights of Reason. Norm, Bisexuality, Development* (2011), 50.

[38] Ibid., 62.

[39] Ibid., 64.

[40] Ibid., 60; Pierre Macherey, *De Canguilhem à Foucault. La force des norms* (2009).

[41] Ian Hacking, *The Taming of Chance* (1990), 184.

explicit thematisation of norms. He consistently diminishes the significance of quantification in normalising disciplines, arguing in *The Order of Things* that, for all the use they make of mathematics, the human sciences are actually less mathematical than earlier forms of knowledge, since they are not based on it.[42] While psychology, for example, has tried to constitute itself as an empirical science through mathematisation, Foucault notes that "new norms imposed by industrial society upon individuals were certainly necessary before" this.[43] Foucault's later thematisation of normalisation is of a piece with a long-term project of critiquing the theorisation of the human, in which context mathematisation figures as a fig leaf of naturalistic respectability covering ultimately normative stances.

Arguing that the norm is itself really always statistical, while adding force to a critique of the relation of statistics to power, nonetheless risks giving too much credence to the claims of statistically-oriented normalising disciplines and undercutting Foucault's own critique of them, which functions in part by showing the human sciences' pretensions to scientificity to be vacuous. Where scholars, such as Legrand and, in his own way, Ian Hacking,[44] argue that the norm is now a concept that is ineluctably amphibological, implying both statistical and normative claims at one and the same time, they likewise risk making Foucault's line of criticism impossible. Mader is indeed quite right to suggest that such concepts are not mere amphibologies, but conceptual *sleights*. Foucault's explicit point in his lone discussion of statistics in relation to norms is to try to separate out the two different senses of 'norm'; to demarcate and quarantine them from one another. In this, Foucault evinces his general approach to concepts, which – as discussed above – I believe is to clarify them.

Although I disagree with Legrand's account of the way Foucault approaches the norm, we agree that the word norm in its ordinary usage functions to conceal and confuse. I agree moreover with Legrand's Foucauldian argument that the ambiguity of the term 'norm' can itself be understood to be part of the functioning of the norm. I do not, however, think that Foucault himself means to use the term in a particularly ambiguous way.

Hacking, like Mader, does see the notion of the normal as originating in statistics, but Hacking makes this claim *implicitly* in the context of a study of the history of statistics.[45] As with Legrand's claim about the amphibology of the norm, this is more in the order of a premise than a conclusion. From the point of view of the history of statistics, normality will naturally seem to be derived from that quarter. From the point of view of a history of normality itself, which is what both Foucault and Canguilhem give us, statistics appears by contrast as something of a latecomer.[46] This is not at all to imply that there is anything

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[42] Michel Foucault, *The Order of Things* [1966] (1989), 381.

[43] Ibid., 376.

[44] Hacking, *Taming of Chance*, 163.

[45] Ibid.

[46] Hacking (ibid., 168–169) reads Auguste Comte as having invented the conception of the norm as perfect state, hence this idea originating later than the idea of the statistical normal. But he claims that Comte does this by importing the notion of the normal from medicine into sociology. This implies that, as I have after Canguilhem and Foucault claimed, that the notion of the norm as perfect state already existed in medicine. Moreover, Canguilhem has demonstrated that it has earlier beginnings than Hacking allows.

inherently wrong with the statistics of the normal distribution, only that its contingent naming has given other norms a patina of statistical objectivity. Indeed, as Hacking points out, in its purely statistical form, the notion of the normal has no normative implications at all.[47] Hacking may certainly be right that both conceptions of the normal are linked by being part of the historical shift from determinism to indeterminism that he diagnoses, but this connection is quite beyond the scope of the current essay.[48]

STANDARDISATION

A different ambiguity in Foucault's conceptualisation of normalisation, from which English-speaking commentators are relatively immune, comes from the fact that the French *normalisation* also refers to what in English is called 'standardisation' in the industrial sense.[49] It seems to me that Foucault's former assistant, François Ewald, in particular is misled by this ambiguity to read a twentieth-century American literature about standardisation, which never mentions "norms," as the key to understanding contemporary normalisation.[50] Where Mader sees norms as derived from statistical observation, Ewald pursues a quite opposite line that all norms are arbitrary standards of the industrial type.

Now, human normalisation and industrial standardisation are indeed closely genealogically related. Foucault himself explicitly includes industrial norms as an instance of "the Norm" and "the Normal" in *Discipline and Punish* (though he does not elsewhere).[51] In so doing, he once again unusually refers in-text to pages in Canguilhem's "New Reflections." Canguilhem's account of the development of the norm does indeed also include industrial standards alongside human ones. Both phenomena emerge in the context of the development of capitalist industrialisation: for Canguilhem as for Foucault, normalisation, like standardisation, is a phenomenon of class domination, favouring those who have the right to define norms.[52] Still, agreeing upon manufacturing standards is quite different to imposing norms on human beings. Canguilhem points out that there is no expectation in relation to industrial norms that the object itself yield norms by analysis; such norms are rather explicitly arbitrary.[53] When it comes to deciding the standard size for a bolt, what is most important is simply to agree that all bolts will be the same size, not precisely what that size is (though of course there will be a limited range of sizes practical for any particular purpose). When it comes to establishing norms for biological entities, by contrast, there is a reigning presumption that there exists an optimal state which can be discovered. Moreover, whereas industrial norms are imposed at the point of manufacture on indifferent entities, biological norms are imposed on existing, resistant organisms. It is precisely on this basis that Canguilhem and Foucault seek to critique

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[47] Ibid., 178.

[48] Ibid., 179.

[49] *Normal and the Pathological*, 152.

[50] François Ewald, "Norms, Discipline, and the Law," *Representations* 30 (1990), 138-161.

[51] Foucault, *Discipline and Punish*, 184.

[52] *Normal and the Pathological*, 151; *Society Must Be Defended*, 61.

[53] *Normal and the Pathological*, 145–146.

current methods of normalisation. Dianna Taylor makes the related point that the norms Foucault criticises appear to us as natural, and that therefore Foucault's exposing them as norms is a critical operation.[54] This cannot be said of industrial standards: even if we may get so used to these that they appear to us as if part of a natural order, we do not actually believe that they were never invented. For his part, Foucault, in the definitional passage from *Security, Territory, Population* quoted above, speaks of norms as providing an optimal model in relation to "people, movements, and actions" – that is, in relation to human beings and their bodily activities, with no mention of any applicability to the non-human by this point in his thinking. Once again, the use of the nomenclature of the norm to cover standardisation is in itself harmless; the error I am concerned to dispense with, specifically Ewald's, is to claim conversely that what is true of standardisation is true of normalisation in general.

FOUCAULT'S GENEALOGY OF THE NORM

Up to this point, I have dealt with the history of the *terminology* of the norm, both within Foucault's work and more broadly. I will now consider the deeper *genealogy* Foucault supplies of the norm *avant la lettre*. Where Canguilhem suspects the phenomenon of the norm emerged before its explicit conceptualisation, Foucault actively delves into its pre-history.

In *Abnormal*, Foucault identifies precursors to what he sees as two distinct forms of modern power in two medieval public health practices, one for dealing with leprosy, the other for dealing with plague.[55] Leprosy, being a slow-acting and slow-spreading disease, was dealt with by the strict binary exclusion of lepers into their own zones: a repressive model adopted in modernity to deal with the mad and indigent in a process of confinement detailed by Foucault already in his *History of Madness*, which often reused the very same spaces formerly used to isolate lepers. The plague, by contrast, could not be dealt with using such a crude method, since it was highly contagious and killed quickly. While an entire settlement could be quarantined once plague struck it, within that place a "meticulous" analytical procedure had to be applied:[56] every household and each person was monitored continuously for signs of contagion in order to try to control the spread of the disease. In this model, "there is no irrevocable labeling of one part of the population but rather constant examination of a field of regularity within which each individual is constantly assessed in order to determine whether he conforms to the rule, to the defined norm of health".[57] Though he uses the terms "norm" and "rule" synonymously here, he nonetheless clearly uses the term "norm" already to mean an ideal model. The application of such a norm of the healthy person will define modern medicine from its institution in the late eighteenth century, described already by Foucault in his *Birth of the Clinic*.[58] This modus operandi replaces an older one based on a binary division between those who have

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[54] Dianna Taylor, "Normativity and Normalization," *Foucault Studies* 7 (2009), 46.

[55] *Abnormal*, 44 – Foucault later incorporates this narrative into *Discipline and Punish*, 195-199.

[56] *Abnormal*, 45.

[57] Ibid., 47.

[58] Michel Foucault, *Birth of the Clinic* [1963] (1973).

and those who lack vitality, which is obviously more germane to what I am calling the rule.

As Canguilhem's genealogy of the norm indicates, though, much of the development of norms has no particular connection to the medical. Foucault too is clear that there is nothing intrinsically medical about norms.[59] Indeed, he even casts the norm as staging an 'insidious invasion' of medicine, 'colonising' it from without.[60] Foucault then does not actually claim that the model of the norm *originates* in medieval approaches to disease.[61] It is indeed not clear, then, whether there is a direct line of descent from the control of plague to normative grammar, for example: perhaps the two have some joint antecedent, or perhaps normalisation appeared independently in both places. When Foucault claims that 'plague replaces leprosy as a model of political control',[62] this implies not so much that the plague is its point of origin, as that the model that can be seen in the treatment of the plague becomes hegemonic.[63] This is a general shift, the advent of a 'normalising society', wherein the norm expands to more and more areas such that there has been a 'growing importance assumed by the action of the norm, at the expense of the juridical system of the law'.[64] This does not, according to Foucault, actually imply any diminution of the law qua institutional framework (indeed, I will suggest, the opposite may be true). Rather, it implies that the law itself 'operates more and more as a norm, and that the judicial institution is increasingly incorporated into a continuum of apparatuses (medical, administrative, and so on)'.[65]

The universalisation of this model is, for Foucault, bound up with what he calls the "development of bio-power." This involves the constitution of the population as the object of power, working to enhance humans' biological functioning. Previously, says Foucault, the power of rulers was essentially negative, deductive, and deadly, keeping people in line through the constant threat and intermittent use of violence. Now, by contrast, agencies actively intervene to constitute people as docile subjects by caring for them rather than simply threatening them. Biopolitics on Foucault's account is built upon the pre-existing technology of power that he calls "discipline" or "anatomopolitics," the control of individual bodies, which, though it is pre-dates biopolitics, is itself a modern invention. For Foucault, the norm constitutes "the element that circulates between" discipline and biopolitics because it "can be applied to both a body one wishes to discipline and a population one wishes to regularize."[66] Norms allow the coordination of the control of the entire population with the control of individuals because at each level they provide

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[59] Ibid., 41.

[60] Ibid., 25–26.

[61] Foucault after Nietzsche indeed rejects any search for an origin as such – see Foucault, "Nietzsche, Genealogy, History".

[62] *Abnormal*, 48.

[63] Note that Foucault here uses the term "model" to refer to the operation of the norm in general, as well as elsewhere using the term to refer to models provided by particular norms. This implies that there "the norm" itself operates as a meta-norm for all particular norms.

[64] Foucault, "Analytic Philosophy of Politics", 144.

[65] Ibid.

[66] *Society Must Be Defended*, 252–253.

standards, and these standards can be pursued conjointly and modulated correlatively. It is here that statistics comes into play in relation even to inherently non-statistical norms (and it is in relation to bio-power, rather than norms per se, that Foucault mentions statistics in *History of Sexuality I*).[67] Foucault contends that this combination of technologies "needs continuous regulatory and corrective mechanisms," hence "to qualify, measure, appraise, and hierarchize," and "not draw the line".[68] Simply drawing the line – that is, setting hard and fast rules – would be insufficient to the control either of these technologies requires, let alone to coordinate them. With norms, as Foucault puts it, "instead of a binary division between the permitted and the prohibited, one establishes an average considered as optimal on the one hand, and, on the other, a bandwidth of the acceptable that must not be exceeded."[69]

It is in this context that Foucault locates the relative diminution of law, associating the law with the older 'thanatopolitical' or 'sovereign' order.[70] For Foucault, thanatopolitics survives within the biopolitical order: states continue to use deadly violence, indeed more than ever, but this use of force now occupies an ancillary position relative to the use of positive techniques of directing life. Thus, where the law was formerly negative, telling us what *not* to do, the new productive power enforces positive standards as to what we *should* do, and indeed what we should *be*.

BINARY JUDGMENT IN THE AGE OF NORMS

The distinction between normal and abnormal, whether it be for noncomformity with the optimum, or for falling outside a normal bandwidth, might itself seem simply a new binary division introduced into a society already replete with any number of such divisions, between vicious and virtuous, legal and illegal, rational and irrational, good and evil. Indeed, I would argue that it is, as does Foucault himself, who in an early reflection on the normal/abnormal distinction positions it as a form of the good/evil distinction.[71] The rule continues to exist alongside the norm: the model of the plague displaces but does not replace that of leprosy, as biopolitics relies on thanatopolitics.

Foucault, in the above-adduced definitional quote from *Security, Territory, Population*, says that the norm comes first in disciplinary normalisation, prior to any division. Similarly, in the brief above-quoted definitional remark on the norm in *Psychiatric Power*, he couches it as "the principle of division and normalization." I understand this as meaning that without the existence of the norm, there can never be a division between normal and abnormal in relation to it.

The converse however is not true: the existence of the norm does not automatically – or at least not logically – imply the existence of a binary division of normal from abnormal.

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[67] *History of Sexuality I*, 146.

[68] Ibid., 144.

[69] Foucault, *Security, Territory, Population*, 6

[70] *History of Sexuality I*, 144.

[71] Michel Foucault, "Revolutionary Action: Until Now'" [1971], in *Language, counter-memory, practice: selected essays and interviews*, ed. Donald F. Bouchard (1977), 230.

Since all real individuals deviate from the norm to some extent, no one absolutely merits categorisation as "normal." Even a precise quantitative norm, say one as apparently uncontentious as the statistically-backed normal human temperature of 37°C, is hardly ever met exactly by anyone, and then only temporarily and to within the margin of error of the measuring device used. Now, there is also a normal *range* of temperatures with which one either is or isn't in conformity, which is used to define what counts at normal. With the introduction of the range, however, I contend we are seeing the application of a rule not a norm, even if it is based on the norm.

As Legrand puts it, the norm primarily functions to label things as abnormal rather than to assure any kind of positive accordance with it. That is, even though disciplinary mechanisms are clearly meant to bring things into conformity with norms, not only do they not completely manage this, but in fact they have a different function altogether – the classic example of this being the production of delinquency by the prison system. Since no one really finds themselves fully in accordance with any norm, this means that everything is punishable, as Legrand realises.[72] What this implies though is that punishment is not really meted out *because* people are at variance with the norm, but rather that this inevitable abnormality constitutes a pretext for punishment. Here, I posit the appearance in relation to the norm of the old repressive power and its binarising logic. Without such binarisation, normalisation could only be a miasma without clear limit or compulsion.

THE NORMALISATION OF BEHAVIOUR:
THE "CONFRONTATION" BETWEEN LAW AND MEDICALISATION

In the case of public health, from the plague onwards, one can see the necessity of setting down clear criteria for triaging normal from abnormal, even if this always leads to both false positive and false negative diagnoses. Though Foucault is clearly interested in the general development of medicine, the focal point of his problematisation of public health is where medicine engages in the institutional normalisation of behaviour.

Human behaviour has long been subject to at least two binary classifications. Primarily, it has been classified in relation to the law, as either licit or illicit. But there has, since time immemorial, also been a binary division between behaviour that is subject to the law and behaviour that is deemed mad. Foucault in his *History of Madness* shows that the way this distinction has been applied has varied greatly over time, and has been marked by considerable ambiguity. It has never been a simple matter to distinguish the mad from the criminal, and at times these have been taken to be overlapping rather than mutually distinct categories. For a long time, the judgment of someone's madness was held to be the domain of medics, lying outside of the competence of the legal apparatus.[73] However, according to Foucault, things changed when confinement became the blanket treatment for madness, starting in the seventeenth century: it was not medics but confining authorities who made the decision to confine people, in accordance with complex laws, albeit

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[72] *Normes chez Foucault*, 59.

[73] Michel Foucault, *The History of Madness* [1971] (2006), 122–123.

always formally requiring a medical opinion as a basis. The medical opinion required varied considerably, however, including guaranteeing that a patient would respond to treatment in some cases, but in others, on the contrary, that the case was incurable. Moreover, since the power to make the determination did not reside with the medic, most confinements in the seventeenth century were made without any medical opinion actually being recorded.[74]

Foucault suggests that, from the Middle Ages onwards, the law began to cognise madness quite independently of medicine, if influenced by it.[75] Madness thus came no longer to imply exemption from the judicial system, but rather became a consideration within the criminal trial, resulting perhaps in a different sentence.[76] This implies that normalisation appeared in medicine at a time when its apparent competitor, the law, was ascendant in relation to madness. Thus Foucault suggests that the modern medical "science" of madness, founded in the period in which medicine itself had adopted normalisation as its modus operandi, "grew out" of the legal conceptualisation of insanity rather than out of the previous medical one.[77]

Foucault casts the "medicalization of behaviour" as a "confrontation" occurring at the "front where the heterogeneous layers of discipline and sovereignty meet".[78] This "medicalisation of behaviour" is the domain today designated as "mental health": while the discourses that deal with the mental, psychology and psychiatry, eponymously take the "psyche" as their object, in practice they cannot focus on this invisible object, but rather only on the visible behaviour of patients. I would suggest that the "confrontation" Foucault posits here owes at least something to the fact that, in principle, disciplinary psychology promises to explain all human actions through a scientific, causal model, be that behaviourist, psychoanalytical, or (increasingly today) neurological, and thus to prevent or cure all aberrant behaviour. Even if this discourse, according to Foucault, originates more in the law than in medicine, this does not imply that it has an easy relationship with the more traditional juridical punishment of behaviour. From the medical viewpoint, criminal behaviour is a malady that needs to be treated rather than punished. Psychology indeed promises to replace traditional punishment, a replacement incidentally proposed historically by Friedrich Nietzsche.[79]

Of course, this replacement has never been made. Rather, people remain primarily judged according to an older conception of actions as freely chosen, and are hence held responsible for them, and accordingly punished. Perhaps this is a necessity for a capitalist society, or at least the kind that we have, to the extent that being free to contract and bearing the responsibility for this commitment are fundamental to it. A relatively stable compromise has emerged where some actors and some actions – the insane, minors, the intellectually disabled, and those affected by chemicals foreign to their bodies – are held

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[74] Ibid., 124–125.
[75] Ibid., 126.
[76] *Abnormal*, 10, 15.
[77] Foucault, *History of Madness*, 127.
[78] *Society Must Be Defended*, 39.
[79] Friedrich Nietzsche, *Daybreak* [1881] (1997), 121.

to be at least partially within a realm of determinism where they have no or less choice, and hence no or less responsibility.

According to Foucault, during the nineteenth century emergence and growth of psychiatry, there was a blurring – 'a kind of general complicity' – between the psychological and legal.[80] The courts retained their power and rebuffed attempts by doctors to subvert it during the nineteenth century, with judges and courts assuming the right to make decisions of a medico-legal nature, albeit on the basis of expert psychiatric reports.[81] The law itself, as well as judicial and penal institutions, were profoundly influenced by normalising psychology. Punishment itself changed, with the replacement of an overtly brutal corporal regime of sanctions with the ubiquitous penalty of imprisonment, a shift encapsulated in the opening vignettes of *Discipline and Punish.* This new form of punishment has psychological methods and rehabilitative aims, and psychological considerations are taken into account in sentencing and parole. Even if, as Foucault claims, the main objective product of imprisonment is not rehabilitation but recidivism, the explicit aim of normalisation has nevertheless become essential to punishment:[82] where earlier punishment meted out pain in proportion to the wrong supposedly done, punishment now aspires to make subjects normal, even if it typically has the opposite effect. One might suggest that the notion of rehabilitation is merely a justificatory excuse, but if that is so, the same things can be said of the mental asylum, which was scarcely more efficacious than – and greatly resembled – prison. Indeed, the two institutions can be viewed as two arms of a single system: Foucault in the *History of Madness* indicates that they split from an initial undifferentiated confinement of poor, criminal, and mad all together, and things are perhaps moving back in this direction again.

Psychology differs from the penal law in claiming to be scientific, but, as Canguilhem and Foucault contend, its norms are really normative. As Foucault puts it, modern psychiatry and psychology, despite having expunged explicitly moral language from their discourse, are "haunted by an ethical view of unreason."[83] Foucault shows how psychonosography is a melange of various earlier influences, including moral prejudices and legal ideas about madness, along with ideas rooted in earlier forms of medicine. Hence he speaks of psychopathology's "scientific pretensions": it takes its bearings from a conception of what man is naturally like, but since *homo natura* is a fiction, mental illness is actually a socio-legal category.[84]

The relationship between medicine and law vis-à-vis human behaviour is thus a complex mixture of coexistence, cooperation, and conflict. Both begin from more or less the same normative presuppositions as to what counts as normal behaviour, allowing for relatively easy coordination, but they conceive the basis of human behaviour differently,

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[80] *Abnormal*, 32.
[81] *Abnormal*, 39–40.
[82] *Discipline and Punish.*
[83] *History of Madness*, 159.
[84] Ibid., 129–130.

which leads them to diverge as to what to do to address it, and to produce different results.

CONCLUSION

The society of the norm diagnosed by Foucault in the mid-1970s is one in which a longstanding politics of division and labelling – identified with sovereign power – is alloyed with a proliferating production of models of perfection for all areas of human life that no one can meet. Far from saving us from the form of the rule, norms have provided it with a new, indefinitely expanding scaffold. And while Foucault points out that the law has been a point of resistance to the norm, in the end it has been deeply colonised by it. The dangers of this contemporary combination are that sovereign power finds indefinite extension in relation to norms and, even where we are spared institutional punishment for our inevitable abnormality, we are nonetheless as subjects consigned to feel ever more abnormal as new norms continue to arise. The detailed exploration of these consequences I will provide in future publications.

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