



Disciplining the Social: A Foucauldian Analysis of Civil Society.

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Abstract

The conception of self that works behind the discourse of human rights can be traced back to the Enlightenment, but the universalization of this self requires an arena that can harness it and ensure the universalization of human rights. Civil society is that arena through which the aim of universality of human rights and ultimately individual freedom-liberty could be achieved. The implicit aim of the universalization of human rights through civil society is nothing but the universalization of freedom. Similarly, human rights discourse is that mechanism which strives for the formation of civil society. In a nutshell, civil society and human rights both reinforce each other. The issue appears when civil society discourse, instead of securing and expanding spheres of freedom, becomes a mode of subjugation and governance. The emergence of Foucauldian disciplinary power and governmentality has highlighted the inability of the modern self of framing-reframing conception of the good by itself. The domain of liberty seems to be shrinking through the discourse of civil society instead of expanding. The objective of the paper is to examine the discourse of civil society through the spectacles of Foucault's formulation of power and to establish that civil society is an apparatus of capture instead of liberation.

Key Terms: *Disciplinary Power, Biopolitics, Civil society, Freedom, Modernity*

Introduction:

Modernity and enlightenment have shown a dream to mankind, a dream of emancipation, liberty, and freedom. Throughout the course of modern times, modern thinkers have emphasized the importance and inevitability of freedom for mankind. It seems that freedom has been posited as the essence of mankind. Because it has been identified as the essence of mankind, it became

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imperative for the whole of humanity to accept it as the ultimate purpose of life. Therefore, it seems inevitable that the order of freedom deterritorializes all other orders of mankind.

The expansion of the order of freedom requires the establishment and institutionalization of freedom. Civil society, being a non-governmental actor, fosters a social fabric on which the acceptance of individual liberty becomes possible. It aims at creating a socio-cultural arena through which acceptance of liberty appears to be a fundamental right of human beings. It creates space for the establishment of human rights discourse.

While civil society creates a conducive environment for the establishment of human rights, the discourse of human rights seems to be the flip side of civil society. Where civil society discourse strives for the universalization of human rights, the human rights discourse, on the other hand, tries to establish a space for civil society in non-modern, traditional spheres.

Conventionally, civil society has been theorized - following Lockean and Kantian foundations - as a space that ensures individual liberty and provides the environment in which that liberty becomes institutionalized. The Foucauldian understanding of civil society, by contrast, has developed along different lines: for Foucault, civil society is a space that produces docile subjectivities.

Recent Foucauldian scholarship on civil society majorly moves around the Foucauldian concept of governmentality, as in the case of Pyykkonen (2015) and Kutay A (2014). Both approached civil society through the lens of governmentality. What seems to be remaining unexplored is genealogical analysis of civil society that examines the ontological foundations of civil society and argues that it is a technology of capture, a scientific-disciplinary mechanism.

Michel Foucault's analysis of disciplinary power questions the claim of civil society as the custodian of individual freedom and liberty. For Foucault, civil society, instead of being a society that expands freedom, is a carceral society that produces disciplinary, productive, and docile subjectivities.

This article analyzes the concept of civil society and highlights the implicit critique of civil society embedded in Foucault's disciplinary work. To do so, it employs a philosophical methodology combining conceptual comparative analysis with a Foucauldian genealogical approach. The methodological approach adopted for this study, along with its rationale, is explained in the

following section. The second section presents a conceptual understanding of the metaphysical basis of civil society as laid out by John Locke and Immanuel Kant. The third section presents the definitive features of civil society and conducts a comparative analysis of its different strands. The fourth section employs Foucault's genealogical approach to examine the disciplinary roots of civil society; this analysis is followed by a conclusion.

Methodological Underpinnings:

As stated earlier, the article adopts a conceptual comparative analysis coupled with a Foucauldian genealogical approach. Since it is a conceptual comparative analysis, the article focuses, on the one hand, on John Locke's and Immanuel Kant's understanding of civil society, and, on the other hand, on Michel Foucault's genealogical analysis of civil society.

The rationale for selecting John Locke and Immanuel Kant's accounts of civil society is that both provide an ontological justification for civil society. For both thinkers, civil society belongs to the domain of freedom. For Locke, the framework of natural rights and social contract establishes civil society as a voluntary association of rights-bearing individuals. Kant's account of civil society, on the other hand, is based upon individual autonomy and public use of reason.

Reading these two accounts of civil society together develops the metaphysical space on which later theorization of civil society depends and provides the conceptual basis on which the article's Foucauldian genealogical critique becomes intelligible. On one hand, this comparative analysis between Locke and Kant establishes an ontological foundation for the discourse of civil society. On the other hand, building on the foundation, the article applies the Foucauldian genealogical method as a critical procedure to substantiate the claim that the space of civil society, instead of being an emancipatory one, works as a disciplinary mechanism - producing the normalization of masses and transforming the individual into a 'scientifico-disciplinary subject'.

Conceptualizing Civil Society: The Metaphysical Foundations.

The Universal Declaration of Human Rights (United Nations, 1948) can be considered the hallmark of the human rights discourse, but the roots of human rights run far deeper in the modern West. They can be traced back to the Declaration of Independence of the United States of America, in general, and the Enlightenment project, in particular.

Throughout the modern West, human rights, in all their forms and offshoots, presume freedom as their ontological basis. Whether it is Hobbes, Locke, Kant, or even Rawls, each implicitly presumes freedom to be the fundamental core of modern society. Locke considers natural law as the basis of human rights. For Locke, men in the state of nature enjoy perfect freedom; by freedom, he meant nothing but men's ability to act as they think fit. (Locke, 1988)

A question arises: if every individual is free in the state of nature, how could order be developed in society? Would this not entail conflict among individuals? According to Locke, freedom is held equally, since "no one having more than another" (Locke, 1988)

Locke believes that it is reason - the faculty that instructs individuals on the question of moral obligation - that guides them toward behaving peacefully. Since every individual enjoys equal freedom, one ought not to harm others or disrupt or destroy others' liberty or property, because "the same could be faced by him/her as well" (Locke, 1988). Individuals in the state of nature are nonetheless driven by their own desires, even as everyone remains equally free. The purpose of the state of nature seems to be nothing but the assurance of perfect individual liberty.

For Locke, the state of nature presents a perfect unity between individuals, and between humans and nature. It seems that both are enmeshed with each other. Since there is no dichotomy between individual and nature, the law that governs them is the law of nature. The state of nature is "a state of perfect freedom to order their actions" (Locke, 1988); it is also a state "which guarantees absolute freedom to the individual in the absence of any order" (Suri, 2010)

Although the state of nature is a space that ensures perfect freedom - a state in which "no one ought to harm another in life, health, liberty, or possessions" (Locke, 1988) - human beings are not perfect, and they err due to the absence of any formal legal apparatus that could ensure the safety of life, property, and possessions of all. For Locke, if any individual attempts to impose his will upon others without mutual consent or tries to capture the other's possessions without mutual consent, this amounts to enslaving them and transforms the state of nature into a state of war.

To save their possessions, property, and liberty, individuals develop a collectivity - a society in which relations are formed based on mutual consent for the preservation of personal interests. This society has its own codified

rules. This society, formed by free individuals to save themselves from a state of war, is civil society. Individuals become part of this society voluntarily. Civil society is not based upon kinship relations, but rather on personal interest and safeguarding individuals' desire to be free.

Locke considers that, unlike the state of nature, civil society presumes a powerful authority that would “decide controversies between them and punish offenders” (Locke, 1988). Within it, individuals forgo some of their freedom in favor of an authority that could act to ensure the protection of the liberties and possessions of all, since - as Suri (2010) argues – Locke’s account “demonstrated that in the absence of any order, freedom of the individual is unprotected and unsustainable.”

What distinguishes civil society from the state of nature is that civil society has a clear and defined legal apparatus - a system of law through which it can differentiate between the rightful holders of liberties and those who transgress them.

The authority, i.e., state or commonwealth in Lockean terms, ensures the protection of civil liberties. The State and its apparatus act as a “supreme government,” which ensures the protection of the interests in contract with one another in the civil society.

Locke considers that there is an antagonistic relationship between the state of nature and the governmental apparatus. It seems, from Locke’s perspective, that government could be an institution capable of establishing justice – in the liberal sense of the term² - among competing free individuals.

It appears that, for Locke, civil society provides a bounded freedom, unlike that of the state of nature, in which there could be limitless amounts of freedom. This further means that Civil society works to ensure the presence of a space in which individuals can enjoy their freedom within the limits of law and legal apparatus.

The question at hand is: what is the status of government, and how would it function in the presence of inalienable, basic natural rights? In this regard, Locke considers the aim of the government to be nothing but the preservation and protection of individuals’ basic natural rights. Locke also considers that

² *The liberal sense of justice is not the attainment of absolute freedom in the absence of an order. Locke, being a contractarian liberal theorist, has contrasted the liberal sense of justice with that of the anarchist sense of the term. For contractarians, justice can only be achieved through the attainment of an ordered freedom.*

individuals have moral justification to oppose an established government if it fails to protect these rights.

It appears that governmental apparatuses are established through the will of the contractual individuals in civil society and exist in harmony with it, yet a competitive relationship remains between civil society and the governmental legal apparatus. For Locke (1988), the purpose of the established commonwealth is nothing but “the preservation of the community,” yet this power, placed in its hands by the members of civil society, is ‘fiduciary’ in nature. The power of an established government is acceptable to the citizens only if it serves their interests. If it acts otherwise, citizens have the right to overturn it since “In all states and conditions the true remedy of force without authority is to oppose force to it.” (Locke, 1988).

Reiterating the dream of Enlightenment, Kant also believes that individuals are free and rational, capable of determining and framing their own conception of good; in this endeavor, reason can guide individuals in setting their aims. Kant claims that it would be an immature attitude to take guidance from another authority in making decisions about one’s life.

Kant argues that humankind is so accustomed to not using their reason, even when it’s at their disposal, that they fear making decisions unaided by any external authority. That is why Kant (1784) believes humanity is in self-incurred tutelage, and that the only way towards enlightenment is the attainment of freedom, i.e., the ability to freely determine oneself. The use of reason without guidance from any traditional or religious authority could save humanity from immaturity.

Kant elaborated what he meant by the term “freedom.” He distinguishes the private use of reason from the public use. The private use of reason occurs when an individual exercises reason while bound by the oath of a particular office; here, one must obey and remain within the structures of the office concerned, thereby maintaining order. The public use of reason, by contrast, is the unrestricted freedom of speech. It seems that Kant regards this public use of reason as an expanding enterprise, since the spirit of freedom is spreading abroad even where it must struggle (Kant, 1784).

Kantian universal ethics played an important part in the establishment of a body of universal human rights capable of being globalized. Kant argues that the universal law of rights means the coincidence of individuals’ choices without conflict, as he writes, “the universal law of right, so act externally that

the free use of your choice can coexist with the freedom of everyone in accordance with a universal law” (Kant, 1991).

Kant (1991) distinguishes between rights along two broad axes: on one hand, with reference to the science of right, and on the other hand, with reference to moral entitlement. In the former sense, rights can be seen as natural versus positive, while in the latter sense, they can be seen as innate versus acquired.

Kant (1991) claims that “natural rights” are based upon a priori principles, while positive rights are provided by the act of legislation, whereas an innate right is that which belongs to everyone by nature, independently of any act that would establish it.

It seems that Kant gives importance to the innate right of human beings, and the only innate right of human beings upon which every other right is based is nothing but freedom, as “freedom is independence from being constrained by another’s choice” (Kant, 1991). Kant believes that freedom is the most important right among human rights; in fact, it is the innate and natural basis of all human rights.

Kant further claims that freedom is universal in nature. Freedom is a priori, meaning that it is not a concept deduced from experience. Further, freedom is natural, i.e., it is built into human nature rather than artificially adopted through certain legislation in a commonwealth. Kant believes that the right to freedom is the essence of humanity; hence, every human being has it from birth. For Kant (1991), humanity means an individual’s capacity to set oneself an end – any end whatsoever.

By Equality, Kant means that, since every individual is free to determine their own ends, everyone has a particular sphere of freedom. When every individual wills as they like, this may lead to conflicts among the spheres of freedom different individuals maintain. Therefore, if there is a right to freedom, there must be an equal sphere of freedom for everyone.

The debate over rights, taken in isolation, seems incomplete. Rights alone don’t make enough difference until there appears an arena in which they can be actualized by rational, free, self-interest-oriented individuals. Freedom, as Berlin (1992) expounds, ensures an area of non-interference – an area within which individuals are assured of their freedom. Rights ensure freedom from interference, whereas civil society ensures the applicability of those rights. This is where debate transformed into civil society.

Defining the Civil:

Civil society theorists since the 1990s have considered the Eastern European revolution of 1989 as the turning point in the debate on human rights and civil society. They marked the fall of Soviet Russia and the fall of the Berlin Wall as signs of a revival in the discourse of civil society, and for this reason Madison (2003) considers the year 1989 as “Annus Mirabilis,” i.e., the year of wonder. Ash (1990) made a similar observation, noting that 1989 was the springtime of societies aspiring to be civil.

The concept of civil society became the source, for both Eastern Europe and the late 20th-century modern West more broadly, through which the discourse of Human Rights found its revival. Madison (2003) noted that the concept of civil society, after the demise of the Soviet Union, became such a central theme for the discourse of human rights that, outside the realm and discourse of civil society, the prominent political discourse of human rights is “totally Vacuous”.

It appears that the institution of civil society has now become a “necessary condition for the possibility of democracy and the enhancement of the universal Human Rights” (Madison, 2003), and that in the absence of an existing civil society, any proclamation of human rights is empty and meaningless.

This revival of civil society in Eastern Europe has revitalized the debate on human rights conceived by Enlightenment thinkers, particularly Locke and Kant. The Velvet Revolution of 1989 in Czechoslovakia echoed this revival of human rights through the creation and expansion of civil society. This triumphalist reading has been questioned; Betts (2019) argues that the classical narrative of civil society’s revival now looks like a historical outlier rather than the norm, given the subsequent authoritarian turn in Russia, Hungary, and Poland, etc. Understanding this phenomenon requires a separate, dedicated scholarship.

Before exploring the concept of Civil society and its instrumental role in the examination of human rights, it would be better to first understand the subject, or individuality, working beneath the concept of civil society.

Civil Subjectivity:

Civil society presumes an individual who believes in freedom and strives to continuously enhance the area of non-interference; one who remains self-centered and believes in the equal right to determine (framing and reframing) conceptions of the good using the faculty of reason; one who considers oneself one's own master, free from every other individual's intervention; and, finally, one who believe in accumulation of capital as the concrete form of freedom (Zeeshan & Ansari, 2006).

There are multiple conceptions of goods in civil society, but, theoretically, all these conceptions are framed by rational free individuals. As there is equality, no hierarchy appears to exist among different conceptions of the good.

Civil subjectivity presumes equal freedom, not absolute freedom, which requires everyone to maximize and enhance it; individuals therefore enter into voluntary contracts with equal individuals. Through these contracts, relationships develop. All of civil society's activities, organizations, and networks develop through these contracts. Individuals freely enter into these contracts and can withdraw from them according to their own will.

Since there is equality among all conceptions of the good, no moral hierarchy appears within society. Whatever hierarchy exists develops only through the consideration and comparison of who has enhanced and increased the sphere of freedom for themselves and for others in general.

Once any free individual, whether mistakenly or voluntarily, obstructs the freedom of any other individual, the state will play its part, i.e., ensuring the sanctity of human freedom, since its sacredness lies in the establishment and upholding of it.

The irony is that, although the state needs to ensure and protect individual human freedom, it is also the institution that poses the greatest threat to individual freedom (Madison, 2003). Civil society theorists and propagators of negative freedom generally consider that the state poses a threat to human rights, particularly to the right to individual liberty. A similar observation is made by Donnelly (1989), who noted that "the problem in the world is not too many individual rights but that individual rights are not sufficiently respected. The balance between the individual on one hand and the state and society on the other is already tilted against the individual"

This means that the free individual possessing the above-mentioned rights requires a particular arena in which one could not only enjoy freedom but also be able to enhance it. It seems like civil society is that arena.

The concept of freedom in the modern West oscillates along two divergent and antithetical lines: on one hand, freedom has developed in negative sense, and on the other, in a positive Sense (Berlin, 1992)

The former considers freedom as an area of non-interference - an area or sphere in which individual is not obstructed or interfered with. As Berlin (1992) noted, “being free in this sense I mean not being interfered with by others.” Berlin concluded that the greater the sphere of non-interference, the greater the freedom would be.

On the other hand, the latter understands freedom as an endeavor towards some collective ideal or goal, in which individual ought to sacrifice some of their negative freedom in order to achieve the desired collective goal.

The former concept of freedom is propagated by liberal tradition by and large, whereas the latter is used, employed, and propagated by socialist, Marxist and Nationalist traditions. Hence, both traditions of modern West strive for the same end, i.e., freedom, but moves along two different directions, eventually coming into “direct conflict with each other” (Berlin, 1992).

Now that it is clear what subjectivity civil society presumes, the article will endeavor to elaborate how some notable contemporary civil society theorists have propounded the definitive features of the concept at hand.

Mapping Civil society:

The concept of Civil society also developed along these two antithetical lines (Seligman, 1995). On one hand, it developed through Marxist tradition, and on the other hand, through Scottish Enlightenment, or, more specifically, liberal tradition (Seligman, 1995).

Although the two lines are antagonistic, both traditions work on the same field, i.e., the freedom - which is why Hall (1995) endorsed the claim that “both traditions are extreme end of the same spectrum”.

Historically speaking, Hall (1995) considers that the nascent roots of civil society can be traced back to the fall of Roman Empire. He considers that the roots of civil society run deep within Western Civilization. He argues that the very first form of civil society appears with “the removal of the centralized

authority of Roman power placed in several sets of hands” (Hall, 1995). From this, one can say that the idea of civil society is neither natural nor a-historical, but rather has a particular history.

Different theorists have elaborated different definitive features and concepts of civil society. Madison (2003) considers that by civil society one means “the freedom of society from state,” referring to a society in which individuals are free to pursue their own destinies through “voluntary associations” (Madison, 2003).

Madison (2003) believes Civil society is the arena in which the individual can actualize their potential freely; however, since the individual cannot enjoy absolute freedom, they enter into voluntary association.

He considers that the common mistake in defining civil society is to treat it as an intermediary between the state and the private sphere, i.e., the family, especially in terms of the economic sphere. Madison believes that, in this manner, social relationships are seen as being dictated through the intermediation between the state and the individual, i.e., the market. For him, when someone considers civil society in this fashion, it undermines the importance of human rights. Madison considers that the Marxist tradition expounds civil society in terms of the market and considers civil society nothing but an extension of market forces. Hence, human rights that are ensured by civil society remain nothing but the privileges of a particular class, i.e., the bourgeois class, and become bourgeois rights (Madison, 2003).

For Madison, it is unfortunate to equate human rights solely with bourgeois rights. He criticizes this Marxist approach and argues that true civil society would be one in which the individual is free in its “entirety,” or, more precisely, he considers civil society to be that arena where the individual can enhance their freedom, more like “res publica” (Madison, 2003).

John Keane, on the other hand, considers that the definition of civil society is a difficult task. He believes that civil society is a complex, overlapping and dynamic concept. For him, civil society is a “dynamic non-governmental system of interconnected socio-economic institutions that straddle the whole earth” (Keane, 2003), and that the power of such a non-governmental civil machine can be felt across the globe. His belief in civil society is evident from his claim that, with the formation of a “global civil society,” peace and prosperity will be felt everywhere on the planet.

Keane considers that the project of civil society is global in nature. He identifies five defining features of civil society, tightly connected with each other, namely:

- i) Non-governmental Structures
- ii) Form of Society
- iii) Civility
- iv) Pluralism and strong conflict potential
- v) Global

Civil society comprises structures and activities that are non-governmental and non-state in nature. Here, Keane considers that public use of reason operates within civil society. All non-governmental actors fall within it, whether an individual, a private business seeking profit, a non-profit organization, or a community bounded by linguistic and cultural identities (Keane, 2003).

These non-governmental institutions are self-governing bodies, interconnected with each other. The modality of this interconnectedness, however, seems rhizomatic. The rules through which they are being administered are immanent within themselves, outside of the domain of governmental and state structures.

There appear to be certain concerns about the spread of non-governmental, non-state actors. Keane seems reluctant to approve the civil status of all those non-governmental collectivities that do not fit well within the modernistic project. For him, tribal and hunting communities cannot fall within the domain of civility (Keane, 2003)

Therefore, civil society is an extra or non-governmental space, but this does not include those non-state, non-governmental orders that are either based on kinship bonds, tribal bonds, love, sacrifices, and hierarchical respect.

Keane considers that it is a mistaken assumption that whatever actors or orders lie beyond governmental and state institutions should be considered as civil society. He wants to demarcate clearly what civil society is and what it is not. For him, traditional societies, tribal societies, and religious societies are non-governmental and non-state in nature, but they are still not part of civil society, since they do not employ public use of reason and do not criticize their traditional outlooks.

For Keane, the second definitive feature of civil society is that it is a particular and unique form of society. Keane argues that this form of society is much

different from traditional society. Traditionally, society is considered an organic whole, "a holistic system of social relations" (Keane, 2003), that stretches from the sphere of family to the sphere of state structures. Keane considered that this concept of society expresses a "well governed, legally ordered way of life" (Keane, 2003) - an organic whole that transcends individuals, and that contains all connected, interlinked, overlapping action, processes, and events of individuals' lives and their interaction with the state apparatus. Since it transcends individuals, individuals within it cannot pass judgment about it.

Keane upholds that for anything to be termed civil society, it must be based on the principle of "partnership of equals," as distinguished from Augustine's description of the church as a true "society of father and the son" (Keane, 2003). This makes civil society a profane society, as it seems that the partnership of equals entails a society in which no moral or spiritual hierarchy is possible.

For Keane, the term society in civil society has quite a different meaning as "the processes and methods through which it is produced and reproduced are unique" (Keane, 2003)

By "society" in the context of civil society, Keane means such voluntary associations that individuals create to expand their smooth spaces. These associations fall outside governmental and state institutional constellations. Society in civil society means the web of all those free interactions - be it of a group, an association, or any network - of free individuals outside the realm of state and government.

The actors within this web of social interaction are not absolutely free; rather, they have certain constraints and norms. According to Keane (2003), who believes that these "actors are both constrained and empowered by this society." As Deleuze considers, every deterritorialization must accompany reterritorialization; the individual in a civil society does not enjoy absolute freedom, but rather this civic subjectivity is ordered by the codes and lines of the civil institutions.

The third definitive attribute of civil society, according to Keane (2003), is civility. By civility, Keane loosely means tolerance among individuals in the civil society setting. Since all actors involved enjoy equal freedom in it, as highlighted earlier, and there is equality among all conceptions of goods as well, it is necessary for all actors of civil society to remain nonviolent, self-

restraining, and tolerant towards others. In this manner, Keane believes Civil Societies are peaceful.

As far as civil society's civility is concerned, Keane seems to be quite biased in his analysis of civil society – ranging from his attempt to establish equality of right for the framing and reframing of conceptions of good by rational, free individuals, to his prejudice towards those who do not accept the idea of freedom propounded by the modern, ontology-backed epistemological and axiological structures. His disdain for traditional, religious, and tribal-hunting societies is quite evident, and he seems to rationalize it as well.

What matters is not his claim about the possibility of evil within civil society, but rather his conscious effort to express his position as non-normative in nature. His criticism of traditional, religious societies, and tribal communities is that they are normative in an absolute sense – yet his own position on civil society seems to be normative as well.

He believed that civil society is a pluralistic, conflict-prone society, since it is the arena that provides space for individuals and collectivities to “fashion and refashion their identities” (Keane, 2003) according to their own will. He argues that this space is conflict-prone as well. The actors in civil society work to create a balance and provide a resolution to the conflict that appears within it. He is critical of the role of government in conflict resolution and is of the opinion that civil society should place a check on government. He argues that the conflict over the unequal distribution of power and wealth within the sphere of civil society is immanent to it.

According to Keane, civil society is a heterogeneous society whose citizens hold multiple conceptions of goods, as mentioned earlier. The claim to heterogeneity is based upon the possibility of dialogue and negotiations within this sphere. One can find traces of rhizomatic, differential elements in Keane's understanding of the topic. For him, there is no fixed essence of humanity; what is shared among the individuals is a sense of this society's contingency. The negotiations are what that can bail out the dangers of this shared sense of contingency and for this reason he claims that this society oscillates between the boundaries of orderly equilibrium and disorder at the edge of chaos” (Keane, 2003)

Fifth, civil society is a global society, a society that transcends geographical boundaries, i.e., the conceptual and the institutional manifestations of civil society are being exported to other regions of the world. Keane believes that Civil society is by nature a global society, transcending the nation-state

boundaries. Its influence crosses borders and has an impact at a very minute level. It works deep within society, reaching the furthest and most remote areas, where conventional institutions of government cannot reach. It works at a very minute level, but it is still global because it does not have a particular nationality; in this sense, it is an “unbounded society,” and this makes civil society a “macro society” (Keane, 2003)

Civil society, as a transnational global society, is instrumental for the globalization of human rights. The institutionalization of civil society is instrumental for the institutionalization of human rights, and vice versa. Civil societies apparently work on a variety of different issues – including the eradication of poverty, the improvement of literacy, the elimination of polio, the mitigation of climate change, and global warming, etc. In all this, it focuses on the establishment of a subjectivity based on the ontology of freedom, and expresses the axiology of freedom through the establishment of institutions founded on the space of freedom.

Ansari and Zeeshan argue that Civil society is an extension of the market economy, which presumes a particular conception of self. Such a conception of self is a “self-interested, risk-averse, profit-maximizing individual” (Ansari & Arshad, 2006).

It wants to transform a traditional subject into a subject of desire and freedom. Such a self has faith in freedom and wants to expand that freedom, possibly through participating in the market economy. The market works on a single rational interest, i.e., accumulation of capital, the flip side of the accumulation of freedom, because only through its desires can freedom be materialized in a real sense. Hence, “There is no life beyond or unconstrained by accumulation in this system. Civil society is the instrument that tries to manufacture consensus in favor of the prioritization of accumulation” (Ansari & Arshad, 2006)

Genealogical Analysis of Civil society:

It seems that the categories of civil society are totalizers that perform subjectification and promote docile subjectivities, contrary to the common understanding of it. It seems that, for Foucault, the structure of power within civil society discourse is not emancipatory but rather controlling and managing. It appears that civil society is a technology of the state and a technology of government, a mode of expansion of power rather than a mode for the curtailment of power. Kutay (2024) also argues that mobilization of

civil society organizations, NGO's, through state and donor agencies has transformed it into a form of governmental technology.

Foucault's critique of civil society is twofold in nature, though the two are interlinked with each other. On one hand, he argued that disciplinary apparatus subtly denounces individual liberty and rights. On the other hand, he showed that biopolitics and governmentality create the space in which civil society works, not to expand the area of non-interference, but rather to enhance the state's influence, control, and management of the population at large. This article will focus on the former only.

For Foucault, the discourse of Civil society is a "transactional reality" and should not be considered something as natural (Villadsen, 2016). This discourse of civil society has been overpowered by the "microphysics of power," i.e., disciplinary power. The Pastoral-juridical power structures of medieval Europe were anachronistic in nature and have been replaced by a new and more efficient mode of disciplinary power. This new and modern form of power developed during the 17th and 18th centuries. Cohen and Arato (1992) have noted this, observing that "the emergence of a new form of stratification and new power relations renders the normative juridical model anachronistic."

It seems that civil society aimed to liberate individuals from despotic domination, to promote autonomy and the right to self-determination, and to develop a pluralistic society. These are the core categories of civil society (Keane, 2003). The irony is that, instead of working against domination, these categories of civil society promote it (Cohen & Arato, 1992) under the influence of disciplinary discourse.

According to Foucault, modernity is marked by the emergence of new forms of power that are much different from the old, monarchic, juridical structures. Modern technologies of power are unique in their outlook and different from the juridical power, which has become anachronistic. These new forms of power, which he called Disciplinary Power (anatomo-politics of body) and Governmentality (Biopolitics), work more extensively, more minutely, and spread over a vaster space than the old juridical power did.

It is this juridical power structure that Foucault counters, but he acknowledges that this power structure still works through the framework of rights and contractarian politics. Juridical Power rooted in Roman law (Cohen & Arato, 1992). Roman law was established to strengthen the monarch, and to demarcate the rights of the monarch (Cohen & Arato, 1992).

The whole system of laws that works beneath this juridical system is intended to protect the monarch. Its purpose is to place power in the hands of the monarch through the system of rights; as Cohen and Arato (1992) note, the telos of juridical power was “assuring the absolute character of the king’s power, its aim was to constitute power as his right”

Foucault considers that Juridical Power works in an oppressive manner, through the means of censorship, and is centralized in nature, because it forbids and silences. Foucault (1978) explained this as follows: “whether one attributes to it the form of the prince who formulates rights, of the father who forbids, of the censor who enforces silence, or of the master who states the law, in any case one schematizes power in a juridical form, and one defines its effects as obedience.”

Cohen and Arato (1992) consider this power incapable of doing anything except preventing. Foucault elaborates the mechanism of how this juridical power works: it works through the system of taxation and through the system of deduction, which is why he considers this form of power to “silence, repress, forbid, seize” (Foucault, 1978).

The juridical model of power is symmetrical in nature and is exercised in a particular manner, whereas the modern technologies of power are asymmetrical. In juridical models, power is centralized and comes from top to bottom; hence, the connection between power and the subject is quite clear, hierarchical, and evident. Modern technologies of power, by contrast, work through multiple, overlapping, and intersecting layers, and do not always move in a single top-down direction. The dynamics of this form of power remain in flux. It is asymmetric because power, in this model, is not the entitlement of any monarch, but rather is manifested in terms of relations between an individual and discipline.

Disciplinary power is contradictory to juridical power. Foucault (1977) explains that disciplinary power emerged with the advent of institutions such as schools, hospitals, prisons, factories, and corporations. The aim of this power, as Foucault elaborates, was to make docile but useful bodies.

He argues that it is not the case that disciplinary methods did not exist in the past; in fact, there were quite a few even in the scholastic times, but it was during the “course of the seventeenth and eighteenth centuries the disciplines became the general formulas of domination (Foucault, 1977). Disciplinary power is more efficient and more effective than the previous form of juridical power. In it, the body is not simply controlled or contained, but rather made

into a normalized, trained, and well-mannered subject that may be more productive in economic terms and more submissive in political terms, since “discipline increases the forces of the body (in economic terms of utility and diminishes these same forces (in political terms of obedience)” (Foucault, M. 1977). It turns a body into a subject, “into an aptitude, a capacity” (Foucault, M. 1977).

Discipline, on one hand, increases the productivity of the subject, as it makes the subject more skilled and more efficient, and gives it a far greater understanding of the mechanisms of production. When a worker drills more, or a sportsman practices more in a tight routine, they produce more. In this sense of the term, disciplinary subjects are economically more valuable and more productive. On the other hand, disciplines also transform a subject into a more docile and obedient entity: the worker is now closely monitored under the regulations of the factory, and the sportsman is more observable and controllable under the biomechanical apparatus. This diminishes political autonomy.

Disciplinary power seems to be a double-edged sword, as the apparatus of capitalism not only increases the potential of the body, making it more useful and profitable, but also converts it into a more controlled, managed, biddable, and docile body.

Disciplinary power works through an interconnected web of discourses that exercise their power on the subject in such a way that the discourse further develops. Disciplinary power works through micro techniques such as surveillance, sorting, and examination. Here, power is normalizing in nature, unlike in the juridical system.

Ever since Locke, civil society has been understood as that domain or organization of society which protects the freedom of all, as “no one ought to harm another in his life, health, liberty, or possessions” (Locke, 1988). For Locke, civil society is a political arena where individuals interact on mutual consent, with the basic understanding of the sacredness of freedom. It not only stands on the foundation of freedom, but also protects and even further enhances it, because “the extent of individual freedom depends on the attainability of public safety in civil society” (Ying, 2025).

From the perspective of disciplinary power, the claims of civil society - regarding individuals’ right to freedom and autonomy, and its self-identification as a space that escapes state governance, a space that evades government, a non-state space, a space that not only expands individual

liberty but also plays its part in the protection of it - all appear to lose their essence.

Civil society claims the liberty of the individual. These claims fall short with the advent of disciplinary apparatus, which further shapes the individual. Multiple civil society actors claim the right to education, because it will liberate individuals from the shackles of immaturity. Foucault, on the other hand, identified that the school, as a disciplinary institution, produces docile subjectivities. It conducts mass-level surveillance, profiles students, categorizes them, manages them, and further converts them into productive populations. In short, the right to education, which was aimed at stretching the space of individual liberty and freedom, leads toward the creation of productive docile subjectivity.

The disciplinary logic has not receded; rather, Dai, Thomas and Rawolle (2025) have extended Foucault's panoptic model directly into educational settings, showing how AI-powered learning management platforms and activity tracking software reproduce disciplinary norms aiming at docile subjectivity.

The uniqueness of this power lies in its invisibility. Foucault believes that "disciplinary power is exercised through its invisibility" (Foucault, M. 1977). Meanwhile, the discipline itself remains invisible, i.e., the order through which it works, but it ensures that the subject remains visible. The hospital, for instance, ensures that the patient, as a subject, remains visible. Similarly, prisoners remain visible while being subtly trained, but the power behind the surveillance remains imperceptible, because it does not emanate from any particular source, but rather from the structure of the discipline which remains obscure.

Similarly, one can identify from Foucault's disciplinary analysis that civil society's claim to be a non-governmental, immanent space - a space that lacks governance from outside - appears to be at odds with itself. Civil society is a space that is transactional in nature and is a product of multilayered disciplines, which shape and control individuals and make them behave in the way they can be more productive. There appears to be a transactional relationship between state and civil actors.

There appears to be an internal conflict between human agency and the disciplines in Foucault's thought. It seems that individuals situate themselves within a web of disciplines that not only constitute them, but also conduct constant surveillance and management over them. Disciplinary subjectivity is

constituted as an effect of the relations among the discursive practices in which individuals find themselves. The subject is shaped through internalization of the axiological order based upon the disciplinary apparatus. The priority, or even the possibility, of agency is thereby called into question.

It seems that Foucault is critical of the notion of individual liberty and an individual's ability to determine themselves. It seems that the independence of agency is illusory, as every individual is subjugated through hierarchical observation, normalizing judgement and examination (Foucault, M. 1997).

It is hierarchical observation - the panopticon - in which one is seen and watched by certain observers. Hierarchical observation makes observation a routine matter and guarantees the visibility of subjects to authority, ensuring adherence to a strict schedule and routine. The existence of a central tower, a control room, a head office, close circuit television system all function as permanent observers. Foucault (1977) considers this as a "perfect disciplinary apparatus," one that enables "a single gaze to see everything constantly."

Hierarchical observation shapes individual behavior. Given the constant sense of being watched, an individual internalizes the normative claims of authority. Once internalization is accomplished, the subject, under the influence of power, polices its own behavior. Disciplinary power thereby overtakes agency. It operates automatically and invisibly.

Disciplinary power not only makes hierarchical observations, but also performs normalization of individual behaviors. This makes it prescriptive in nature. Disciplinary power imposes micro-penalties to produce a corrective, productive, but docile subject. It not only penalizes but also rewards at a minute level, and intends to normalize power across masses.

Disciplinary power works through normalizing judgements, filling those lacunae that juridical law left unattended. It capitalizes through "infra-penalties" and operates in those "areas that the law has left empty" (Foucault, 1977). Normalizing judgement is meant to reduce the gaps between the norm and the deviant behavior of the individual. Foucault considered that anything which falls into the "indefinite domain of non-conforming is punishable (Foucault, 1977). The category of non-observance extends the reach of normalization to almost anything and everything. Now the smallest non-observance - unpolished shoes - will not go unattended; an unprescribed haircut is penalized and needs to be corrected. Normalization judges everything, and nothing escapes it.

Normalization doesn't entail punishments leading to exclusions, like fines and solitary confinement (Foucault, 1977); rather, these punishments are intensive in nature, intended towards repetitive training and exercise, through which they ensure conformity and docility.

Normalization and conformity require rewards as well. Disciplinary power works along the lines of a "gratification-Punishment" system (Foucault, 1977). Without a gratification and rewards mechanism, normalization seems impossible. Therefore, the teachers "endeavor to make rewards more frequent than penalties" (Foucault, M. 1977). In this system, the lazy are "encouraged by the desire to be rewarded" (Foucault, M. 1977).

Foucault considers that the impact of disciplinary power is quite profound, having reached such a magnitude that it seems to cover everything. It works constantly on all levels of human life and has achieved an "omnipresence of the mechanism of discipline" (Foucault, M. 1977). This omnipresence of disciplinary power has led Foucault to consider modern society a carceral society instead of a free society.

Normalization is a constant and continuous phenomenon, as nothing evades it. It seems, to him, that the carceral network has achieved a "real capture of the body"; modern society, due to its disciplinary mechanisms, has territorialized each aspect of society. The telos of this carceral network is to normalize power across the board.

Examinations combine the two categories of disciplinary power, i.e., hierarchical observation and normalizing judgements (Foucault, 1977). Examination is the mechanism that classifies and distinguishes docile bodies from disobedient bodies. Examinations produce reports, results, and documentation that help categorize and classify individuals, with the purpose of "capturing and fixing them," as Foucault (1977) argues. The accumulated documentation that emerges through the process of examination further produces "a whole new domain of knowledge" (Foucault, M. 1977). Disciplinary power is productive, as through it the discourse flourishes and expands, and a new edifice of understanding develops, since "it enables the teacher, while transmitting his knowledge, to transform his pupils into a whole field of knowledge" (Foucault, 1977)

Examinations have become a ritual of disciplinary society. It is a ritual expressing "combined ceremony of power and form of experiment, deployment of force and establishment of truth" (Foucault, 1977). It normalizes surveillance and provides grounds for judgements.

It appears that disciplinary power has reterritorialized the “historico-ritual mechanism of formation of individuality to scientifico-disciplinary mechanism” (Foucault, 1977). Apparently, this disciplinary mechanism has engulfed the modern lifeform and controls all aspects of the modern individual’s life.

Conclusion:

It appears that civil society is a disciplinary mechanism, not for the expansion of the area of non-interference, but rather for the subjugation of the individual. Foucault has highlighted this, showing that the dream of Enlightenment has not been actualized and cannot be actualized further in the presence of civil society as a disciplinary apparatus.

Foucault seems to criticize the juridical model of power, but in his exegesis of disciplinary power, it seems that he does not appear to take a normative position regarding it. He is expressing the fact that the disciplinary apparatus is at work, and that the freedom that modernity, as a movement, has claimed seems to be an illusion.

From the spectacles of Michel Foucault, particularly from the vantage point of disciplinary power, one can infer that the institutions and organizational settings working under the umbrella of civil society are apparatuses of capture, working for the normalization and subjugation of individualities rather than for their emancipation.

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