

Desire for the child: Foucault and the question of ethics

Benjamin Teicher / 187355

**Submitted in partial fulfilment of the degree of Bachelor of Arts (Hons) (Social
Theory / Media & Communications)**

Faculty of Arts

The University of Melbourne

2007

Table of Contents

Introduction.....	3
Chapter 1.....	7
The power game.....	7
Pathologising sex, making deviance illegal.....	10
Chapter 2.....	17
The paedophile as medico-psychological object.....	17
Paedophilia under the law.....	24
The materiality of paedophilia	27
Chapter 3.....	29
From domination to historico-critical novelty.....	29
Desire for the child: a question of ethics.....	32
Sadomasochism and the problem of consent.....	36
Paedophilic practice and traumatic discourse.....	43
Concluding Remarks.....	46
Towards a non-sexualised reciprocity.....	46
Bibliography.....	49

Introduction

In a 1978 radio dialogue alongside novelist Guy Hocquenghem and actor/jurist Jean Danet, Michel Foucault delivered his most comprehensive comments towards a critique of paedophilia. They stand, along with his broader commitment to penal reform, as one of the most striking examples of Foucault putting historico-critical procedures into practice in order to make a clear political intervention. Specifically, Foucault demands that these contraband sexual relations no longer be subject to legal sanction, and that instead, speaking the language of consent, children should be able to define for themselves if any violence is present in the sexual relation.

Foucault's writings on sexual relations between a child and an adult are sporadic and somewhat disconnected from the rest of his corpus. As such, the attempt will be made to [re]construct a Foucauldian critique of paedophilia by locating the text of the radio interview within the insights of his major works as well as the flotilla of interviews, articles and outlines that have been launched to form some kind of finitude to his unfinished canon. With specific reference to the juridical and medico-psychological discourses that currently administer sexual relations between a child and an adult, I will show that both the relation "paedophilia", the subjectivities "paedophile" and "child" and the precipitating and consequential mental states "pathology" and "trauma", like all elements of knowledge, are manifestations of the ever shifting strategic game of power-knowledge relations. Specifically, they are produced by a regime of rationality that incites its subjects to discourse and excavates from this speech a truth about the self (Foucault, 1977: 16); in

the case of the paedophile, the symptom of an underlying pathology. While even the most rigid fixed power-game is vulnerable to change, Foucault considers that the prospect of change is so remote within this regime of rationality that it is virtually a 'state of domination' (Foucault, 2000: 283). In particular Foucault is concerned that the subjectivity "paedophile" may be used by an emerging 'medical power' to criminalise and confine a whole section of the population. Indeed, the danger that is held to emanate from this transgressor of the sexual border between the child and the adult may come to permeate all human relations (Foucault, Hocquenghem & Danet, 1988).

It is important to grasp that Foucault's account of power relations is a manifestation of a particular kind of historicising which he sometimes describes as the 'historico-critical attitude' (Foucault, 2000: 316). This is a set of procedures which works on formations of power-knowledge in order to render them conspicuously provisional and therefore vulnerable to change. Foucault's study of the power relations internal to Western rationality occurs alongside studies of other forms of power relations, both historical and contemporary, which signpost possibilities for a change in the form of the game of power relations. So, to the task of [re]constructing a Foucauldian critique of paedophilia, I will locate Foucault's mooted reforms of the legal proscription of paedophilia within his studies of the Ancient Greeks (Foucault, 1985) and of contemporary sadomasochistic relations (Foucault, 2000). It is in these works that Foucault seeks the path to a new ethical self-relation, one based on self-mastery and reciprocity in the giving and receiving of pleasure.

But it is also through these works that inconsistencies can be observed in the ethical framework Foucault establishes for sexual relations between a child and an adult. Firstly, Foucault's advocacy of extending the ability to 'consent' to the child partner relies upon a decidedly un-Foucauldian notion of "true" discourse, desire and pleasure.

Secondly, there is a dearth of reciprocity in the concepts—including reciprocity itself—through which adults account for paedophilic relations as either legitimate or illegitimate. Finally, there is a deep tension between the historico-critical inclination towards *novelty* (Foucault, 1985: 9) and the need for critique to engage actually existing forms of power-knowledge relations. Foucault can only deny the ongoing reality of 'trauma' in sexual relations between a child and an adult, and describe reciprocity in such relations, by relying upon a morphology of this sexual relation in which it is not a sexual relation at all, but an imaginary ethical relation of desexualised pleasure. This is not the same relation as the one the paedophilic relation that is actually practised and that his reform would apply to. In fact, the actually existing practice of paedophilia requires the asymmetrical sexualisation of the child by the adult for its specific pleasures

Our concern about the medical power that Foucault describes should not lead us to be so instantly sanguine about sexual relations between a child and an adult. I attempt to provide an alternative critique of sexual relations between a child and an adult which avoids deploying either a universal moral code or an imaginary and idealised account of the sexual relation. An ethical self relation and a commitment to reciprocal social and sexual relations cannot countenance such a relation because it demands the sexual domination and objectification of one by another.

Before commencing the discussion, I would like to specify the particular subjects and relations of my concern. Unless I suggest otherwise, when I refer to the "child", I am talking about a human being of pre-pubescence. Likewise the pleasure act that I refer to when I use the phrase 'sexual relations between a child and an adult' is meant to signify relations between a physical and social adult with a pre-pubescent child. Although this risks constituting pubescence as some kind of universal demarcation between adult and

Benjamin Teicher – 187355

the child, I am attempting to avoid the all-to-frequent conflation of the practice of sexual relations between a child and an adult with the practice of those between an adult and an adolescent. It is not entirely clear that Foucault, nor Hocquenghem and Danet for that matter, are making the same distinction as I when, in the radio dialogue, they call for the decriminalisation of sexual relations between a child and an adult. Nevertheless I shall consider their comments only as they relate to the pre-pubescent child.

Chapter 1

The power game

Rather than to firm distinctions between forms of sexual conduct, the reason that Foucault, Hocquenghem and Danet assembled for the radio dialogue is a mutual concern about a 'legal regime imposed on the sexual practices of our contemporaries' (Foucault, Hocquenghem & Danet, 1988). At the time of the interview they discern tension between two opposing trends in the way that sexual relations between a child and adult are administered. On the one hand, within France there are movements which allow a certain optimism that sexuality will be disestablished as an object of juridical discourse. In fact, the trio are signatories to a petition calling for the removal from French law of those articles that prohibit sexual relations between a child and an adult. On the other hand, they sense both within France and worldwide a movement towards 'tougher and stricter positions' in 'police and legal practice'. In particular, they are wary of a burgeoning medical power with the capacity to criminalise and confine whole swathes of individuals whom it regards as both deviant and dangerous (Foucault, Hocquenghem & Danet, 1988).

But let's take a step backward, for we will be mistaken if we understand this critique of paedophilia within orthodox 'juridico-discursive' concepts of power where power is repressive and centralised in a 'unique source of sovereignty' (Foucault, 1985: 83, 93). In fact, Foucault prefers to consider power through the rubric of 'force relations' (Foucault, 1977: 93). Power is not a *thing* to be possessed by any one central authority; power is exercised at multiple local points in a variety of unstable and indeterminate confrontations

and struggles (Foucault, 1977: 27). As such, power is not fixed, but dynamic; for it is through these confrontations that power relations may be transformed, strengthened or reversed (Foucault, 1977: 98).

There is another thing that we ought to remain cognisant of: that there is no dichotomy between power and knowledge. Rather they are unified in a single substance that is referred to as 'power-knowledge relations' (Foucault, 1977: 97). Power relations enable complicit forms of knowledge to the same extent as forms of knowledge facilitate certain power relations.

Foucault (2000: 169) considers the pull and thrust of these power-knowledge relations as 'strategic game[s]' or 'games of truth' (Foucault, 2000: 297) with particular stakes and particular objectives. These games are subject to a 'set of rules by which truth is produced' (Foucault, 2000: 296) which are themselves the result of power-knowledge relations (Foucault cited in Davidson, 1997: 3-4; Foucault, 1977: 101). Although Foucault does not always explicitly refer to power as a game, I consider that the dynamics of game playing are always implicit to his account of power, and so the "power game" will be central to my recounting of Foucault's studies of power.

Because we are always inside power; we are always engaged in the game of power relations. This means that 'there are always possibilities of changing the situation' (Foucault, 2000: 167). As such, the elements of a knowledge system—its concepts, its objectivisations, its nominalisations—are nothing other than machinations of power-knowledge relations which themselves derive from the momentary alignment of different forces in society (Veyne, 1997: 157; 171). Knowledge can only ever be 'fundamentally interested' (Foucault, 2000: 15) and there can only be a 'perspectival and strategic truth' (Foucault, 2000: 61).

Even though power-knowledge is essentially a flux, there are logical relations between the elements of a knowledge system that are disclosed to us as a 'structure' (Davidson, 1997: 9). It is possible to discern in human behaviour and experience—in the acts one undertakes and in the objectivisations one makes—the overarching 'practice' that arises from these logical relations (Veyne, 1997: 147). So, for example, all of the elements of the sexual relation between an adult and child—the acts, the subjectivities, the ways in which it is administered and so on—should not be viewed in isolation, but should be considered in terms of their complicity with a *practice of paedophilia*.

Change in the game of power relations can be accounted for through the coherent actions of individuals or groups, wherein the elements of the power-knowledge game are tactically deployed towards a particular objective. This can be seen, for example, where a 'homosexual' political movement deploys the medicalisation of sexual acts between two males as a basis for attaining political rights (Foucault, 1977: 101).

At the same time these actions cannot easily exceed the logical structure of elements within which they are practised. A change in this logical arrangement of elements is never due to any single strategic act by a participant in the game of power relations. Knowledge systems rise and fall based upon a whole set of occurrences, not only strategic actions but 'accidents', 'errors', 'false appraisals', and 'faulty calculations' (Foucault, 1984: 81). Consequently, a traditional 'diachronic' analysis of history, which attempts to determine causal relations between one historical instance, event or element and another, is insufficient to account for a change of this order. In order to cover the entire territory upon which change occurs, Foucault deploys a 'synchronic' analysis to unearth the logical relations that were necessary for a transformation to occur while acknowledging that what emerges is exceptional and escapes teleology along with any single design (Foucault cited

in Davidson, 1997: 11; O'Farrell, 1989: 58).

One of the titles that Foucault gives to this method is the 'historico-critical attitude'. This methodology attempts to discern the form of a given logical structure as well its limits, so that it becomes possible to speculate as to how another arrangement of the elements might be possible (Foucault, 2000: 316). Admittedly, Foucault uses other schemas to describe his work (Foucault, 1984). For the most part, what Foucault calls 'genealogy' entails a similar set of procedures to that of the historico-critical attitude, but it belongs to a completely different set of historical and philosophical significances. Given the space of this thesis, as well as for the purposes of clarity, I will refer only to the historico-critical attitude.

Pathologising sex, making deviance illegal

There isn't really such a thing as *the* Foucauldian historico-critical account of paedophilia. There are only a scattering of observations and minor, localised critiques, foremost of which are the comments he made in the radio dialogue. I will attempt to [re]construct such an account through two actions. Firstly, I will locate Foucault's comments about paedophilia and the emerging regime of medical power within his broader study of the structures of Western rationality. Secondly, I will test my account against examples taken from juridical and medico-psychological literature, two of the contemporary discourses that Foucault identifies as the steam engine of this disquieting medical power.

Foucault's study of the transformation of punishment is especially pertinent to an account of paedophilia, for it is here, on the cusp of modernity, that the focus shifted from punishing the criminal act to administering the deviant subject (Foucault, 1977: 18). In the premodern era, punishment was an event that was exceptional to the day-to-day order. Its executions and tortures sought to simultaneously reveal the truth of the criminal act on the

body, avenge this act, and publicly display the power of the sovereign (Foucault, 1977: 48; 55). From the Enlightenment onwards, punishment becomes something less explicit and less exceptional. It is part of a set of everyday procedures dispersed throughout all members of the social body (Foucault, 1977: 77).

This discursive event required and facilitated the elaboration of a knowledge structure which, though multiple and continuously evolving, is identified by Foucault as the rationality of Western civilisation (Foucault, 1989: 10). This knowledge consists of a set of norms, a set of techniques for conformity to these norms as well as a perpetual, differentiated supervision that is used to administer the conduct of the entire population (Foucault, 1977: 177).

This power-knowledge structure is broken down into individual apparatuses organised according to the specific domain of objects that they identify as well as the specific set of techniques they deploy (Foucault, 1980; Deleuze, 1997: 184). Although there may be divergences and disagreements both between and even within these apparatuses they do not belong to separate orders. They cooperate and collaborate with one another and, most importantly, adopt the same patterns and standards of knowledge. They speak on the behalf of the “universal speaking subject” and the “general law” of the progress of an autonomous and sovereign reason (Foucault, 1989: 12). They lack the self-knowledge that the truth they produce can only be 'perspectival and strategic' and the result of a set of changing power-knowledge relations (Veyne, 1997: 170-171; Foucault, 2000: 61; 1989: 10).

Most importantly, the apparatuses are alike in that they assume the human subject as their primary object of knowledge. This process is so ontologically pre-eminent that individuals find themselves always-already constituted as dependent on external

authorities, on the 'categories, practices, and possibilities of self-understanding' demanded by Western rationality (Sawicki, 1996: 162).

This subject is brought into discourse through a mode of subjectivation that works both on the body—which becomes a political field upon which representations are inscribed and power-knowledge relations are played out—and on the 'soul', the body's invisible psychic double (Foucault, 1977: 26, 29; 1984: 83). In part, power is applied to the soul through 'techniques of the self'; these are 'relations of self-mastery or self-knowledge' through which subjects attempt to manifest their identity, and sometimes to transform it (Foucault, 2000: 87). These techniques are necessarily informed by the discourses that are available to or are imposed on the subject. The 'self technology' foisted upon subjects in 'Western Christian culture' obligates a 'hermeneutics of the self', a self-knowledge that emerges through a narration of the subject's "true" interests, desires, pleasures (Foucault, 2000: 81, 87, 178). Once these details have been represented in scientific knowledge they yield a specific truth at the core of the self, rendered alternately as the 'psyche, subjectivity, personality, consciousness' (Foucault, 1977, 16, 101-102, 105; 2000: 87).

Clearly, the paedophile is not only a subject of power-knowledge, she or he is also a subject who falls under the sign of sexuality. Since the 17th century, there has been a multiplication in the number of discourses which take as their field of application the body and its sex as well as the soul and its sexuality (Foucault, 1977: 33). There is a clear tactical reason for this ascendancy of discourses about sex and sexuality. Sex stands at the nexus between the life of the body and the life of the species and, as such, the discourse of sexuality can function as an apparatus for the control of life (Foucault, 1977: 25-26; 147). Further, sexuality is a 'dense transfer point' of power relations between individuals and for this reason it is 'useful for the greatest number of maneuvers and

capable of serving as a point of support, as a linchpin for these most varied strategies' (Foucault, 1977: 103).

The way that Foucault discusses sex suggests that it is well and truly captured within the discourse of sexuality. Sex is not the instance of the “real” that it might seem to be. Neither is it an 'autonomous agency' outside of power or the “signified” to sexuality's signifier. This 'fictitious unity' has made sex such a worthy producer of knowledge; it can be at once 'a causal principle, an omnipresent meaning, a secret to be discovered everywhere' (Foucault, 1977: 154). In fact, sex is sexuality's material element; and through sex, the discourse of sexuality achieves a 'grip on bodies and their materiality, their forces, energies, sensations, and pleasures' (Foucault, 1977: 155).

The expert class of this discourse does not aim to suppress sexuality and sexual abnormality with its machinery of power. Rather, they labour to give sexuality 'an analytical, visible, and permanent reality....' (Foucault, 1985: 44; 1998: 18-19, 40) across the entire population. And yet this 'disciplinary' power also contains a 'a limit that will define difference in relation to all other differences' (Foucault, 1977: 183). The further the deviation from the circulating norms, the greater the degree of subjectivation and the further that the aetiology of sexual practice becomes a teratology. The nominalisation of these signs and symptoms, along with the body and soul that has displayed them, produces a *pathological* sexual subjectivity (Foucault, 1977: 44).

The paedophile whose acts so offend the social norms makes his home in these borderlands. This normalising and objectifying power is the template through which the paedophile is established as an *exceptional*, but also really-existing and therefore administrable, punishable and treatable object of juridical and medico-psychological discourse. So for the paedophile, the truth of the self tells of an underlying sexual

pathology that places her or him in a special 'sub-race', a meta-discursive object of error that is potentially dangerous and so worthy of greater degrees of supervision than the general population (Foucault, 1977: 40).

But this is only half of the story. I have not yet explained how it is that the paedophile comes to be suspected of such intense danger and subjected to such exquisite loathing. There is yet another crucial character whom I have so far excluded for the sake of convenience. This character is the child and her or his unique sexuality.

It is immediately clear that the child as sexual object offends juridical and medico-psychological sexual norms. In addition, the child is constituted as something that 'by its very nature is in danger and must be protected against every possible danger, and therefore any possible act or attack' that certain 'dangerous individuals' would wield (Foucault, Hocquenghem & Danet, 1988).

As Aries (1962) shows, there has not always been the concept of childhood as a physiologically and psychically distinct genus in the human species. Indeed, Aries makes much of a thirteenth century portrait of Christ in which he is surrounded by children who are depicted physiologically as adults on a smaller scale (Aries, 1962: 10). Although it is not the sole factor, Aries ties in the development of pedagogical institutions, in which human beings are ordered according to an average age as well as their 'stage in the progressive acquisition of knowledge', with the emergence of the idea that children are lacking a certain social and physiological preparation that separates them from the world of adults (Aries, 1962: 177, 412).

In Foucault's account, it is as children were gradually marked out as different from adults that their sexuality becomes something at risk from adults. In a lecture, and also in the *History of Sexuality*, Foucault relates a story about a handicapped farmhand, Jouy,

who was arrested and finally confined to an asylum after having paid local girls to masturbate him. His usage of the story is intended to mark the historical moment in which what he considers to be 'petty,' 'inconsequential' and 'everyday' acts became the subject of intense problematisation (Alcoff, 1996: 105). From this point on, the sexuality of an entire class of individuals becomes a problem for juridical and medico-psychological discourses. The sexuality of children diverges from adult sexuality and becomes something in need protection from itself and from a dangerous other whose deviant desires would breach this norm of separation (Foucault, Hocquenghem & Danet, 1988).

It is not my intention, within the limited space of this thesis, to pin down the precise logical relations through which sexual acts between a child and an adult have become the object of such intense problematisation. So far I have only broadly described the form of power in which this problematisation became possible, with some attempt to account for the nominalisations attempted by this discourse.

An interesting account of the abhorrence towards paedophilia in the Australian context is given by Angelides who suggests that it results from the homosexualisation of paedophilia in the 1970s and 1980s (2005: 295). This manoeuvre reinforced a normative masculinity that had been besieged by the discourses of 'feminism, gay liberation and gay rights and the child sexual abuse movement' by externalising paedophilic relations onto 'subordinated or negated masculinities' (Angelides, 2005: 293-294). At the same time, this situation was further advanced by a paedophile liberation movement which attempted, unsuccessfully, to deploy the unifying identity 'paedophile' as a strategic tool to pursue the legalisation of sexual acts between a child and an adult (Angelides, 2005: 280).

Rather than identifying the particular set of power-knowledge relations that is responsible for the paedophile as subject, as Angelides (2005) has successfully achieved,

Benjamin Teicher – 187355

I have attempted to portray the power game in which this kind of ethics of child and adult sexual difference becomes *possible*.

Chapter 2

The paedophile as medico-psychological object

So far I have shown how the practice of paedophilia is made up both an ethics of sexual difference and a coterminous subjectivating processes. These processes are clearly at work within the medico-psychological apparatus where it constitutes the perversion and the danger of the paedophile (Foucault, 1977: 118). Although the various discourses that occur in this apparatus may differ as to their account of paedophilia, each operates on the assumption that the articulation of a set of desires and/or the performance of a set of acts reveals a constitutional secret of the self that is sufficient to group a class of human beings according to a common subjectivity. As regards our study, all adults in a sexual relationship with a child are constituted as a “paedophile”, a designation which registers this behaviour as indicative of an underlying and fundamental psychopathology. Through such manoeuvres, the medico-psychological apparatus prepares the terrain upon which its therapeutic techniques function.

The most authoritative source in this discourse is the *Diagnostic and Statistical Manual of Mental Disorders (DSM)* (American Psychological Association, 1994). Currently in its fourth edition, the *DSM* is a widely used reference text which provides an aetiology of mental disorder for practitioners of the medico-psychological discourse. In the *DSM*, it is around the ethical distinction between adult and child sexualities that an entire field of discursive objects is prepared. The designation 'paedophilia' is confined to someone over the age of sixteen pursuing sexual relations with or having sexual fantasies about a 'pre-

pubescent' child, primarily under the age of thirteen. These activities or fantasies, which include a range of behaviours from sexualised looking and touching through to penetration, must occur over a period of at least six months for the individual involved to be considered of the type 'paedophile' (American Psychiatric Association, 1994: 527-528).

Even the auxiliary behaviours pursued in order to facilitate the sexual relationship, such as marrying a child's mother in order to gain access to the child, or being 'attentive to the child's needs to gain the child's affection, interest, and loyalty', are symptomatised as 'techniques' revelatory of a true psychopathology contained within (American Psychological Association, 1994: 527-528). Elsewhere, in a clinical overview of the treatment of paedophilia, the paedophilic subjectivity is constituted according to a set of personality traits that might otherwise be explained as the *effect* of the designation rather than the symptom of an underlying pathology that it is claimed to be. Paedophiles can be identified according to 'feelings of inferiority, isolation or loneliness, low self-esteem, internal dysphoria, and emotional immaturity' (Hall & Hall, 2007: 462). Likewise, the counter discourse through which the paedophile accounts for the child as a legitimate sexual object is assimilated into a paedophilic form of conduct as predictable, reproduceable and symptomatic 'psychological defense patterns'. Paedophiles are known to have a 'difficulty dealing with painful affect, which results in the excessive use of the major defense mechanisms of intellectualization, denial, cognitive distortion (eg, manipulation of fact), and rationalization' (Hall & Hall, 2007: 462)

While on the surface this process appears relatively straightforward, there is a fundamental paradox in the way that the medico-psychological discourse subjectivises the paedophile. On the one hand, according to the *DSM*, the activities must 'cause clinically significant distress or impairment in social, occupational, or other important areas of

functioning', meaning that the activities must be the cause of an observable social dysfunction to be considered 'paedophilia' (American Psychiatric Association, 1994: 527-528). At the same time, the *DSM* states that, even without distress, those who have and act on a 'pedophilic arousal pattern' may be considered clinically a paedophile. It does this by claiming the 'ego-syntonic nature of Pedophilia' (Green, 2002). According to Green, this indicates tensions within the American Psychiatric Association, which publishes the manual, about its own practices of truth, and whether a sexual inclination should qualify as a legitimate object of the medico-psychological discourse (Green, 2002).

These equivocating tensions aside, the *DSM* is still more or less decisive in constituting its object. Paedophilia itself is situated within an aetiology of the different 'paraphilias', a term which unites nearly all non-mainstream sexual subjects as a potential theoretical object. At the same time, the *DSM* even constitutes sub-species of the paedophile based on the slightest variation of behaviour. Those who are sexually attracted to male children, or to female children, or to both are held as distinct variations of the genus. Other differentiations occur based upon whether the activity is confined to incestuous relations or not or whether the type is 'Exclusive' or 'Non-Exclusive', that is, whether the individual pursues relations only with children or in addition to sexual relations with adults (American Psychiatric Association, 1994: 527-528). One clinical article laments that 'it is difficult to present a classic personality pattern for pedophilia because of the various subgroups that exist' (Hall and Hall, 2007: 462). Yet this does not manifest a critique of these processes of subjectivation. It resolves the dilemma by asserting that to practitioners of a medico-psychological discourse, paedophiles are alike in possessing 'severe underlying personality disorders' (Hall & Hall, 2007: 462).

Symptoms aside, there is an ongoing debate about the exact substance of the

sexual truth of the paedophile; the cause of the psychopathology. Opinion falls into a number of camps, but essentially practitioners of the medico-psychological discourse may be segmented according to whether the pathology is considered at base psychic or somatic. It is common in contemporary medico-psychological discourse to attribute paedophilia to 'developmental factors' or 'environmental factors' that refer to a self-same psychopathology (Barnard, 1989: 31; Hall & Hall, 2007: 457). For instance, some studies report findings that sexual abuse during childhood indicates a greater likelihood that this individual will become a paedophile. This is explained through either 'identification with the aggressor', 'an imprinted sexual arousal pattern', 'early abuse leading to hypersexual behavior' or through 'a form of social learning' (Hall & Hall, 2007: 457)

Learning Theory accounts for the paedophile subject through the progressive association of an unconditioned biological stimulus by a conditioned response:

If the physical caressing is paired with the sight, sound, or presence of prepubertal children over a series of presentations, the sight and sound of children will come to elicit the erection and sexual excitement (McGuire, Carlisle, and Young in Barnard, 1989: 33).

This connection is compounded over time as the circumstance is re-evoked in fantasy during masturbation until it becomes an automatic sexual behaviour (McGuire, Carlisle, and Young in Barnard et al, 1989: 33).

Neuropathology accounts for paedophilia according to congenital or acquired defects in the human brain. Popular 'neuropsychiatric differences' that mark the paedophile out from the general population 'include lower intelligence... a slight increase in the prominence of left-handed individuals, impaired cognitive abilities, neuroendocrine differences, and brain abnormalities (Hall & Hall, 2007: 463). Endocrine factors whether acquired or genetic, in particular abnormalities in the brain, have been attributed to these kinds of desires (Barnard, 1989: 28). One study concluded that the choice of child as

sexual object could be related to a head trauma in the first six years of life (Blanchard et al, 1999). Some studies suggest that paedophilia is an observable organic phenomenon with abnormalities in the temporal lobes causing a hypersexual or hyposexual behaviour (Schiffer cited in Hall & Hall, 2007: 463).

The kind of treatment patterns that these discourses recommend loosely correspond to the articulation of the cause of the pathology, although many treatments advocate both psychic and somatic measures. Somatic treatments attempt to reduce sexual desire through the suppression of the sexual hormones through pharmacologic or even through the surgical modification of the body. Chemical or surgical castration remains a viable therapy for many (Hall & Hall, 2007: 465-466). Psychic treatments attempt to assist subjects to manage the desires they experience through psychotherapy in an individual or group setting (Glaser, 1998: 168; see also Hall & Hall, 2007: 466).

Yet while these discourses differ on the nature of the problem and the means of rectification, they rarely question the way in which they form their ethics of sexual difference nor the subjectivating processes pursued to this end. This unites them all as practices of the discourse of sexuality, in which sexual desire and behaviour become the matter for an account of the subject as problem.

The figure of the child functions as a key support for this subjectivation of the paedophile. Some texts, like the *DSM*, support the pathology of the paedophile on the presumption that a child as object choice is abnormal (American Psychological Association, 1994: 527-528). However, other authors feel accountable to articulate the harm that is the result of sexual activity that crosses the *existential* divide between child and adult. Such texts focus on a category of emotional experience called 'trauma'. This describes a certain kind of psychological injury that results from a sexual relationship

between a child and an adult. Whilst it can occur alongside pleasure, it is effectively its opposite. So even where the child enters into the relation without overt force or coercion (Hall & Hall, 2007: 458), the pleasure is considered only transitory, whereas the trauma is an unpleasant experience stretched out across the life of the abused child. This 'psychological damage' manifests in forms of illness and disorder such as depression, anxiety disorders, eating disorders and even 'suicidal gestures' which may be treated through pharmacological or psychotherapeutic means (Hall & Hall, 2007: 465).

As the precise nature of the difference between the adult and the child is represented in a variety of different ways, or not at all, the exact psychic nature of trauma is never defined. It may result either from a power differential in the relationship, fear and coercion on the part of the adult, a premature sexualisation, or a lack of autonomy from the child who cannot comprehend the 'true' meaning of and thus consent to the sexual act with an adult (see Roberts & Taylor, 1996: 28).

Nevertheless, trauma rather than pleasure is relied upon as disclosing the truth about the encounter and its participants. Trauma can be explained, then, as the signifier to which the signified danger of the sexual relation between a child and an adult may refer. Its reality trumps that which might appear as the child's participation in and pleasure derived from the act. Even in such cases where the child 'consented', or even 'seduced the adult' the medico-psychological expert class determines that the child risks being traumatised by the sexual encounter with an adult (Foucault, Hocquenghem & Danet, 1988).

The effect of this particular objectivisation called trauma is that, along with having an entirely different sexuality to that of adults, children are differentiated in another way; 'it is supposed that they are not capable of talking about themselves, of being sufficiently lucid about themselves' (Foucault, Hocquenghem & Danet, 1988). The medico-psychological discourses thus reserves for itself the power to speak for the child.

Paedophilia under the law

So it is more than apparent that Foucault's account of the administration of sexuality is confirmed by the discourse of the medico-psychological apparatus. But does the same hold true for the juridical apparatus? In the Australian system, the law is proscriptive; it forbids, and punishes those who transgress the boundaries that it establishes. Seemingly, it is criminal *acts*, and not *subjects* as Foucault would have it, that are the objects of criminal law. Although the functioning of the courts suggests an immediacy in its metering out of justice, of punishment to fit the crime, in fact sentencing only sits at one end—possibly not even the end but somewhere in the centre—of a practice of administration that stretch out across the criminal's life in society (Foucault 1977, 99, 127). Once the canon of law is no longer viewed in isolation from the context in which it has been articulated it becomes clear that it is not possible to strictly demarcate the operations of the juridical discipline from the medico-psychological. There is a distinct coincidence between the practice of the law and the 'scientific disciplines' which constitutes 'an individual in whom the offender of the law and the object of a scientific technique are superimposed—or almost—one upon the other' (ibid: 256). Within this power-game, the material practices of the human being are interpreted as belonging to a single unity, a pattern of conduct indicative of a pathology which is not strictly illegal but which is an offence against 'physiological, psychological, or moral' norms (Foucault, 2003: 15-18). It is this 'psychologico-ethical double' (Foucault, 2003: 17) which becomes the new 'point of application' (Foucault, 1977: 101) of the power to punish, and renders the individual in question irrevocably and permanently dangerous to society. Consequently, such individuals are worthy of techniques to reform their deviance and warrant confinement from the rest of society until such reform can be shown to have occurred (Bove, 2001).

Foucault believes that it is these disciplinary techniques, rather than the criminal justice of the 'minor court', that underwrite the procedures of punishment.

In the workings of the juridical apparatus, this penal strategy is apparent not in the explicit operations of the law but through the implicit understandings referenced in the distinctions made by the law. The *Crimes Act 1958* is the criminal code of the State of Victoria, a sub-national Australian jurisdiction. This is a document that is constantly revised, and the list of acts that it criminalises has grown according to the expediency of a succession of Victorian parliaments. With regard to sexual acts between a child and adult, the framing of these acts refers to an overarching sexual ethics that excludes the consubstantiality of adult and child sexualities. Likewise from the multitude of forbidden acts in the canon of law, it is possible to discern the skeleton of a particularly dangerous type of deviant whose administration by the apparatus of law is of the utmost importance.

Just as the medico-psychological expert can predict the reality of trauma regardless of whether the child actively participated in the sexual act, children are singled out as in danger of sexual exploitation because they are incapable of making decisions with regard to their sexual behaviour. In the introductory passage to subdivisions 8A through 8G of the *Act*, which deal with crimes of a sexual nature, an explicit concern is mentioned for 'children and persons with a cognitive impairment' who are subject to a 'high incidence of sexual violence'. For these naïve objects of law, the possibility of consent is expressly excluded prior to any factors that might suggest that consent was explicitly violated, for consent cannot be given where 'the person is incapable of understanding the sexual nature of the act'. The child is thus presumed by the law to be always-already non-consenting and should be protected from exploitation through an overriding proscription on sexual activity, especially with adults.

It follows then that a number of sections criminalise specifically and categorically the 'sexual penetration' of and 'indecent act' committed with a child. The Act staggers punishments in such a way as to express a greater seriousness for paedophilia proper, that is, sex with a pre-pubescent child, than for acts with an adolescent. For example, sexual activity with a child under the age of ten is considered to be the most serious offence, and, when the act involves penetration, it is punishable by a maximum of twenty-five years imprisonment. When the child is aged between ten and sixteen years this same activity attracts a maximum penalty of only fifteen years when the child is 'under the care, supervision, or authority of the accused' or ten years when the child is not under the supervision of the accused. For a child aged sixteen or seventeen the crime attracts a maximum penalty of ten years, regardless of any supervisory or pedagogical relationship between the child and adult.

In addition to these punishable acts, there are a growing number of laws that require the admission of the sexual criminal into an administrative regime in which she or he is administered well beyond the conclusion of a custodial sentence. In Victoria, under the *Sex Offenders Registration Act 2004*, sexual offenders are placed on a register, sometimes for the rest of their life. Once listed on a register, the law requires that sex offenders regularly provide police with their personal details, their address, their employment details, any affiliations that will bring them into contact with children, and their travel plans outside the state of Victoria. Non-compliance carries penalties of up to \$24,000 and two years in jail. Similar legislation in other states even make provisions for continuing detention after an offender has concluded her or his sentence based upon a judgement of the offender's ongoing danger (see for example the *Crimes (Serious Sex Offenders) Act 2006* (NSW))

For Foucault, the risk of this kind of power game, in which the juridical and the medico-psychological disciplines have the power to constitute an individual as permanently dangerous, is that all forms of intimacy and all of the acts that fall under the sign of sexuality will become saturated in danger. Sexuality will become 'a kind of roaming danger, a sort of omnipresent phantom, a phantom that will be played out between men and women, children and adults, and possibly between adults themselves' (Foucault, Hocquenghem & Danet, 1988).

The materiality of paedophilia

Before I progress any further it is necessary to comment on the materiality of the paedophile. To the question of whether the paedophile actually exists or whether the paedophile is a fabrication of discourse, the answer is an audacious “both”. As a result of the acute force and omnipresence of this medical power that links pleasure and subjectivity, the body and its existing pleasures are amplified and new pleasures are created (Foucault, 1977: 47-48, 107). By making the pleasure of the sexual relation between a child and an adult the focus of a hermeneutics of the self, a pathology, a crime, a treatment and a rehabilitation, for the paedophile thus constituted the pleasure of a single child-sex act is intensified beyond what would otherwise be possible (Foucault, 1977, 18). The result is a subject whose experience of sexuality is *really* overdetermined by the child as a sexual object (see Foucault, 1977: 47). The paedophile understands her or his punishment, as well as her or his juridical and medico-psychological designation as closely as she or he understands her or his pleasure, which is experienced and interpreted through the “problem” of errant desire. As such, there is a very real connection between desire and subjectivity, only the orthodox hierarchy has been inverted. Desire exists because the subject has been subjectivised in a particular way and not the other way

Benjamin Teicher – 187355

around. Under the rule of a supreme medical power, forbidden desire and criminality are not mere qualities of the paedophile, they are the substance of her or his existence.

Chapter 3

From domination to historico-critical novelty

This particular form of the game of power ought to be resisted, according to Foucault not because it is power, but because it is a particular *type* of power. He is concerned with the medical power because it threatens to turn into a 'state of domination'—an experience of power wherein power relations are constructed such that the possibility of change becomes remote or vanishes altogether (Foucault, 2000: 283).

So what then does Foucault offer as an alternative to this oppressive medical power? Ostensibly, the modification called for is deceptively undramatic: an augmentation of criminal law through which statutory rape would disappear and children would be able to describe for themselves whether the relation was consensual or whether 'violence' took place. In this legal regime the speech of the child would be remedy to the abuse of both exploitative adult partners and overzealous authorities. If this fundamental reorientation of the differential status of children were to take place it would devastate the medical power's capacity to subjectivate the child and the paedophile (Foucault, Hocquenghem & Danet, 1988).

Superficially, these changes accord with what I will call the paedophilia liberation thesis. The proponents of this thesis demand that professionals and the public realise a diversity amongst sexual relations between a child and an adult and distinguish 'between voluntary involvement and forced involvement' (Sandfort, Brongersma & Naerssen, 1991: 11; see also Schmidt, 1991: 3). Some proponents assert that reciprocity in such relations

is possible through a process of 'negotiated'... hints and signals' (O'Carroll, 1980: 55), which allow the adult to determine if the child is *really* a willing participant in a sexual relationship. O'Carroll describes how

the man might start by saying what pretty knickers the girl was wearing, and he would be far more likely to proceed to the next stage of negotiation if she seemed pleased by the remark than if she coloured up and closed her legs' (1980: 55).

The problem with the accounts of the paedophilic relation that comprise the paedophilia liberation thesis is that they establish a binary divide between an oppressive juridical and medico-psychological power and the *true* benevolence and reciprocity that is at least a potential in paedophilic sexual relations. It is clear from Foucault's denunciation of the repressive hypothesis, which sees modernity as the fulcrum between an era of sexual frankness and one of oppressive sexual asceticism, as well as his denunciation of sexual liberation movements that he rejects such binaries between a unified, oppressive power and a subject or subjects seeking freedom from power (Foucault, 1977: 7, 90, 2000: 282). The accounts of the paedophilia liberation thesis rely on the construction of a norm of reciprocity in sexual relations between a child and an adult which they consider to have been systematically overruled by the juridical and medico-psychological apparatuses. In so doing, the paedophilia liberation thesis reproduces the type of power that relies on anchors outside of discourse to constitute an ethical codification of power relations.

Foucault's call for reform differs in that it is not an attempt to strip away a layer of authority over sexual life in order to liberate it. Instead he proposes to change this experience of the pleasures altogether in the context of a new power game and a new mode of relating to the self. Foucault conceives liberation from this form of power to be found in 'new power relationships' in which individuals have some capacity to influence the system they are a part of in a way that is 'controlled by practices of freedom' (ibid: 283). If

these new power relationships are to be truly different from that which they replace, then they must avoid reproducing the forms of rationality that they oppose. So the starting point for a critique of this form of power-knowledge is a counter power-knowledge which, unlike Western rationality, does not rely upon 'rationalizing rationalisms' or a truth outside of discourse. Instead it justifies itself only based upon an appeal to a 'subjective scale of values' (Veyne, 1997: 167; see also Foucault 1980a).

The studies that Foucault undertakes of forms of power are not of mere scholarly value. The very same set of 'historico-critical' mechanisms that grant him a kind of perspective over the regime of Western rationality are also of critical value to changing the power game and the relations among its elements. The historico-critical attitude is neither doctrine nor 'permanent body of knowledge'. It neither critiques history in terms of origins nor attempts to erect new 'foundations'. It is rather 'an attitude, an ethos, a philosophical life' that attempts to found a new ethical foundation for the relation of the self to the self and to others (Foucault, 2000: 319). Foucault's adoption of this method is inspired in part by the critical energy that is contained in Kant's short essay "*What is Enlightenment?*" While Foucault rejects the Kantian precept that 'social and political conformity' is a fair trade-off 'for freedom of thought' (Rabinow, 2000: xxxii), he takes inspiration from the ethics of the self that this essay combines within an overarching critique of regimes of power.

The historico-critical attitude is different from the 'historian's history' in which 'history finds its support outside of time and pretends to base its judgements on an apocalyptic objectivity' (Foucault, 1984: 83). The historico-critical attitude works at the limit of the known, 'it disturbs what was previously considered immobile; it fragments what was thought unified; it shows the heterogeneity of what was imagined consistent with itself' (Foucault, 1984: 82).

The values of his historico-critical attitude are cosubstantial with the kind of forms he would like to install at the heart of the experience of the self. His account of Western rationality and specifically the form of the paedophile is intended to show that the ethics that underpins its forms of power-knowledge and techniques of the self is vulnerable to change. Foucault seeks a movement from an ethics based upon an immovable code to one based upon a transformative relation to the self (Bove, 2001).

Even though this mode of critique attempts to found *novelty*, it can only do so by disrupting the *existing* foundations of knowledge. It is not the creation of new knowledge, new techniques of the self and new power relations out of nothing. The work of transformation must be put 'to the test of reality.... to grasp the points where change is possible and desirable, and to determine the precise form this change should take' (Foucault, 2000: 316).

Desire for the child: a question of ethics

In the philosophy of the Ancient Greeks, Foucault both finds guidance for his own mode of critique and also uncovers alternative forms of the self relation and the power game to those dominant in Western rationality. In particular, Foucault's study focuses on the ethics of the *aphrodisia* and the way that this mode of self regulation confirms the possibility of a relationship to the self that is not a hermeneutics, that is not an attempt to

uncover a stable and universal truth about the self. The Ancient Greeks had no conception of “sexuality”, no unifying conceptual element which draws together a whole set of 'diverse phenomena' can be found among the Greeks or the Romans' (Foucault, 1985: 35). Instead, the concept of *aphrodisia* broadly unites 'the acts, gestures, and contacts that produce a certain form of pleasure' (Foucault, 1985: 40). Ethical problems pertaining to the appetites of the *aphrodisia* are considered not as a supreme moral question; they are not interrogated for the appetite's object choice, nor are they expected to disclose a truth about the self (Foucault, 1985: 40). Rather, the appetites are felt to have been embedded by 'nature', and if life is to be given a 'beautiful form' this appetite must be managed through an ethical practice (Foucault, 2000: 254). This practice is part of a general 'aesthetics of existence' which does not require that one align oneself to a strict and defined moral code but is rather practised through a voluntary asceticism (Foucault, 1985: 10-12). This mode of self relation is given the name of 'the care of the self'. It is a self mastery, 'a way of limiting and controlling power' (Foucault, 2000: 288) achieved through spiritual, that is self-transformative, exercises (Davidson, 1997a: 196).

The fulcrum through which certain acts are problematised ethically is the binary of 'active' and 'passive' conduct (Foucault, 1985: 45). This governing of oneself is a matter of mastering the appetites and the pleasures so that one has mastery of the self over the self (Foucault, 1985: 31, 83). The failure to do so entails a kind of shameful passivity. For the Greeks '[i]n the abuse of power, one exceeds the legitimate exercise of one's power and imposes one's fantasies, appetites, and desires on others.... such a man is the slave of his appetites' (Foucault, 2000: 288). The improper and illicit use of sex is held to have dire consequences for the individual, his offspring and the human race (Foucault, 2000: 15).

Much of the documentation that Foucault discusses in relation to these ethics

relates to the 'love of boys'. It is important to note here that the set of intergenerational sexual practices that Foucault deals with in *The Use of Pleasure* are not the same as those practices called 'paedophilia' in the contemporary context. This is true superficially, insofar as the 'boy' that is the potential object of desire for the Ancient Greeks is a pubescent adolescent (Foucault, 1985: 199-200). Also on a much more fundamental level, the economy of pleasure from which the relation in Ancient Greece draws its context is entirely different. After all, these are activities from over two millennia in the past. They are of an erotic and pedagogical nature, occurring between an adult who is experienced and educated, and a more sexually, socially and morally immature adolescent boy. Nonetheless, they are a useful point of comparison for understanding the ethical relation of the contemporary practice insofar as they portray individuals deploying a self relation and evolving a power game in order to mitigate the perceived asymmetry of power between the partners.

The fact that there is such a breadth of discourse about the practice does not indicate indifference (Foucault, 1985: 197). In fact such acts are subject to an ongoing ethical problematisation in the Ancient Greek literature for two major reasons. Firstly, on the part of the adult, his indulgence may be critiqued as displaying a certain immoderation that would indicate passivity. So, for example, Xenophon presenting Socrates tells that the love of boys should be avoided to the extent that the natural force compelling the desire can be assuaged from revolting. If this need becomes too strong, then the act can take place only to the extent that this nature is satisfied (Foucault, 1985: 56).

Secondly the adult male in the relation is also required to exercise a care for the object-other, the adolescent. In particular, this requires that he attend to the implications of the disparity of status between the two partners of distinct age groups (Foucault, 1985:

194). It is not dishonourable to desire as an object of love the burgeoning virility of the adolescent, but it *is* dishonourable for the boy reared to be a free man to identify with this role. It would be damaging to him if the sexual relation were to mark him with 'inferiority, submission to domination, and acceptance of servitude', particularly 'if he offered himself as the obliging object of another's pleasure' (Foucault, 1985: 216, 221).

As our earlier survey of Foucault's critique of power revealed, social relations are always-already a 'game'. But for the Ancient Greeks, these relations are subject to a kind of 'ritualization'; a set of rules by which the game can be given a 'beautiful form' (Foucault, 1985: 195). It is a question of the right use of pleasures, of 'how to make the object of pleasure into a subject who was in control of his pleasures' (Foucault, 1985: 225). The game of love is played through a set 'of delays and obstacles designed to put off the moment of closure, and to integrate it into a series of subsidiary activities and relations' (Foucault, 1985: 196-197). This game attempts a situation in which the boy can grant the man the pleasure he desires out of kindness without identifying with it and thus being rendered passive by it, something which the older partner repays with counter-gifts of a different kind: 'of presents, services, promises, and commitments (Foucault, 1985: 224). On the part of the adult, this immense elaboration of the pleasure relation demanded careful consideration of the other's freedom (Foucault, 1985: 199).

Foucault is not suggesting in the radio dialogue that the sexual relation between a child and an adult should be transformed into a similar kind of game founded upon a similar kind of self-mastery on the part of the adult partner. Foucault considers that a return to the Ancient Greek ethics of freedom is neither possible nor desirable (Foucault, 2000: 256). He finds the 'Greek ethics of pleasure' in 'a virile society' based upon dissymmetry, exclusion of the other, an obsession with penetration, and a kind of threat of being

dispossessed of your own energy' to be 'quite disgusting! (Foucault, 2000: 258). Nevertheless, through this study he attempts to revive this concept of an ethics which would refer 'neither to tradition or reason' but to 'the self' as a 'new strategic possibility (Veyne, 1997a: 231). Thus the Ancient Greeks provide for austerity that does not 'relate ethical problems to scientific knowledge', nor to a set of concealed desires that reveal a "truth" about the self. Foucault's study shows that there are other 'devices, techniques, ideas, procedures' (Foucault, 2000: 261) upon which the relation to self and other might be based. It is not unfair to assume that he had these techniques in mind when imagining a decriminalised sexual relation between a child and adult.

Sadomasochism and the problem of consent

Foucault wonders if the limits that transfigured Ancient Greek practices of the self and economies of pleasure can be transcended; whether a sexual reciprocity is possible in which the pleasure of the other can be integrated into our own (Foucault, 2000: 258). He is searching for a new model of the power game to provide the ethical use of the pleasures. In sadomasochistic practice, he finds a model of the game of power that institutes active self creation and reciprocity between the players and that rests neither on a hermeneutics of the self nor an active-passive binary.

Although Foucault never connects the games of *philia* in Ancient Greece with sadomasochism, he does offer it as an example of how pleasure and reciprocity may be integrated within an overall 'desexualization of pleasure'. This desexualisation of pleasure occurs, according to Foucault, through the 'eroticization of the body', and through a 'creative enterprise' which erogenises identity itself (Foucault, 2000: 165). Through these means pleasure is intensified without an obligation to attribute this pleasure to a certain embedded truth about the self, an essential desire or an underlying identity. Instead,

identity is disidentified from a hermeneutics of the self and becomes a useful resource to intensify pleasure, a procedure through which to have reciprocal pleasure-giving relations (Foucault, 2000: 131, 166). Desire is not abandoned entirely, in this account it is the rendering of pleasure in discourse; but rather than pleasure following the “truth” of desire, in sadomasochism, it is desire which follows the possibilities of pleasure (Foucault, 2000: 165).

The economy of pleasure at play in sadomasochism acknowledges itself as within power. The game remains a strategic relation, it complies with the logic of power, 'but it is always fluid' (Foucault, 2000: 169). It is played with such irony that these relations are opened to change and reversibility. It reproduces the forms of disciplinary power in such a way that they are distorted. The heavily aestheticised 'master and slave' identities are merely roles, and 'everybody knows very well that those roles can be reversed' (Foucault, 2000: 169). Even when the act itself appears violent, the sadomasochistic sexual game is not rape because a reciprocity is present. The game is established by mutual and reciprocal rules that acknowledge the 'needs and trials' of both participants, regardless of whether they are acting out the role of 'he (or she) who suffers' or 'he (or she) who inflicts suffering' (ibid: 151). When the relations are fixed, this is due to an 'agreement, either explicit or tacit, that makes [the players] aware of certain boundaries'. Reciprocity is fixed by the existence of codes implicit or explicit which indicate that relations are consensual or that a will is being contravened through the layers of sexual role playing and identity deconstruction (Plant, 2007: 541). This prevents the sexual power game from becoming a localised form of domination.

The sadomasochistic relation is the auxiliary of ethical relations of self-mastery which seek to develop not a truth about the self, but a transformation of the self. However,

whereas the Greek relation to the self could not integrate a care for the other in the love of boys, in the sadomasochistic power game, the process of self-transformation is limited by the needs of the other. So unlike the paedophilia liberation thesis, the Foucauldian critique of paedophilia argues *for* a transformation of the power game and not for a liberation *from* power.

I should emphasise that, just as Foucault makes no connection with the Greeks, neither does he explicitly connect the sexual relations that occur between a child and an adult with sadomasochism; but the connection is there. Although they do not contain an sexual ethics telling one *how* to act, nor a sexual ethics dominated by the deep reality of sexual life, in both the relations of sadomasochism and in the kind of sexual relation between a child and an adult that Foucault imagines in the radio interview, the fluidity of the relation is limited by the requirement for reciprocity between the partners. Just as the sadomasochistic game requires a reciprocity to set its limits, so too does Foucault consider that children should be able to consent to sexual relations and be capable of a speech that can indicate when consent is broken and 'violence' is deemed to have taken place. Foucault's framework for the reform of sexual relations between a child and an adult implicitly relies upon a concept of the relation as a strategic game that is at once both ethical and intersubjective. It may both be considered as part of Foucault's (2000: 136) overarching concern with transforming the problem of sexuality into a question of friendship.

It is clear then that a lot rides on the durability of the concepts of consent and reciprocity if this framework is going to avoid merely empowering one participant at the expense of another. Plant's critique of Foucault's account of the sadomasochistic game reveals some cracks in these foundations. The playing of the sexual game may not, as

Foucault hopes, unfold through a reciprocal relation to the other. Despite any appeals to the virtue of self-mastery that Foucault might make, there may be a pleasure in the act of violating the will of an other and the principle of reciprocity. Also, one may consent to doing something that one does not want to because one is coerced, or because one desires to please an other. Finally there may also be games in which the autonomy of the players themselves is eroded, inducing acts that are not the *true* desires of either of the players (Plant, 2007: 545).

However, if we wish to remain true to Foucault's insight into the workings of power and to the historico-critical attitude, then Plant's critique falls short. Plant's account of the Sadomasochistic game reinscribes the hierarchy of desire before pleasure and of a truth about the self before an ethical self-relation. He suggests that game-playing is a 'relative concept'; it makes sense only insofar as it can be distinguished from *non*-game-playing activities. According to Plant,

[t]o be 'only playing' at one's S&M [sadomasochistic] role(s) thus presupposes that there is *some* distinction between simulation and reality; between what one *is* and what one is capable (and/or willing) of *doing* or *pretending to be*' (Plant, 2007: 549).

As Foucault repeats, a knowledge that seeks to transform what exists cannot appeal to something outside of discourse and history without reinstating the unitary forms of the juridical and medico-psychological apparatuses. In fact, the Foucauldian schema shows us that there is *not* a relativity between the real and the game, but between styles in which the game can be played. There is a game in which individuals have a capacity to influence the rules of the social game (whether this be a sexual relation or an institutional relation) and a social game in which they do not, that is, the 'state of domination' (Foucault, 2000: 283).

And yet if we continue to strictly adhere to the Foucauldian requirement that we not

anchor our ethical game to something outside of discourse and history, a number of problems and inconsistencies emerge in Foucault's account of a consenting sexual relation between a child and an adult.

To begin with, his demand that 'consent' be attributed to the child has a consequence beyond that which is immediately apparent. In suggesting that the child should be able to describe for her or himself whether she or he desired the sexual act, he demands the entry of the child, who is of course not really a child any more, into the conceptual world of adults.

Is this justified? Well, the requirements of the historico-critical attitude prevent us from suggesting that such relations can *never* be reciprocal, but there are good reasons for doubting its likelihood. Piaget's developmental model suggests that a child, as part of the development of the psyche, has a different experience of morality to that of an adult and that she or he will internalise the rules of the social game in a different way to an adult. He determines that children receive their moral rules from adults 'after they have been fully elaborated' (Piaget, 1932: 2). Rather than participating in the forming of a relations ethical boundaries, children experience moral constraint through a 'universal respect' for the will of adults (Piaget, 1932: 193).

It is also possible, as Alcoff (1996) has done, to use a 'structural' account of childhood to establish a fundamental difference between adults and children that precludes an ethical reciprocity between them. *All* children, though for a culturally determined period that differs, remain for at least some part of their early life physically, socially and economically dependent upon adults (Alcoff, 1996: 122). As such 'children can become significantly more empowered than at present, but the vulnerability, dependency, and relative powerlessness of children vis-à-vis adults cannot ever be completely eradicated' (Alcoff, 1996: 124).

Nevertheless, both of these accounts involve founding a critique upon a set of *a priori* judgements about the ahistorical difference of children and adults. In critiquing sexual relations between a child and an adult in this way one can be accused of essentialising a psychological or sociocultural discourse that should be acknowledged as only a provisional crystallisation of power-knowledge.

Let us turn our attention to the remainder that we must settle for, in the absence of a metaphysical ethics. Rather than asking "is there an anchor outside of discourse that precludes sexual relations between a child and an adult?" there is another way that we may phrase the problem. Given that sexual relations between a child and an adult are precisely that, *sexual* relations, the onus is on those who would legitimise such relations to positively define the homogeneity between children and adults and their capacity to form reciprocal and consenting relations. Without specifying the homogeneity of children and adults, and basing this on some scientific or structural principle—that is, basing it on a 'rationalising rationalism'—there is the risk that the child's speech will be controlled by the adult (Alcoff, 1996: 125).

This dilemma complicates the importance that Foucault places on the speech of the

child in his account of what might come to replace the rule of the medical power over sexualised subjects. If, as critics, we cannot refer to something outside of discourse, then nothing prevents the very concepts that are supposed to limit the game—reciprocity and consent—being strategically deployed to serve ends that might be regarded as non-reciprocal and non-consensual. Foucault does not prescribe the exact form of the administration that will take the place of the rule of the medical power. Presumably, if in an exceptional circumstance there was a suspicion that a child was *raped* by an adult, then the child would be asked in some sort of limited juridical apparatus to narrate the sexual relation that took place. Given that Foucault places so much emphasis on the capacity of the child to describe, for her or himself, whether the sexual relation was reciprocal, or entailed violence, we ought to be concerned by the potential for an adult partner to control the way that the relation is understood by the child. Such control could ensure that a complaint never arose, and if it did, the child could be cajoled into providing an account of the sexual relation to the juridical apparatus in which it is deemed consensual. By the same token, this imagined juridical apparatus might have sufficient control over the self-representation of the child to induce an account in which the sexual relation is defined by its 'violence' even where such a clarity in the child does not exist.

In either case, both examples problematise Foucault's reliance upon an "authentic" consensual speech act on the part of the child. Even if the child could be determined to be speaking without coercion or inducement, the speech act itself would be framed within and understood by concepts of reciprocity, mutuality and consent. We are faced with the question of whether consent—a safety valve to prevent an excess of sexual power on the part of the adult and the reduction to object status of the child—is relevant to the experience of the sexual relation by the child. How can we be satisfied of the reciprocity of

a sexual relation between a child and an adult when reciprocity itself is an adult concept? Ironically then, there is necessarily a lack of reciprocity in the conceptual frame that Foucault provides for reciprocity in sexual relations between a child and an adult. Given that power is a non-fixed strategic game, there is nothing that prevents adults from controlling the representations of child sexuality and defining the ethical boundaries for this practice of sexual relations.

Paedophilic practice and traumatic discourse

There is another way that Foucault's own method undermines his account of the sexual relation between a child and an adult. Indeed, the historico-critical attitude is a means of creating novelty by tracing the limit of knowledge; but as was established earlier (see page 30), it cannot create new forms out of nothing but must work to disrupt that which already exists (Foucault, 2000: 316). In constituting the child for all practical purposes as a consenting adult, this clashes with the explicit pleasures of sexual relations between a child and an adult, experienced as the practice of paedophilia paedophilia, in which it is the child's sexual objectification *as child* which intensifies the pleasure for the adult.

The Sado-masochistic game is telling of Foucault's error. Here, even when identities no longer refer to a truth about the self, they are retained along with the desires and pleasures that they produce. Sado-masochism continues to rely on the vestiges of sexuality, of an intensified erotic relationship founded upon identities, in order to generate this eroticisation of the entire body. Even in this transformation of the sexual power game, the relations between participants and the pleasures these relations produce remain pregnant with meaning and significance. There is no reason to expect that sexual relations between a child and an adult will be any different.

Foucault wants to locate the 'trauma' of the sexual relation within discourse itself, within the significance given to it by various juridical and medico-psychological authorities (Foucault, Hocquenghem & Danet, 1988). This only legitimises sexual relations between a child and an adult if it is cast against a pleasure domain in which such acts do not have this significance that they are *actually* accorded in the practice of paedophilia. Foucault provides glimpses of this uninhibited domain in the account of the simple farm hand given 'bucolic' pleasures for money by the local village girls (Alcoff, 1996: 105).

Surely there is a *possible* domain of desexualised, or non-sexualised pleasure-acts. We may even see hints of it in the mundane and desexualised acts of touching and cuddling, but these relations are not the same as the practice of paedophilia that is subject to such intense ethical problematisation. As such Foucault's account of the possibility of a consenting sexual relation between a child and an adult relies upon an erotic relation which does not and possibly cannot exist.

The critical problem of Foucault's demand for reform is that the kind of pleasures that he is attempting to legitimise only obtain their intensified pleasures from the significance given to these acts by the sexual discourses he is attempting to escape. Even if the act of abolishing the legal proscription on paedophilia distorts the medical power and the operations of the discourse of sexuality and even if paedophilic acts no longer fell under the sign of "official" sexuality, it is fair to presume that such acts would remain under the sign of sex, that is, they would remain pleasure-acts of a particular significance requiring for the intensity of their pleasures the objectification of the child by the adult.

The sexual relation between a child and adult excludes the possibility of reciprocity between adult and child because it eroticises the difference of children. Might trauma not then obtain a form of materiality in the practice of paedophilia as the experience of this

Benjamin Teicher – 187355

sexualised non-reciprocity? In this account, the trauma of the child from the sexual relation with an adult has a reality. It may not be the same reality that is claimed for it by the juridical and medico-psychological apparatuses, but it cannot be dismissed as a deceit of disciplinary science.

So the question should not be how the child can be integrated into a consensual sexual relation with an adult, but rather how the child can be anything but the object of adult sexual discourses, whether from an imposing medical power, a political intervention against this medical power or an adult authority in the child's life. This is a question that Foucault's critique of paedophilia does not answer nor even raise in the first place.

Concluding Remarks

Towards a non-sexualised reciprocity

Foucault's analysis provides us with the means to critique the disciplining and sexualising of the body by a pervasive and domineering form of medical power and its juridical and medico-psychological apparatuses. And yet his proposal that children be allowed to enter into consenting and reciprocal relations with adults relies upon an economy of pleasure that is alien to the *actual* practice of paedophilic relations. By failing his own historico-critical standards in this way, Foucault's attempted institutionalisation of pleasure relations between a child and an adult cannot protect the child from being a sexual object and being subjected to a state of domination in an intensified and non-reciprocal pleasure game.

How then can we proceed beyond the medical power, the paedophile liberation thesis and Foucault's alternative formation of sexual relations between a child and an adult? By remaining committed to the goal of an ethics of self-transformation and reciprocal relations, it becomes possible to argue at the level of the individual for an ethical ascesis in which care for the other precludes a relation in which the child serves the sexual needs of an adult.

This might move the pleasure relation between a child and an adult into something that has more in common with the actually-existing desexualised domain of pleasure relations that we hinted at above (see page 42) than with the hypersexualised desexualisation of sadomasochism. What I am talking about is a desexualisation which

refuses to treat the child as an erotic object of intensified pleasure. Instead, it is a concern for the other's needs that treats the child as a person. As the kind of power that limits sexual access of adults to children is, like all power, productive, such an asceticism may find a relation of pleasure-giving and pleasure-receiving between child and adult that occurs without an excess of exploitation, fear or danger. It may be productive of a relation of friendship.

Given that such a style of existence is probably not generalisable, the role of a juridical apparatus to administer sexual acts cannot be done away with altogether. As critics, our ability to influence such an apparatus may be limited. Still, we can argue that this juridical apparatus should seek to administer the acts themselves that are determined to contravene ethical principles of reciprocity rather than seeking to create deviant subjectivities based upon these acts. So as to avoid proliferating an anxiety about "dangerous" individuals, authorities who are engaged in dealing with those involved in such relations could be persuaded to practice restraint in identifying such acts with a truth about the self, not least to avoid reproducing the intensity of the pleasures of the sexual act between child and adult.

This involves stepping away from the power regime for sexual relations between a child and an adult that is advocated by Foucault and the others in the radio interview. However, I do not think that this is something that Foucault would begrudge us. Criticism, and especially Foucauldian criticism, requires that we not be so beguiled by those we admire as to create new orthodoxies on top of the old; power-knowledge relations should always be open to contest. After all, Foucault offers up his analyses as a tool kit whose use he does not wish to control. In the end 'it will be up to people themselves, basing their judgement on the various analyses of reality that are offered to them, to... define for

Benjamin Teicher – 187355

themselves what is good for them'. What is good is a matter of practice and invention; the good 'is a collective work' (Foucault, 1980a). By relating Foucault's observations of power and of sexual relations between a child and an adult to our own observations of the relation, in forming our own concept of the 'good', we are doing a far greater justice to Foucault's unfinished canon.

Word Count: 12645

Bibliography

- Alcoff, L (1996) 'Dangerous Pleasures: Foucault and the Politics of Pedophilia', (pp. 99-135) in S Hekman (ed) *Feminist interpretations of Michel Foucault*, University Park, The Pennsylvania State University Press.
- American Psychiatric Association (1994) *Diagnostic and statistical manual of mental disorders : DSM-IV*, Washington.
- Angelides, S (2004) 'Feminism, child sexual abuse, and the erasure of child sexuality', (pp. 141-177) *GLQ*, vol 10, no 2.
- Arenson, K (1999) 'Propensity Evidence in Victoria: A Triumph for Justice or an Affront to Civil Liberties?', (pp 263-285) *Melbourne University Law Review*, vol 23, no 2.
- Aries, P (1962) *Centuries of Childhood : A Social History of Family Life*, New York: Vintage Books.
- Barnard, G Fuller, A, Robbins, L, Shaw T (1989) *The Child molester: an integrated approach to evaluation and treatment*, New York, Brunner/Mazel.
- Blanchard, R, Watson, M, Choy, A, Dickey, R, Klassen, P, Kuban, M, & Ferren, D (1999) 'Pedophiles: mental retardation, maternal age, and sexual orientation', (pp. 111-127) *Archives of Sexual Behavior*, vol 28, no 2.
- Bove, A (2001), *A critical ontology of the present: Foucault and the task of our times*. Retrieved on 9th August, 2007, from <<http://www.generation-online.org/other/acop/acopcontents.htm>>.
- Canguilhem, G (1989) *The Normal and the Pathological*, New York: Zone Books.
- Canguilhem, G (1997), 'On *Historie de la folie* as an Event', (pp 28-32) in A Davidson (ed) *Foucault and his interlocutors*, Chicago & London: The University of Chicago Press.
- Davidson, A (1994) 'Ethics as Ascetics: Foucault, the History of Ethics, and Ancient Thought', (pp. 63-82) in J Goldstein (ed) *Foucault and the writing of history, Massachusetts*, Oxford: Blackwell Publishers.
- Davidson, A (1997) 'Structures and Strategies of Discourse: Remarks Towards a History of Foucault's Philosophy of Language', (pp. 1-17) in A Davidson (ed) *Foucault and his interlocutors*, Chicago & London: The University of Chicago Press.
- Davidson, A (1997a) 'Introductory Remarks to Pierre Hadot', (pp 195-202) in A Davidson (ed) *Foucault and his interlocutors*, Chicago & London, The University of Chicago Press.
- Finkelhor, D and Berliner, L (1995) 'Research on the treatment of sexually abused children: a review and recommendations', (pp 1408-1423) *Journal of the American Academy of Child and Adolescent Psychiatry* vol 34, no 11.
- Foucault M (1980) 'The Confession of the Flesh', (pp 194-228) in C Gordon (ed), *Power/Knowledge Selected Interviews and Other Writings*, 1980.
- Foucault M (1997) *Discipline & Punish*, New York: Pantheon Books.
- Foucault, M (1984) 'Nietzsche, Genealogy, History', (pp 76-100) in *The Foucault Reader*, New York, Pantheon Books.
- Foucault, M (1985) *The Use of Pleasure : The History of Sexuality*, Vol 2, London:

Penguin.

Foucault, M (1989) 'Introduction', (pp 7-24) in G Canguilhem, *The Normal and the Pathological*, New York: Zone Books.

Foucault, M (2000) *Ethics : essential works of Foucault 1954 – 1984 volume 1*, London: Penguin.

Foucault, M (2003) *Abnormal: lectures at the Collège de France 1974-1975*, London, Verso.

Foucault, M [int: Michael Bess] (1980a) 'An Interview with Michel Foucault'. Retrieved on 10th August, 2007, from <<http://www.vanderbilt.edu/historydept/michaelbess/Foucault%20Interview>>.

Foucault, M, Hocquenghem, G & Danet, J [int: Roger Pillaudin] (1988) 'The Danger of Child Sexuality', *IPCE*. Retrieved on 26th April, 2007, from <<http://www.ipce.info/ipceweb/Library/danger.htm>>.

Fraser, N (1996) 'Michel Foucault: A "Young Conservative?"', (pp 15-38) in S Hekman (ed) *Feminist interpretations of Michel Foucault*, University Park: The Pennsylvania State University Press.

Glaser, B (1998) 'Psychiatry and paedophilia: a major public health issue', (pp 162-167) *Australian and New Zealand Journal of Psychiatry*, vol 32 no 2.

Green, R (2002) 'Is Pedophilia a Mental Disorder?' *Archive for Sexology*. Retrieved on 22nd, August, 2007, from <<http://www2.hu-berlin.de/sexology/BIB/pedophilia.htm>>.

Hall R & Hall R (2007) 'A Profile of Pedophilia: Definition, Characteristics of Offenders, Recidivism, Treatment Outcomes, and Forensic Issues', (pp 457-471) *Mayo Clinic Proceedings*, vol 82, no 4.

Hekman S (1996) 'Editor's Introduction'. (pp 1-14) in S Hekman (ed) *Feminist interpretations of Michel Foucault*, University Park: The Pennsylvania State University Press.

Killias, M (1991) 'The Historic Origins of Penal Statutes Concerning Sexual Activities Involving Children and Adolescents', (pp. 41-46) in T Sandfort, E Brongersma & A van Naerssen (eds) *Male Intergenerational Intimacy : Historical, Socio-Psychological and Legal Perspectives*, Haworth Press: New York, London.

Krafft-Ebing, R (1965) *Psychopathia Sexualis*, New York: G.P. Putnam's Sons.

McCallum, E (1996) 'Technologies of Truth and the Function of Gender in Foucault', (pp 77-97) in S Hekman (ed) *Feminist interpretations of Michel Foucault*, University Park: The Pennsylvania State University Press.

O'Farrell, C (1989), *Foucault: historian or philosopher?*, Houndmills, Basingstoke, Hampshire and London: The Macmillan Press Ltd.

Piaget, J (1932) *The Moral Judgment of the Child*, London: Routledge & Kegan Paul Ltd.

Plant, B (2007) 'Playing games/playing us: Foucault on sadomasochism', (pp 531-561) *Philosophy & Social Criticism*, vol 33, no 5.

Rabinow, P (2000) 'Introduction', (pp xi-xlii) in M Foucault, *Ethics : essential works of Foucault 1954 – 1984*, vol. 1, London:

Roberts, J & Taylor C (1996) 'Sexually Abused children and Young People Speak Out', (pp 13-57) in L Waterhouse (ed) *Child Abuse and Child Abusers : Protection and Prevention*, London and Bristol: Jessica Kingsley Publishers.

Sandfort T, Brongersma, E & van Naerssen A (1991) 'Man-Boy Relationships: Different Concepts for a Diversity of Phenomena', (pp 5-12) in T Sandfort, E Brongersma & A van Naerssen (eds), *Male Intergenerational Intimacy : Historical, Socio-Psychological and Legal Perspectives*, Haworth Press: New York, London.

- Sawicki, J (1996) 'Feminism, Foucault, and "Subjects" of Power and Freedom', (pp. 159-178) in S Hekman (ed) *Feminist interpretations of Michel Foucault*, University Park: The Pennsylvania State University Press.
- Schmidt, G (1991) 'Foreword; The Debate on Pedophilia', (pp 1-4) in T Sandfort, E Brongersma & A van Naerssen (eds), *Male Intergenerational Intimacy : Historical, Socio-Psychological and Legal Perspectives*, Haworth Press: New York, London.
- Veyne, P (1997) 'Foucault Revolutionizes History', (pp.146-182) in A Davidson (ed) *Foucault and his interlocutors*, Chicago & London: The University of Chicago Press.
- Warner, K (1999) 'Sexual offences encompass a variety of sexual conduct which is either prohibited because it is non-consensual, offensive or exploitative', *The Laws of Australia*, Thompson Legal and Regulatory Ltd.