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Comment on Paul du Gay and Alan Scott/1. What is the State?

(doi: 10.2383/32708)

Sociologica (ISSN 1971-8853)

Fascicolo 2, maggio-giugno 2010

Ente di afferenza:

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Comment on Paul du Gay and Alan Scott/1

What is the State?

by Mitchell Dean

doi: 10.2383/32708

The heart of the argument of Paul du Gay and Alan Scott's paper is a distinction between "state" and "regime." I am principally concerned with the "state" side of this distinction. The authors adopt a "thin" conception of the state summed up in the political meaning of the term found by Quentin Skinner [1989, 112] in the developing tradition of natural law absolutism of Hobbes, Bodin, Grotius and Suarez. Skinner argues that this, the modern concept of the state "has a doubly impersonal character. We distinguish the state's authority from that of the rule or magistrates entrusted with the exercise of its power for the time being. But we also distinguish its authority from that of the whole society or community over which its powers are exercised." The state is the sovereign or supreme power within a territory which is distinguished from both rulers and ruled. The "regime" is basically everything else within the political system: it is the system of government, whether democratic or not, the party system, whether multi or single party, and even the general models of the political management of the economy, such as those often called Keynesian or neoliberal. The regime, in short, is where multiple externalities are incorporated into the sphere of state action. Each side of this distinction has its own temporality and the key to the argument of the paper is how a change in regime, with its relatively short time-frame of decades, is often mistaken for a change of state, with its much longer duration of centuries. They also propose a different name and framework for the most recent dominant regime, following Crouch.

My concern here is less with the content of this distinction than how the authors arrive at their understanding of what constitutes the state. They derive their argument about the features of the state from the Cambridge Historical School of political thought, particularly Quentin Skinner, and from Gianfranco Poggi's Weberian characterization of the constitutional state as an ideal type. In this way, they approach an understanding of what the *state is*, rather than what a *government does*, from the history of ideas or, more precisely, of concepts, on the one hand, and the history of institutions, on the other.

As the authors indicate, one of the key propositions of Skinner's methods is that in order to understand what is meant by the utterances of political thinkers it is necessary to understand what they doing when they made such utterances. Following John Austin, Skinner notes the "illocutionary" character of such utterances, i.e. that an utterance is an act performed within a specific time and context. What is meant by an utterance can only be understood, according to Skinner, if we can reconstruct its relation to the field of statements which it is addressing [Tully 1988]. In this sense, an absolutist thinker like Hobbes can be understood by examining his critical address on republican notions of politics, for which the state is founded upon a notion of popular sovereignty, articulated by certain actors during the course of the English Civil War. It is through such analyses that a modern concept of the state is formed with its characteristic distinction between an office and the person holding the office and in which the state designates this definite system of offices and powers and refers to the ultimate civil authority overriding all others.

The second path to the concept of the state is Poggi's analysis of the constitutional state which observes the maturation of the key features of the state focused on its monopoly of violence and security. These features include the unitary system of state power organized through law. Law here is not simply a means to establish ordered civil life as in "rule of law" arguments but is a medium of coordination and regulation of state activities and organs in face of the state's tendencies to greater complexity.

One of the central objectives of the paper would be to preserve or to underline a "stripped down" concept of the state focused on its role in social pacification and the protection of a territory and its inhabitants from external and internal attack. This is undertaken in the face of those who seek to ground the state in its outside, as in various forms of democratic theory, or the tendency to criticize the "imperfect" actions of the state in terms of a higher moral or even theological order. In this respect, the authors reject as "constructivism" those who seek to evacuate the analysis of the state by locating it within the domain of government. By rejecting such constructivism the authors would seem to occlude the kind of analysis of the state in terms of "govern-

mentality” undertaken by Michel Foucault [2007]. However, in seeking to preserve the thin conception of the state, the authors join Foucault [2008, 75-6] in at least one respect, that is, in attacking what might be called the pervasive “state-phobia” of our political culture. In this sense, I view du Gay and Scott’s political orientation as very close to that of Foucault, however different their methodology. I want to return to this issue of state-phobia in a moment by way of raising, however, a fundamental methodological question.

Following my exposition of the authors’ argument, the concept of the state is arrived at through the two tracks of a history of the *concept* of the state and a history of the *institutional* maturation of the state. But how are we think about the relationship between discourses on the state and the development of institutions and practices of the state? This is not spelt out in the paper. Perhaps the authors’ Weberianism extends to regarding the state as an ideal type. If so, the state would be a kind of intellectual construction that rationally accentuates features of empirical reality. These features can indicate both how things are and the direction in which they are changing. Such a conception then would rely on a kind of two-level ontology, consisting of the state’s empirical development on the one hand and our knowledge of it on the other.

Despite his view of political thought as a kind of action or intervention, Skinner on occasion also maintains a similar ontology. Ryan Walter – in a very interesting comparison of Foucault and Skinner on the state – has recently located a limit to Skinner’s view of the utterances of political thought as forms of action. On some occasions, Skinner seems also to view statements as representations of a non-discursive reality or, as he puts it, he endorses “a mind-independent world that furnishes us with observational evidence as the basis of our empirical beliefs” [quoted by Walter 2008, 109]. So, again, there is the reality of the state on the one side and our beliefs, or discourses, about it, on the other.

However, there is another way of understanding the connection between the concept and reality of the state that is implied in Skinner’s view that statements about the state should be regarded as performative or illocutionary. In this respect, utterances about the state are not – or not only – representations or accentuations of an underlying reality. They are actions in the world with different consequences. Some of these consequences concern how institutions and institutional practices are described and conceived, and how they should be reformed, changed or overthrown. The discourses of the state are a part of what Weber called “politically oriented action” which “aims to exert influence on the government of a political organization; especially at the appropriation, redistribution or allocation of the powers of government” [Weber 1968, 55]. If we take the idea of the illocutionary nature of statements

about the state seriously, the emergence of the state as a field of knowledge, theoretical object, or concept cannot be divorced from political and governmental practices, programmes and interventions. In other words, all of this exists in a single reality and cannot be assigned to one side or another of an ontology which separates the reality of the state from our knowledge about it.

In very broad terms, this is Foucault's problem of the interlacing of our knowledge of the state with our actions to govern the state. While Skinner focuses on the concept of the state, Foucault addresses the state as a kind of theoretical field on which appears a number of related objects and concepts. When discussing the emergence of a concept of state in *Raison d'Etat*, for example, he emphasizes the key role of the concept of force [Foucault 2007, 295-296]. When examining its transformation by the liberal government of the state, he stresses the emergence of the splitting of state and civil society [Foucault 2008, 295-311]. Foucault's general claim is that we can analyze the formal conditions under which we come to experience the political world in terms such as state and civil society, against the background of "a historical reality and identifiable historical processes" [Foucault 2007, 295]. The value-relevance, to use Weber's term, of his project, is to combat "state-phobia" and particularly those forms of "anti-state eschatology" that have their roots in the state-civil society binary [*ibidem*, 356-357]. The analysis thus helps us understand how civil society (or entities such as the nation, people, movement, or proletariat) becomes the source of a higher moral or political virtue which is opposed to the state and therefore demands its subordination, overthrow or withering away. Foucault shows how the state-phobia, manifest by the ultra-left in his own time (and perhaps by some of his own earlier comments)¹ has a genealogy which encompasses variants of Twentieth century neoliberalism, particularly the German "Ordoliberal" and the Chicago School of Economics. It is present in the idea of the Third Estate or "nation" against the *ancien regime* in France and at the foundation of the American republic with Thomas Paine [Foucault 2008, 310]. Reading the Ordoliberal view of National Socialism as the final verification of their critique of the state, Foucault entertains the counter argument that Nazism was a version of anti-statism in that it initiated a kind of "withering away of the state" which placed the *Volk* above law and right, the *Führer* above authority and administrative hierarchy, and the party above the state [*ibidem*, 111-112]. Foucault's lectures provide enough evidence to suggest he would have approached the advocates of governance without government, of the instructive ethics of a transnational or national civil society against the state and state-system, or of social movements against the state, with extreme caution.

¹ See Pasquino [1993].

I mention all this for the following reason which could be put as a kind of dilemma. The present paper and Foucault's relevant lectures seem to oppose the anti-statism of our political and intellectual culture. The former seeks to preserve the state as a fundamental, if historically contingent, category against those who would subordinate the state to an external or higher order, which, we might note, is usually located in civil society. Foucault, by contrast, investigates the conditions under which "the state" emerges as both a theoretical field, with related concepts and objects, and a domain of social and political experience and action. The strength of this move is its de-dramatization of the analysis of the state. It preserves the state against the various moral imaginaries of its dissolution or its overcoming. Its weakness is that it would be hard to give definite content to a thin conception of the state.

By comparison, the strength of the current paper is that it clearly enunciates the features of this thin conception of the state and reminds us of how the state emerges as a technology of social pacification and a space of security which we forget at our peril. But there are several costs in doing so. To regard the state as a concept or ideal type and not a discursive or theoretical field is to downplay the affinity of many critiques of the state with the liberal and neoliberal attempts to govern the state through the knowledge, processes and agencies, of civil society. Further, this search for a definite concept of the state also fails to capitalize on the full implications of the fundamental insight of the illocutionary character of *our* statements about the state. These implications are methodological, as I suggested, but they are also political. What are we doing when we seek a procedure for producing truth about the state? Is it possible to combat the pervasive state-phobia of the contemporary social and political sciences by fixing the meaning of the state? Just as there are dangers in state-phobia, are there not ones of "state fixation," not the least of which might be the production of the very object by which state-phobia seeks its eschatological ends?

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Comment on Paul du Gay and Alan Scott/1

What is the State?

Abstract: Du Gay and Scott propose an important rethinking of the concept of the state and its relationship to the institutional development of the state, and offer a valuable distinction between notions of state and regime. The present response focuses on the relationship between the concept of the state and the emergence of state-institutional practices in light of the authors' use of the Cambridge Historical School, particularly Quentin Skinner. It raises the implications of Skinner's observation of the "illocutionary" nature of political statements and briefly compares this with Michel Foucault's lectures on the state and his diagnosis of the pervasive "state-phobia" of much of modern intellectual and political culture. Foucault, it is argued, raises compelling questions of how to conceive the state and of what we are doing when we seek to pose its concept today.

Keywords: State, concept, institution, Skinner, Foucault, state-phobia.

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