COLUMBIA UNIVERSITY  
CENTER FOR CONTEMPORARY CRITICAL THOUGHT  

FALL 2014 SEMINAR  

POWER, KNOWLEDGE, SUBJECTIVITY, TRUTH:  
RETHINKING JURIDICAL POWER  

PROFESSORS FRANÇOIS EWALD & BERNARD E. HARCOURT  

MONDAY THROUGH FRIDAY, NOVEMBER 3-7, 2014  
12:00 TO 1:20 PM  

SEMINAR DESCRIPTION  

Juridical power, jurisdiction, norms and legality, legal institutions—these are, paradoxically, both everywhere and nowhere in the work of Michel Foucault. Many scholars have gone so far as to say that Foucault had no theory of law and legal institutions. Yet legal practices and institutions appear pervasively throughout practically all of the different facets of his work.

Another paradox: Traditionally, commentators who have studied juridical power in Foucault’s work have explored the topic predominantly through the lens of power, or more exactly, relations of power. But it is becoming increasingly clear—especially with the most recent publication of his earliest lectures at the Collège de France—that law and jurisdiction should also be studied in relationship to the larger questions of truth and veridiction.

This seminar will explore both puzzles and the consequences of this change in perspective from power/knowledge to veridiction—or toward the integrated notion of veridiction and jurisdiction at the heart, for instance, of a book such as Foucault’s Wrong-Doing. Truth-Telling: The Function of Avowal in Justice. The seminar will proceed by examining a number of different facets of Foucault’s writings as they relate to the question of norms, juridical power, judicial institutions, and jurisdiction. The purpose of this intensive week-long seminar will be to rethink the question of juridical power, normalization, truth, and law with and after Foucault.
NOTICE

This special seminar is open to graduate students in the arts, sciences, and law at Columbia University at the consent of the instructors and will be capped at 12 students. The seminar will meet five times during the week of November 3rd through November 7th, 2014. The seminar cannot be taken for credit, only for intellectual growth. If you would like to attend, you will be expected to attend all five meetings of the seminar. If you would like to participate, please send a paragraph to Claire Merrill at cm3325@columbia.edu. Please explain your interest, your background, and whether you will be able to attend all five seminars.

We will do our best to have all the readings in English. The readings will be ordered by their importance to the discussion at the seminars.

By way of background, it may be helpful to read Foucault’s two main juridical works: his Louvain lectures from 1981, Wrong-Doing, Truth-Telling: The Function of Avowal in Justice; and his 1973 Rio lectures, “Truth and Juridical Form,” in Power: Collected Works, Volume III. In addition, throughout, we will also be referencing secondary materials, primarily found in Alan Hunt and Gary Wickham’s Foucault and Law: Towards a Sociology of Law as Governance (Pluto 1994) and the collection of essays by Ben Golder and Peter Fitzpatrick titled Foucault and Law (Ashgate, 2010).

TENTATIVE SCHEDULE

I. INTERVENTIONS: THE VALUES AND MOTIVES

MONDAY NOV. 3, 2014

The first seminar will explore the range of interventions that Foucault made—most often, or predominantly, in political and legal disputes within the penal context. Why did Foucault get interested in militancy regarding prisons, asylums, political detainees, and juridical power? On the basis of what values, interests or motives?

READINGS:


M. Foucault, « An aesthetic of existence » in *Politics, Philosophy, Culture: Interviews and Other Writings*, 1977-1984, ed. Lawrence D. Kritzman, 1988, Chap 3) [D&E, 184, 192, 281, 357]

**FURTHER OPTIONAL READINGS :**

3. *Le Désordre des familles (Lafarge & Foucault)*
4. *Le droit des gouvernés, D&E* no. 355
5. *Le droit de savoir, l’enquête, D&E*, 86, 91,93
7. *Libérer la sexualité, D&E*, 200, 230
8. *L’asile illimité, D&E*, 202
9. *Totalitarisme vs sécurité, D&E*, 213
11. Se débarrasser du marxisme, *D&E*, 235
12. *Sexualité et politique, des droits sexuels, D&E*, 138, 152,
This second seminar will explore the notion of “illégalismes” and how juridical power becomes the means to negotiate and manage these “illégalisms.” This presents the problem of judging, of how difficult it is to judge, and the need for expertise and other third parties to resolve the tensions of judging. This seminar will focus on the texts where Foucault explores penal law—or what we tend to call criminal law and sentencing in the United States.

**Readings:**


**Additional Optional Readings:**

1. Pouvoir, partage, exclusion, D&E, 197
2. Interdit/internement (loi de 1838), *Le Pouvoir psy*, 96 sq
5. Monstruosité et dangerosité, D&E, 220 ('About the Concept of “Dangerous Individual” in Nineteenth-Century Legal Psychiatry', in *Power*, vol. 3, p. 186), 228
6. Le grand enfermement, D&E, 105
7. Prison/punition, D&E, 125
8. Illégalismes, D&E, 125, 152 (« An Interview with Michel Foucault » in *History of the Present*, no.1, Feb. 1985)
9. Répression, D&E, 160, 177
10. La sagesse judiciaire, D&E, 240
11. Manières de justice, D&E, 260
12. Dangers, D&E, 270
13. Les deux types de criminels (le surpartage), D&E, 275
14. Le vrai sexe, D&E, 287
15. Le sexualité et la loi, D&E, 349
16. Punir, D&E, 346 ("What calls for punishment?" *Foucault live*, p. 279), 353

**III. From the Regime of Law to the Regime of Norms**

In this seminar, we will explore the shift from law to norms. We will analyze the notion of normalization. We will focus in detail on Foucault’s writings and thinking on the topic of public law, constitutional law, and the relationship between common law and civil law traditions of the Continent.
READINGS:


Please also read Part V: “Right of Death and Power over Life” pp. 135-159.


M. Foucault, *Discipline and Punish*, pp. 177-184; *Surveiller et punir*, pp 180-186 (La sanction normalisatrice).

ADDITIONAL OPTIONAL READINGS:

1. La famille, articulation souveraineté/discipline, *Le Pouvoir psy*, 81-88
2. Médecins, juges et sorciers, D&E, 62

IV. VERIDICATION & JURISDICTION: TRUTH AND JURIDICAL FORMS

In this seminar, we will explore the relationship between truth telling and saying justice, and the alethurgical method that Foucault develops throughout his lectures at the *Collège de France*.

READINGS:


M. Foucault, Mal faire, dire vrai, excerpts


**ADDITIONAL OPTIONAL READINGS:**

2. « Une petite histoire de la vérité », *Le Pouvoir psy*, p. 235 sq
4. Table ronde sur l’expertise psy, D&E, 142
5. La criminologie, D&E, 146

**V. THE LAW AS DISCOURSE**

In this seminar, we will explore the question of whether and how law figures as a form of discourse: In *The Order of Discourse*, law appears as a type of discourse, but in *The Archaeology of Knowledge*, law is practically absent. Why is that? Could we use an archaeology of knowledge to study law, juridical power, legal discourse?

**READINGS:**


M. Foucault, « Réponse à une question », *D&E* no. 58; and “Sur l’archéologie des sciences”, *D&E* no. 59
ADDITIONAL OPTIONAL READINGS:

2. Les effets de partage de la loi, D&E, 281

CONCLUSION: LEGAL AND POLITICAL THEORY AFTER FOUCAULT      FRIDAY NOV. 7, 2014