Invoking Democracy: Foucault and Hobbes

Dr Mark Olssen
University of Surrey

William Connolly (1998: 120) has suggested that:

Foucault does not articulate a vision of democracy. His early objections against political ideals such as prisons militates against it; and his later cautious affirmation of a positive political imagination never takes this form. But numerous comments in the context of his participation in public protests and demonstrations are suggestive on this score. It seems to me that a series of correspondences can be delineated between the ethical sensibility cultivated by Foucault and an ethos of democracy they invoke.

It is in this spirit of the ethos of democracy invoked by Foucault that my article takes root. Like Connolly, I will supplement Foucault with ideas and thoughts that extend beyond him, until I create a picture coherent enough to satisfy. I will of course differentiate Foucault’s thought from the extensions and supplementations I provide. To the extent that Foucault advanced no overarching theory of democracy, the questions become, which of his ideas and formulations are relevant for a theory of democracy, how might he have problematised existing conceptions and formulations, and what lines of argument might he suggest for future explorations. My approach is premised on the fact that while Foucault showed little interest in, and indeed some distaste for, normative political theorising, I have no such inhibitions. My tactic is to piece together the fragments of a theory of democracy, to show how Foucault approaches democracy as a set of historically contingent practices, and to reveal the latent normative conceptions and suggestions within his texts. My argument, or conclusion, will be that Foucault suggests a theory of democracy and suggests a series of conceptions of democracy that takes us beyond our current models and practices. I endeavour to outline what such a conception might look like. The basis for such an argument stems from Foucault’s later writings on ethics and self-creation, liberty, autonomy and rights. More specifically, I will consider the following areas of his thought.

- a relational and dialogical conception of ethics with implications for agency, liberty, autonomy and interdependence;
- a conception of liberty as non-domination or as involving an equalization of power relations;
- insights derived from his writings on power and resistance;
- a critique of philosophical and political monism
- a pragmatic political principle that would necessarily oppose government policies that conflict with or inhibit the cultivation of the self.
- An advocacy of parrhesia or speaking the truth to power.
- His writings on human rights
Liberty and ethics and domination

Foucault’s conceptions of liberty and ethics can be seen to presuppose a democratic context. Although historically, democracy has been associated, as Weber argued, with an expanding hierarchical bureaucracy and as a form of technical expertise as ends in themselves, Foucault would see these tendencies as contingent historical episodes and challenges to be surmounted rather than as the necessary consequences of the expansion of the democracy process.

Several normative themes related to democracy are presupposed by Foucault’s conceptions of liberty, ethics and more broadly in relation to his writings on the cultivation and constitution of the self. In his later two volumes of *The History of Sexuality*, and in a variety of articles and interviews, Foucault develops a conception of the self which while avoiding liberal humanist conception of the autonomous chooser, incorporates a sense of agency and freedom. In this new found concern with an active subject, there is on the surface a shift in relation to Foucault’s interest away from knowledge as a coercive practice of subjection to being a practice of the self-formation of the subject. Yet this positing of a more active, volitional subject does not involve a radical break with his earlier work, nor is it inconsistent with it. In *Madness and Civilization*, Foucault (1989q: 296) states that it was a matter of knowing how one ‘governed’ ‘the mad’; in his later two works, it is a matter of how one ‘governs’ ‘oneself’. In addition, he says (1991a: 11):

If now I am interested...in the way in which the subject constitutes himself in an active fashion, by the practices of the self, these practices are nevertheless not something that the individual invents by himself. They are patterns that he finds in his culture and which are proposed, suggested and imposed on him by his culture, his society and his social group.

Cultivating the self is the basis of ethical work. Ethical work, says Foucault, is the work one performs in the attempt to transform oneself into an ethical subject of one’s own behaviour, the means by which we change ourselves in order to become ethical subjects. Such a history of ethics is a history of aesthetics. In his interview ‘On the Genealogy of Ethics’, Foucault (1983d: 237-8) explains that there is:

Another side to these moral prescriptions which most of the time is not isolated as such but is, I think, very important: the kind of relationship you ought to have with yourself, *rapport à soi*, which I call ethics, and which determines how the individual is supposed to constitute himself as a moral subject of his own actions.

Ethics, as such, is part of morality, but rather focus exclusively on codes of moral behaviour, it concentrates on the self’s relationship to the self, for the way we relate to ourselves contributes to the way that we construct ourselves and form our identities, as well as the way we lead our lives and govern our conduct.

Foucault’s understanding of ethics and liberty invokes a particular form of community. Hence, Foucault’s conception of ethics is not the narrow individualist conception of western modernity. Rather it refers to what Kant termed *Sitten* –
customs or practices. Hence, ethics for Foucault is not intended in the Kantian sense, as Ian Hacking (1986: 239) puts it, as “something utterly internal, the private duty of reason”, but more in the sense of Ancient Greece where ethics was concerned with the good life. As Foucault states it:

The Greeks . . . considered this freedom as a problem and the freedom of the individual as an ethical problem. But ethical in the sense that Greeks could understand. Ethos was the deportment and the way to behave. It was the subject's mode of being and a certain manner of acting visible to others. One's ethos was seen by his dress, by his bearing, by his gait, by the poise with which he reacts to events, etc.

For them that is the complete expression of liberty.

That ethics necessitates a certain form of democracy is indirectly supported by two concepts Foucault introduces: *philosophia* and *stylization*. Influenced by Hadot, Foucault utilised the concept of *philosophia* as a form of life, which required exercises aimed at realising one’s vision of the world and one’s conduct within it. As Arnold Davidson (1994: 70-71) notes, “the idea of philosophy as a way of life…is one of the most forceful and provocative directions of Foucault’s later thought”. To emphasise philosophy as a “way of life” must be seen as distinct, says Davidson (1994: 70-71), from everyday life, for as Hadot wrote in respect to the ancients, the idea of a way of life “implies a rupture with what the sceptics called *bios*, that is daily life”. For Foucault, “philosophy was a spiritual exercise… in order to learn to think differently”.

Closely related to philosophia, ethical action demand *stylization*, which is an aesthetics of existence. In this sense, ethical self-creation of one's life as a work of art extends Nietzsche's conception that life has value as an aesthetic achievement and that one must give style to one's life by integrating the diffuse nature of oneself into a coherent whole. The question of style was crucial in ancient experience: there is the stylization of one's relationship to oneself, the style of conduct, and the stylization of one's relationship to others. In the Greco-Roman Empire of the second and third centuries, style became thought of as a moral code (Foucault, 1989: 319). According to Davidson (1997: 70-71), this theme of aesthetics as involving a style of existence is another of Foucault's central ideas in his later writings. ‘Styles of existence’ refers to how one lives a life philosophically. The problem of ethics is in choosing a style of life. As Paul Veyne (cited in Davidson, 1997: 67) notes, ‘style does not mean distinction here; the word is to be taken in the sense of the Greeks, for whom artist was first of all an artisan, and a work of art was first of all a work.’ As Davidson notes, one of Foucault's concerns was in the style of life of the homosexual community by which he sought to ‘advance . . . a homosexual *askesis* that would make us work on ourselves and invent, I do not say discover, a manner of being that is still improbable’ (Foucault, cited in Davidson, 1997: 72). Hence, as Davidson points out (1997: 72), the homosexual style of life involves new forms of friendship and yields ‘a culture and an ethics aimed at the creation of a homo-sexual mode of life’.

Government is important for Foucault, as Mitchell Dean (1999: 184) says, “according to whether it allows rather than inhibits the ‘self-directed use and development of capacities’. Foucault’s understanding of the care of the self involves a politically
active subject acting in a community of subjects, involving practices of the self that involve governance as well as the problems of practical politics. Foucault speaks for instance of liberty as involving complex relations to others and self. Ethical action is not for Foucault an individual affair but presupposes a certain political and social structure with respect to liberty. For liberty or civic freedom to exist, there must be a certain level of liberation conceived as the absence of domination. Thus the subject's activity is intrinsically mediated through power which co-exists with freedom in that relationships of power are changeable relations which can modify themselves. But where states of domination result in relations of power being fixed ‘in such a way that they are perpetually asymmetrical’ [then the] margin of liberty is extremely limited’ (1991:12). Foucault (1991: 12) gives the example of the traditional conjugal relation in the eighteenth and nineteenth centuries:

We cannot say that there was only male power; the woman herself could do a lot of things: be unfaithful to him, extract money from him, refuse him sexually. She was, however, subject to a state of domination, in the measure where all that was finally no more than a certain number of tricks which never brought about a reversal of the situation.

Invoking democracy, the normative inference is the counterfactual: resistance should oppose domination where ever it finds it. Such an inference suggests that domination is an imbalance of power, it is one of many structurings of power, and what resistance aims at is an ‘equalisation’; and rather than a concentration, it suggests a dispersment. The emphasis on ‘minimising domination’ appears again in his remarks on Habermas. Criticising Habermas for advocating a form of ‘utopian’ thinking, whereby communicative action operates in a powerless vacuum, Foucault (1991: 18) says:

I don’t believe there can be a society without relations of power…. The problem is not of trying to dissolve them in the utopia of perfectly transparent communication, but to give oneself the rules of law, the techniques of management, but also the ethics, the ethos, the practice of self, which would allow these games of power to be played with a minimum of domination.

In this sense, says Foucault (1991: 6):

Liberty is itself political. And then it has a political model, in the measure where being free means not being a slave to one’s self and to one’s appetites, which presupposes that one establish over one’s self a certain relation of domination, of mastery, which was called arche – power, authority.

When one practices liberty one is engaged in moral conduct, which is to say that liberty must be practiced ethically. As Foucault (1991: 4) puts it: “Liberty is the ontological condition of ethics. But ethics is the deliberate form assumed by liberty”. This means that the ‘care for the self’ involves liberty and ethics, which presumes a certain form of social structure: a certain degree of liberation.

Ethical action also takes place in a community, in that care for the self involves care for others. In Foucault’s (1991: 7) words:
The care for the self always aims at the good for others…This implies also a relation with others to the extent that care for self renders one competent to occupy a place in the city, in the community or in interindividual relationships…I think the assumption of all this morality was that one who cared for himself correctly found himself, by that very fact, in a measure to behave correctly in relationship to others and for others. A city in which everyone would be correctly concerned for self would be a city that would be doing well, and it would find therein the ethical principle of its stability.

Such a community is both borderless and complexly differentiated. These are the two essential conditions of what I have called elsewhere (Olssen, 2002) a ‘thin community’. In such a conception difference and unity are balanced. To use concepts developed by John Rawls, all that is required is a modus vivendi – a loose alliance, treaty, or settlement, although such communities may seek to work towards an overlapping consensus. Thin communities are linked to other communities and to the global order. The kings head may not be cut off, but the king is certainly under greater surveillance. In political terms, says Foucault (1994: 474):

There exists an international citizenship that has its rights and its duties and that obliges one to speak out against every abuse of power, whoever its author, whoever its victims. After all, we are all members of the community of the governed, and thereby obliged to show mutual solidarity.

Democratic tactics comprise a multifaceted range of mechanisms and processes. Its advantage for a Foucauldian politics is not simply that it enables the participation and approval of concerns by the entire collectivity and of all the major groups within it, but more importantly, it permits continued debate, modification, rejection, or revision of agreed decisions while enabling a maximum of freedom and autonomy, an ongoing possibility of negotiation and dialogue, and the most effective opposition possible to abuses of power.

Rights as a historic-political discourse

I want now to look at three practices of democracy, or better tactics or strategies that can be called democratic: rights; contestation; and deliberation. A genealogy of democracy would trace the historical descent and emergence of the multiple processes, strategies, mechanisms, and tactics that society’s instantiate as discourses of protection against war and conquest. At the same time, it would trace the shifting historically contingent conceptions of what constituted democracy in different societies at different times. Rather than government ‘by the people’ in any direct or unmediated sense of ‘pure’ democracy, as in eighteenth century Europe and North America, as well as Greek society, or in the later ‘representative’ conceptions, Foucault would see practices of democracy more broadly as representing “historico-political” discourses, comprising tactics, strategies and mechanisms. What are such tactics strategies and mechanisms aimed at? They are aimed at, and justified in relation to, the prevention of war.

In Foucault’s (2003: 131-3) view the discourse of rights is a ‘historico-political discourse’ aimed at the protection of lives. As he puts it (2003: 241):

1 Term used by Tom Paine. See Hindess 2000:34; Paine 1989:170
The jurists of the seventeenth century and especially the eighteenth century were, you see, already asking this question about the right of life and death. The jurists ask: when we enter into a contract, what are individuals doing at the level of the social contract, when they come together to constitute a sovereign, to delegate absolute power over them to a sovereign? They do so because they are forced to by some threat or by need. They therefore do so in order to protect their lives.

Thus, viewing the development of rights in relation to “mechanisms, techniques and technologies of power’ (p. 241) they assumed prominence because (p. 241):

In the seventieth and eighteenth centuries we saw the emergence of techniques of power that were essentially centered on the body.

In this, rights were a device, part of the:

Devices that were used to ensure spatial distribution of individual bodies (their separation, their alignment, their serialization, and their surveillance) and the organization around those individuals of a whole field of visibility. They were also techniques that would be used to take control over bodies.

Rights are part of the ‘individualizing-totalizing’ disciplinary technology. They were juridical technologies charged with protecting the *pluribus* while promoting the *unum*. Although rights constituted individualising technologies of power, a new form emerged at the end of the eighteenth century which also applied to rights in that it enabled individuals to be monitored, counted, compared, processed, treated equitably.

This technology of power does not exclude the former, does not exclude disciplinary technology, but it does dovetail into it, integrate it, modify it to some extent, and above all, use it by sort of infiltrating it, embedding itself in existing disciplinary technologies...So after a first seizure of power over the body in an individualizing mode, we have a second seizure of power that is not individualizing, but, if you like, massifying, that is directed not at man-as-body, but man-as-species...What I would call a “biopolitics” of the human race.

Hobbes is in this sense the father of rights, for he saw the issue was security. As Foucault notes: (2003: 98):

Leviathan’s strategic opposite number is, I think, the political use that was being made in political struggles of a certain historical knowledge pertaining to wars, invasions, pillage, dispossessions, confiscations, robbery, exaction, and the effects of all that, the effects of all these acts of war, all these feats of battle, and the real struggles that go on in the laws and institutions that apparently regulate power....Leviathan’s invisible adversary is the Conquest.

Rights crystallize whatever given imbalance of power and wealth exists. A system of rights is part of a settlement. A settlement can be represented, in Rawls’s sense, as a modus vivendi, which is to say, a treaty, or alliance of diverse interests, which may at times constitute an overlapping consensus. In situations of war the settlement
collapses and rights mean nothing. In this sense, the concept of settlement, although not explicitly used by Foucault, is useful in that it attests to the historical character of rights. Rights are a strategy; a war-preventing strategy. They constitute a system of universal regulation of what is due whom and what is owed.

In this sense, what is to be made of H. L. A. Hart’s claim that rights are natural? And, if there are no natural rights, is the discourse of rights redundant? What Hart failed to see is that moral rights may be built on a historically constituted settlement, and they will reflect the injustices and iniquities built into that settlement. In this sense, the existence of moral rights does not mean there must exist a natural right of liberty amongst men. Rights systems take effect as a settlement against war. They are a technology a fixing the relation of the individual to the society; they differentiate; they are one of the ‘dividing practices’. Foucault (2003: 156) cites Boulainvilliers who argues that the idea of a natural right is “no more than a useless abstraction”. In Boulainvilliers view you can study history for as long as you like but you will never discover any natural rights. Behind the existing divisions between groups or strata in society are wars and struggles. Freedom, specifically, is not natural, for freedom is only conceivable if there are no relationships of domination between the individuals concerned. Freedom for Boulainvilliers is essentially the freedom to trample on the freedom of others. In this sense, freedom is the direct opposite of equality. Whatever the relation between the two, it is something that is decided and enjoyed according to “difference, domination, and war, thanks to a whole system of relations of force” (p. 157). In these relations, any laws of nature, if indeed they do exist, are weaker than the “nongenatural law of history”:

It is therefore natural that the egalitarian law of nature should have given way – on a permanent basis – to the nongenatural law of history. It was because it was primal that natural right was not, as the jurists claim, foundational; it was foreclosed by the greater vigor of history. The law of history is always stronger than the law of nature. This is what Boulainvilliers is arguing when he says that history finally created a natural law that made freedom and equality antithetical, and that this natural law is stronger than the law inscribed in what is known as natural right. The fact that history is stronger than nature explains, ultimately why history has completely concealed nature. When history begins, nature can no longer speak, because in the war between history and nature, history always has the upper hand. There is a relationship of force between nature and history, and it is definitely in history’s favor. So natural right does not exist, or exists only insofar as it has been defeated: it is always history’s great loser, it is “the other”

A further point Boulainvilliers suggests is that “war is both the starting point for an analysis of society and the deciding factor in social organisation” (Foucault, 2003: 158). What is meant her is that wars and struggles determine the particular form of the relation of force between freedom and equality in the settlements or agreements that separate wars and contain struggles. The nature of military institutions, or the problem of “who has the weapons” is crucial to the maintenance of order between wars. The “problem of who has the weapons” is bound up, says Foucault (2003: 159) “with certain technical problems, and it is in this sense that it can provide the starting point for a general analysis of society”. He continues (p. 161):
History now looks essentially like a calculation of forces…Once the strong become weak and the weak become strong, there will be new oppositions, new divisions, and a new distribution of forces: the weak will form alliances among themselves, and the strong will try to form alliances with some and against others….For his part Boulainvilliers makes the relationship of war part of every social relationship, subdivides it into a thousand different channels, and reveals war to be a sort of permanent state that exists between groups, fronts and tactical units as they in some sense civilize one another, come into conflict with one another, or on the contrary, form alliances. There is no more multiple and stable great masses, but there is a multiple war. In one sense, it is a war of every man against every man, but it is obviously no a war of every man against every man in the abstract and – I think – unreal sense in which Hobbes spoke of the war of every man when he tried to demonstrate that it is not the war of every man against every man that is at work in the social body. With Boulainvilliers, in contrast, we have a generalised war that permeates the entire social body and the entire history of the social body; it is obviously not the sort of war in which individuals fight individuals, but one in which groups fight groups.

The upshot of this conception is that war is a “disruption of right” (p. 163). Here, says Foucault:

War turns the very disruption of right into a grid of intelligibility, and makes it possible to determine the force relationship that always underpins a certain relationship of right. Boulainvilliers can thus integrate events such as wars, invasions, and change – which were once seen as simply naked acts of violence – into a whole layer of contents and prophecies that covered society in its entirety….A history that takes as its starting point the fact of war itself and makes its analysis in terms of war can relate all these things – war, religion, politics, manners, and characters – and can therefor act as a principle that allows us to understand history.

The point of citing and summarizing Foucault in his account of Boulainvilliers here is because it brings to the fore the functions of democratic practices and tactics – not simply rights, but also the others – contestation, deliberation, the rule of law, the franchise, elections, representation – as part of the settlement against war and chaos. In this sense, rights may recognise, preserve and legitimate the existing unequal relation of forces in society, as they did in the seventeenth century, in consolidating bourgeois relations of property and class. Or they may, in other periods, conceivably extend from the political to the economic domains, seeking to challenge unequal relations and forces. In this sense, rights to life, to a certain minimum level of sustenance and property, to walk the streets in day or night, to speak, to contest, can be endorsed, exchanged, surrendered, or exempted. What is clear, however, is that for Foucault, democracy is the alternative to war, for democracy is nothing but the tactics adopted to resolve conflict, ensure more or less peaceful transitions of power, and to permit each individual their legitimate arena or space, whereby rights – both passive and active – can be exercised and maintained. In this sense, democracy is the containment and management of war. Democracy is politics, and as Foucault (2003: 15) says, inverting Clausewitz’s aphorism, “politics is the continuation of war by other means”.

Contestation and deliberation

Foucault’s writing on rights, as summarised above, from his lecture of the 11th February 1976 at the College de France show his serious consideration in relation to the themes of war and peace, and security. Such considerations also give substance to his political work on behalf of prisoners and other marginalised groups. In June 1984, Libération carried his brief article Confronting Governments: Human Rights, where Foucault states:

There exists an international citizenship that has its rights and its duties and that obliges one to speak out against every abuse of power, whoever its author, whoever its victims. After all, we are all members of the community of the governed, and thereby obliged to show mutual solidarity.

The conception of rights here invoked seems to be one beyond both sovereignty and discipline; one which Foucault (1980: 108) hinted at towards the close of the Second Lecture on Power of 14th January 1976. Here he says:

If one wants to look for a non-disciplinary form of power, or rather, to struggle against disciplines and disciplinary power, it is not towards the ancient right of sovereignty that we should turn, but towards the possibility of a new form of right, one which must indeed be anti-disciplinarian, but at the same time liberated from the principle of sovereignty.

A conception of right not subject to normalisation, and not legitimating the interests of the monarch might exist in contestation which is entailed in Foucault’s discussions of resistance to power, which occurs wherever domination occurs, as well as in relation to his later discussion of parrhesia, which has a range of meanings and uses, one of which functions in relation to democratic institutions, and means essentially speaking the truth to power. For Foucault (2001: 11) points to an ancient tradition revolving around free speech, as embodied in parrhesia, which he defines as “frankness in speaking the truth”. Ordinarily translated into English as ‘free speech’, parrhesiazomai or parrhesiazesthai is to use parrhesia, and the parrhesastes is the one who uses parrhesia, i.e., the one who speaks the truth. But someone is said to use parrhesia “only if there is a risk or danger for him in telling the truth…the parrhesiastes is someone who takes a risk” (2001d: 16). In addition:

The function of parrhesia…has the function of criticism…. Parrhesia is a form of criticism, either towards another or towards oneself, but always in a situation where the speaker or confessor is in a position of inferiority with respect to the interlocutor. The parrhesiastes is always less powerful than the one with whom he speaks.

Finally, “in parrhesia, telling the truth is regarded as a duty. ” Foucault (2001d: 19-20) draws the various elements together thus:

Parrhesia is a kind of verbal activity where the speaker has a specific relation to truth through frankness, a certain relationship to his own life through danger, a certain type of relationship to himself or other people
through criticism…and a specific relation to moral law through freedom and duty. More precisely, *parrhesia* is verbal activity in which a speaker expresses his personal relationship to truth, and risks his life because he recognizes truth telling as a duty to improve or help other people (as well as himself). In *parrhesia*, the speaker uses his freedom and chooses frankness instead of persuasion, truth instead of falsehood or silence, the risk of death instead of life and security, criticism instead of flattery, and moral duty instead of self-interest and moral apathy. That, then, quite generally, is the positive meaning of the word *parrhesia* in most of the Greek texts…from the Fifth Century B.C. to the Fifth Century A.D.

In relation to Greek uses, *parrhesia* was potentially seen as dangerous to democracy. As Foucault (2001: 77) explains:

> The problem, very roughly put was the following. Democracy is founded on politeia, a constitution, where the demos, the people, exercise power, and where everyone is equal in front of the law. Such a constitution, however, is condemned to give equal place to all forms of *parrhesia*, even the worst. Because parrhesia is given even to the worst citizens, the overwhelming influence of bad, immoral, or ignorant speakers may lead the citizenry into tyranny, or may otherwise endanger the city. Hence *parrhesia* may be dangerous to democracy itself.

Thus, in the third book of Plato’s Republic [Book VIII, 557a-b], Socrates tells Adeimantus that:

> When the poor win the result is democracy. They kill some of the opposite party, banish others, and grant the rest an equal share in civil rights and government, officials being usually appointed by lot.

Socrates goes on to enquire as to what people are like in a democracy:

> First of all, they are free. Liberty and free speech [*parrhesia*] are rife everywhere; anyone is allowed to do what he likes….That being so, every man will arrange his own manner of life to suit his pleasure.

Plato’s concern here, says Foucault (2001: 84) is that in a democracy there is:

> no common logos, no possible unity, for the city. Following the Platonic principle that there is an analogous relation between the way a human being behaves and the way the city is ruled, between the hierarchical organization of the faculties of the human being and the constitution makeup of the polis, you can see very well that if everyone in the city behaves just as he wishes, with each person following his own opinion, his own will or desires, then there are in the city as many constitutions, as many small autonomous cities, as there are citizens doing whatever they please. And you can see that Plato also considers *parrhesia* not only as the freedom to say whatever one wishes, but as linked with the freedom to do whatever one wants. It is a kind of anarchy involving the freedom to choose one’s own style of life without limit.
Plato’s concern occludes difference, or fails to allow for difference within unity. Parrhesia is not condemned because all citizens are given rights to influence the city, or to have a say. Yet, within the context of security and war, this democratic right, parrhesia becomes the condition on which peace is maintained. Parrhesia contributes to the democratic settlement against war that constantly threatens to erupt, or become uncontainable. Such insights are potentially continuous with the republican tradition, where rights of contestation are prior to consent and where public decisions are legitimate so long as they are capable of withstanding group and individual contestation under procedures agreed by all. In this sense, contestation is a hedge against arbitrariness in decision making. Essentially, contestation introduces the fundamental idea of democracy as self-rule.

If parrhesia could contribute to an ideal of democracy within the law, according to the constitutional rules that limit its scope, in talking about moving beyond sovereignty and discipline, Foucault seems to acknowledge a more fundamental right to resistance when power becomes damned up, resulting in domination. Thus in his interview ‘Truth and Power’ he (1980: 122) speaks of resistance in strategical terms when surveillance and oppression become “unbearable”. In this sense, it could constitute a right in the sense, not that it relates back to nature, but in that it becomes the condition on which war and chaos are avoided. While such strategies don’t guarantee the avoidance of war, they become its best hope, and its minimum condition. Let us say, without such a right, war, which is really the suspension of all rights, all security, becomes almost certain. Resistance – short of war – becomes a condition of pluralist democracy, which is itself a strategy for the avoidance of war.

Strategies of contestation are linked to deliberation, which requires the fostering of institutions in which political action, with all its limitations, can be pursued. Deliberative democracy acknowledges that viewpoints and preferences will conflict, and allows for uncoerced or open context as essential to the arrival at an agreed outcome. Such strategies for Foucault are essentially group based where the views of individuals are transformed in the process. Deliberative democracy thus counts to insure against open conflict.

In the Foucauldian sense, deliberation recognises and tolerates differences to a much greater sense than in Habermas’s understanding. Habermas’s post-Kantian conception of a transcendent communicative consensus, embodied through the ideal speech situation is replaced by a much looser context of shared agreements, more of the character of Rawls’s modus vivendi than a consensus reached based on epistemological grounds of the force of the better argument alone. A modus vivendi is simply is loose treaty or agreement based sometimes only on the minimum rules of the game. The aim of deliberation is not epistemic consensus but rather, a new concord or settlement based on a workable balance between different views, a pragmatic consensus of sorts, based on epistemic factors, conceptions of justice, as well as a range of pragmatic factors such as the priorities for peace and stability at a particular moment in time.

Foucault and democracy post 9/11.
If a settlement is a historically contingent accord or agreement which constitutes a system of rules whose function is the containment of conflict and prevention of open hostilities, in the Hobbesian sense, it is motivated by the quest for security. Foucault clearly accepts such a view, but whether he would accept Hobbes skepticism in international relations is more doubtful. The standard view of international relations accords with the Westphalian model of free independent states, organised and run on the basis of autonomy and non-interference. Such a view represents an extrapolation from Hobbes views about individuals in the state of nature to ethical skepticism concerning relations between states in the international arena. For Hobbes there were no effective moral principles in the state of nature. The fact that one individual cannot trust another individual to abide by a moral rule or norm, makes it pointless acting in such a way oneself - which is why life in the state of nature is ‘solitary, nasty, brutish and short’. In the international system of states, ethical skepticism means that there are no moral restrictions on a state’s interpretation of its own interests. Hence, as moral rules would be inappropriate, the system is seen as ‘anarchic’.

Kant rejected such a conception, as did Grotius and Pufendorf before him. Rather than support an anarchic conception of international relations based on individual state interests, they supported an ethical view of the role of the state acting in accord with an objective moral rule. Initial plausibility of such a view can be seen in the existence of human rights accords, international charters, and initiatives towards international peace, which would seem to suggest that some conception of international morality does exist, and does influence states in their actions towards each other. Before the Peace of Westphalia, Grotius had defined international relations as a moral community of states. Pufendorf also developed a conception of the ‘morality of states’, interpreting international relations from within a natural law tradition.

Globalisation, terrorism and WMD make such a model, based on an ‘ethical’ conception of the global order, more of a necessity than a plausible option in the twenty first century. The rise of international terrorism and WMD, as well as phenomenon like climate change, SARS and AIDS alters the ‘equation’, for they make individual and collective survival an important ethical concern. The possibilities of nuclear terrorism, together with the democratisation of knowledge, and of access to nuclear knowledge and technology, makes the challenges facing humanity formidable. In this situation, survival constitutes a new imperative, a ‘final settlement’, to justify a global law of morality amongst nations. Acting according to principles becomes compelling if by so doing acts of terrorism are minimised, and the possibilities for survival are enhanced. Similarly, the possibility of AOT or of violence, or unintended developments like climate change, AIDS or SARS, increases the need for a discourse of safety and security. We may not agree with Hobbes on very much, but the priority of security over freedom, was indeed a profound insight. Globalisation and terrorism raise the issue of ‘survival’ both for individuals and nations.

Such a thesis would argue that given these new realities of AOT and WMD, the self-interest of states, like the self-interest of individuals, is a poor basis for action and ethics. Indeed actions calculated in terms of short-term interests may not be realised as in the long-term interests of either. The interests of survival are normative in that they impose requirements of action in the interests of all. The self-interests of
humanity cannot be calculated on the basis of the interests of each, however, but must involve a collective consideration. This necessitates a conception of democracy, as Beitz (1979: 58) puts it, which expresses a “moral point of view”:

The moral point of view requires us to regard the world from the perspective of one person among many rather than from that of a particular self with particular interests, and to choose courses of action, policies, rules, and institutions on grounds that would be acceptable to any agent who was impartial among the competing interests involved…. From the moral point of view…one views one’s interests as one set of interests among many and weighs the entire range of interests according to some impartial scheme.

This principle of democracy is non-foundational but universal. By this is meant that it is not based upon any fixed conception of human nature, or of a premise, as with Habermas, of universal rationality, but rather purely on a principle of a mutual interest in universal survival. In an age of terrorism democracy is the condition upon which survival can best be assured. Such a conception is universal to the extent that it is willed. The inspiration is Nietzschean rather than Kantian. It is also quite possibly Foucauldian in the sense that it constitutes a universalism of democracy as a contingent discourse of open protection and facilitation in a world of dangers².

Although survival may justify democracy, as an end or goal it is too thin to be fully adequate, of course, for mere survival can not possibly satisfy a complete account of life’s ends and aims. And it may not be universally agreed to, if we mean by universal ‘agreed to by all’, for there are no doubt some, including ‘suicide bombers’, for whom it holds no sway at all. Ultimately, that is the choice of course, and certainly it focuses the concentration. For if democracy is the precondition of survival, then it requires a democratic mandate to be effective, even so.

Beyond this, it is possible to build a much richer conception of democracy on this basis. If survival is a final justification, and focuses our attention as to why democracy is important, survival with dignity resonates of a more traditional concern with ends. This of course is the classic conception of democracy as a doctrine based on the ultimate worth and dignity of the human being, as espoused in the republican tradition. Thus, it is not the narrow ‘realist’ theory of democracy that has been articulated and advocated by post-war American political science, commonly associated with the writings of Joseph Schumpeter’s (1976) Capitalism, Socialism and Democracy, which refers to a narrow system of representative government and a means of changing governments through a system of elections (Hindess, 2000). Rather, if safety, dignity, and survival are to be possible, it must be deepened, once again, to refer to a substantive ends which is something more than mere utility, but encompasses the well-being and safety ‘of each and all’ (Shapiro, 1999). Such a conception must once again entail a certain idea of participation and equality as well. While, some philosophers and political theorists will sense a resonance here with Rousseau’s general will, this would be mistaken, for the model suggested here is not a totalising one, which presupposes unity between individual and collective, but a detotalising one that is based on the notion of general well being while recognising

² My view is that ‘survival’ is a better basis to justify democracy than ‘social contract’. However, it is not possible to explore the differences in this paper.
the diversity and differences between cultures and people. In terms of social ontology such a conception can be thought of as similar to Martha Nussbaum’s (1995: 456) “thick vague conception of the good”. Nussbaum advances “a soft version of Aristotelian essentialism” (p. 450) which incorporates a “determinate account of the human being, human functioning and human flourishing” (p. 450). While in formal terms it recognises that all individuals and cultures have certain developmental and lifestyle needs, this “internal essentialism” (p. 451) is “an historically grounded empirical essentialism” (p. 451). As such, it is purely formal, for within this broad end, and subject to the limits necessary for its realisation and continuance, it permits and recognises a multitude of identities and projects and ways of life.

Of course, in that Nussbaum claims to be influenced by Aristotle, there is a clear difference with Foucault, who was more influenced by Nietzsche. Thus Foucault would reject the essentialist teleological conception of the subject as ‘realising’ their ends or destiny, in preference for a more Nietzschean emphasis on ‘self creation’. But beyond this, it can be claimed that self-creation presupposes certain ‘capabilities’ in the way Nussbaum claims. Also, the models of social relations, and specifically of the ontological priority of the social to the individual are similar in both traditions. It should also be noted that Nussbaum has been challenged on her dependence on Aristotle (see Arneson, 2000; Mulgan, 2000). In her defence of locating herself in an Aristotelian tradition, she maintains that she is inspired by the basic ontological postulates, but not the detailed arguments, of Aristotle, and she admits that her identification as ‘Aristotelian’ has a great deal to do with her own biography and early philosophical commitments and training. (See Nussbaum, 2000b)

In Nussbaum’s conception, such a conception of the good is concerned “with the overall shape and content of the human form of life” (p. 456). Such a conception, she says, is “vague, and this is deliberately so...for it admits of much multiple specification in accordance with varied local and personal conceptions. The idea is that it is better to be vaguely right than precisely wrong” (p. 456). Such a conception is not metaphysical in that it does not claim to derive from a source exterior to human beings in history. Rather, it is as “universal as possible” and aims at “mapping out the general shape of the human form of life, those features that constitute life as human wherever it is” (p. 457). Nussbaum calls this her “thick, vague conception...of the human form of life” (p. 457). Hence, her list of factors constitutes a formal list without substantive content, allowing for difference or variation within each category. Amongst the factors are (1) mortality: all human beings face death; (2) various invariant features of the human body, such as “nutritional, and other related requirements” regarding hunger, thirst, the need for food and drink and shelter; (3) cognitive: “all human beings have sense perception...the ability to think”; (4) early development, (5) practical reason, (6) sexual desire, (7) affiliation with other human beings, and (8) relatedness to other species and to nature (pp. 457-460).

As a list of purely formal factors or generic species characteristics, which can admit to cultural and historical variation, Foucault, in my view, could agree with the general tenor of Nussbaum’s list, although he may wish to enter qualifications or caveats on specific features (sexual desire?). Foucault himself says that universal forms may well exist. In ‘What is Enlightenment’ (Foucault, 1984a: 47-48) he suggests there may possibly be universalizing tendencies at the root of western civilization, which include such things as “the acquisition of capabilities and the struggle for freedom”, as
“permanent elements”. Again, more directly, in the Preface to the History of Sexuality, Volume II (Foucault, 1984b: 335), he says that he is not denying the possibility of universal structures:

Singular forms of experience may very well harbour universal structures: they may well not be independent from the concrete determination of social existence…(t)this thought has a historicity which is proper to it. That it should have this historicity does not mean that it is deprived of all universal form but instead the putting into play of these universal forms is itself historical.

Like Nussbaum, the factors he recognises as invariant do not derive from any “extrahistorical metaphysical conception” (p. 460). Also, Foucault’s conception is very much in keeping with Nussbaum’s “thick, vague conception of the good” (p. 456) in that it is concerned to identify “components that are fundamental to any human life” (p. 461) Of course, the recognised features of human life should be seen as largely formal rather than substantive, for Foucault would be skeptical that the essential substantial properties of a human being can be distinguished from the accidental properties, in that the human being is historically constituted in the process of history.


References


\footnote{a For contemporary work in this tradition, see the English School of Martin Wright (1992) and Hedley Bull (1977).
\footnote{ii Grotius’s was a ‘pre-liberal’ conception, and notably, he argued against the principle of ‘noninterference’, arguing that it is sometimes justifiable (see Beitz, 1979: 71). It was Wolff and Vattel who later argued for an absolute principle of non-interference, arguing that unlimited respect for another state’s autonomy upheld stability. Wolff’s view marked the application of ‘pure’ classical liberal principles (‘autonomy’, ‘non-interference’ etc) to international relations. Although Wolff argued that no state had a right to interfere in another states sovereign affairs, the entire ‘community of states’ had such a right (see Beitz, 1979: 70-73).
\footnote{iii Although he argued against Hobbes, as Beitz (1979: 60) notes, he produces similar conclusions about the weakness of moral rules in international relations.}