

# PRAVO NA TELO KOD NIČEA I FUKOA

*RIGHT TO BODY IN NIETZSCHE AND FOUCAULT*

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*In memoriam*

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**Apstrakt:** Ovaj tekst analizira kritičke mogućnosti Ničeovog i Fukoovog razmišljanja koja proističu iz koncepta tela. Ako je za Ničea filozofija loše razumevanje tela, za Fukoa je mogućnost preispitivanja same subjektivnosti. Kroz ova čitanja je moguće razmišljati o pravu na telo kao ponovnom otkriću života.

**Ključne reči:** pravo, telo, Niče, Fuko.

**Abstract:** The article analyzes the critical possibilities of Nietzsche and Foucault's thinking that arise from the concept of the body. If for Nietzsche, philosophy is a poor understanding of the body, for Foucault it is a possibility of rethinking subjectivity itself. From these readings, it will be possible to reflect on the right to body as a reinvention of life.

**Keywords:** Law, body, Nietzsche, Foucault.

In this text I intend to analyze Nietzsche's theory through the re-construction of three concepts, namely those of: Law, Body and Justice. Initiating a discussion with the concept of Law does not mean that it can be found in the beginning of the Nietzsche's thought. Law is oppression; "with the word Law, one practices phariseism."<sup>3</sup> For Nietzsche the philosophy of Law "still hasn't even met its own fundamental principles".<sup>4</sup>

The question is why the Law has not yet known its own foundations? Do these foundations exist? By articulating these foundations, we might be able to oppose the Law as a practice of oppression and understand it as a liberating practice instead. Nietzsche and Law. The absence of Nietzsche's thought from the Law Schools indicates that we are still very far away from such discussions.

To understand the question of law in Nietzsche one can remember the question of a possible ontological difference present in his work. The message of his book *Human, All Too Human* is that we have reduced our nature to a culture. Thus, we surrender ourselves to the culture and its truths, forgetting the dynamic and fluxes of our own nature.

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3 Nietzsche, F., *Escritos sobre Direito*, Rio de Janeiro, 2011, p. 252.

4 Ibid., p. 141.



When Nietzsche reflects on culture, what he has in mind are Moral and Law. Culture is a specific, constant domination of fear over desire<sup>5</sup>. It constitutes the moral, he continues, saying that the culture, as a social articulation, means organisation of the weak<sup>6</sup> or an articulation of equality that castrates the fluxes and potentiality of our nature.

According to the laws, the Law and life are the consequences of morality. Therefore, the Law does not affirm us, but, rather it represents a specific denial of our life. From the very beginning, the Law is a practice of cultural nihilism. Even the concepts that, almost, affirm us – such as free will, Nietzsche understands within the scope of nihilism. For example, in order to think about the guilt and the possibility of reconstruction and preservation of society, we have invented the concept of free will.

While on the possible ontological side Nietzsche puts nature, individuals, the Zarathustra's speech, on the ontic side we will find culture, morals and law. According to Nietzsche, understanding of equality and universalism also stems from the construction of the ontic world. Hence, he affirms that we, *immoralists*, need to abolish the notion of guilt and punishment<sup>7</sup>; a message that reaches Derrida. We must say 'Yes' to ourselves in the situation of tradition and modernity, where we had become domestic animals.

Therefore, this possible ontological dimension in Nietzsche includes the transvaluation of all values – with force, with hammer – in order to be able to think and reinvent our own lives. Culture, Moral and Law: Affirmations of our own lives. What does this mean? Is this still a possible project?

The second concept we announce here can help us to continue this discussion. It is the concept of body.

Philosophy, thinks Nietzsche, is “a poor understanding of the body”<sup>8</sup>. Since the beginning of the path of culture, the body has been seen as an enemy; just like an affirmation in Plato's *Alcibiades* that man is a soul.<sup>9</sup> Therefore, according to Nietzsche and following this possible affirmation of ontology, in the sense of our own nature, we need to reinvent the body, to think the body as our guiding idea.

As we have seen, thinking with our nature means leaving fluxes without reification. At this point, Nietzsche is following Boscovich, who while talking about science, liberates us from substances. “Boscovich has taught us to abjure the belief in the last thing (...) the belief in 'substance', in 'matter', in the earth-residuum, and particle-atom.”<sup>10</sup> At this point, it is clear that Nietzsche is not a materialist nor he is one of the idealists who invented the ways of culture, but forgetting the dynamics of nature itself.

Nietzsche, therefore, is beyond materialism and idealism, beyond the reifications of nature. He is not replacing a spiritual world with a material one, which is at the bottom of Heidegger's criticism: Nietzsche is much more radical than what Heidegger thinks he is.

5 Ibid., p. 211.

6 Ibid., p. 179.

7 Ibid., p. 348.

8 Nietzsche, *A gaia ciência*, São Paulo, 2017, Preface, p. 2.

9 Plato, *Alcibiades*, 128 d–130 b.

10 Nietzsche, *Beyond Good and Evil*, New York, 1966, p. 20.

In regards to the question of body, criticism of consciousness emerges<sup>11</sup>. Consciousness as linked to the language or as a possibility of thinking about the past and absent things; beyond of what is here and now that abandons the natural spontaneity. The natural, or how, in other words, Nietzsche sees the natural instincts, remains internalized<sup>12</sup> and forgotten. This almost sets forth the reading that in Heidegger announces the forgetfulness of being.

Consciousness can only interpret the fluxes.<sup>13</sup> It is only an interpretation, a mere text. Or perhaps one can't even say text because there is no text of the being. Nor there is the being, but only interpretations. Thus, only in the illustrative sense, we can talk about ontology in Nietzsche.

Rather, one can merely follow the hermeneutics path, articulating becoming, and not being.<sup>14</sup> Consciousness is nothing but a symbolization of the body.<sup>15</sup> Symbolizing the non-identical, the fluxes, what is Dionysian, is the path of culture. Psychoanalysis will later oppose this castration of nature within the symbolic order. Freud will confirm the presence of Nietzsche in his work. In fact, on the level of consciousness, the question of metaphor demonstrates a certain transposition of the unconscious activities of instincts.<sup>16</sup>

What confronts us with the culture is the body. "The body puts us in front of the multiple, the diverse, the non-permanent, the non-essential [...]"<sup>17</sup> The body is the great reason, writes Nietzsche in the introduction to *Thus Spoke Zarathustra* entitled "On the Despisers of the Body".

In this reinvention of nature, of bodies, Nietzsche also searches for the meaning of justice. One has to take justice out of the field of culture and identities and think justice through its connectedness with the processes of nature. In other words, one has to reframe the concept of justice. It is connected with the nature itself, with *Amor fati*, with the affirmation of our life. Justice, beautifully expressed by Sarah Kofman, is the justification of life.<sup>18</sup> It is the affirmation of life against the injustices of culture and our conscience.

Talking about Spinoza now, one question comes to mind: How the questions of body and potency (*potentia*) reach the discussion about women? At this point we may reassume this debate. In *Beyond Good and Evil*, Nietzsche says: "Comparing man and woman on the whole, one may say woman would not have the genius for finery if she did not have an instinct for a *secondary* role."<sup>19</sup> And he adds: "(...) I think it is a real friend of women that counsels them today: *muller taceat de muliere!* [Woman should be silent about woman!]"<sup>20</sup>

Questioning the reification of nature's processes, Nietzsche, instead of re-examining this space, could ask himself why he still leaves women within this space of identities, in this phallogocentric space. The absence of the essence of woman or the gender difference, which Derrida

11 For a brilliant reconstruction of this critique, see Barrenechea, M.A., *Nietzsche e o corpo*, Rio de Janeiro, 2017.

12 Nietzsche, F., *A gaia ciência*, São Paulo, 2017, Preface, p. 16.

13 Milović uses this term to refer to the state of being as being "in flux", or just "a flux", understood as a continuum. See: Nietzsche, *The Gay Science*, aphorisms 111 and 112. Translator's note.

14 See a brilliant reconstruction of this point in: Kofman, S., *Nietzsche et la métaphore*, Paris, 1992.

15 Kofman, S., *Nietzsche et la métaphore*, Paris, 1992, p. 199.

16 Ibid., p. 60.

17 De Barrenechea, M., A., *Nietzsche e o corpo*, Rio de Janeiro, 2017, p. 111.

18 Kofman, S., *Nietzsche et la métaphore*, Paris, 1992, p. 202.

19 Nietzsche, F., *Beyond Good and Evil*, New York, 1966, aphorism 145, p. 89.

20 Ibid., aphorism 232, p. 164.

puts in this context<sup>21</sup>, could be reconsidered.

Let us now reflect on how Foucault follows Nietzsche's steps.

Foucault's reading of the Greeks is different. It is not Nietzschean. Foucault wants to think of Greek philosophy as "not just logos, but also ergon".<sup>22</sup> In other words, Foucault does not want to think of Platonic philosophy, as the beginning of logocentrism, for instance. This interpretation begins with Nietzsche and reaches over to Derrida.

Philosophy is in the practices; "the reality of philosophy is the practices of philosophy"<sup>23</sup>, says Foucault. Thus, *The Government of Self and Others* can be understood as an explicit criticism of Derrida's philosophy. Perhaps, in these practices<sup>24</sup>, we can fathom Greek understanding of freedom<sup>25</sup>, but in one anti-Hegelian key, because freedom for Hegel is a particular modern occurrence. So, we have to understand these practices.

The beginning of this reading may be the context of the book *The Hermeneutics of the Subject*, that is, the moment when the young Greek aristocrats wonder how to exercise political power, how to govern others. At this moment, says Foucault, in Plato's *Alcibiades*, "the care of the self emerges."<sup>26</sup> Or, better, in the section 127e, of this dialogue, the "necessity, or rather an imperative 'take care of thyself'" appears.<sup>27</sup>

Plato's answer is well-known: Taking care of oneself means taking care of one's own soul. And, to the question of the soul, in all its complexity, Plato adds questions of the relation to the metaphysics of the world, social questions and questions concerning the State. Taking care of oneself includes the social sphere; the others. At this point we can see how the relation between taking care of oneself and taking care of others emerges, where taking care of oneself essentially means taking care of others. "The *epimeleia heautou* is an attitude towards the self, others, and the world"<sup>28</sup>, says Foucault.

He understands this Greek attitude as a specific break with the pastoral power of the Jews. This power is related as souls are related to a divine authority. At this point, according to Foucault, we still do not have the possibility to talk about subjectivity of a direct action, which, as we have seen, includes the questions of metaphysics and the questions of the social. Pastoral power was later established by the Christians in the III and IV centuries. Here, the care of oneself can be understood as a specific renunciation of oneself, *metanoia*, the overcoming of the Greek reason.

For Foucault, this question runs through "all Greek, Hellenistic and Roman philosophy, as well as Christian spirituality."<sup>29</sup> This aforementioned difference, between Greek attitude - *epiméleia heautoû* that includes the opening to the world, and the Christian attitude - *metanoia*, which is marked by abstinence and the life of asceticism, could be seen great historical examples of the care of oneself.

21 Derrida, J., *Esporas. Os estilos de Nietzsche*, Rio de Janeiro, 2013, p. 89.

22 Foucault, M., *The Government of Self and Others*, New York, 2010, p. 227.

23 Ibid., p. 239.

24 Here Foucault refers to *tekhne* (the art of oneself). Translator's note.

25 Foucault, M., *The Hermeneutics of the Subject*, New York, 2005 p. 447.

26 Ibid., p. 31.

27 Ibid., p. 46.

28 Ibid., p. 10.

29 Ibid., p. 11.

Here the question of the body appears. Or, rather, it appears and disappears. In this sense, we can talk about specific dialectic of body at the beginning of the reconstruction of the care of oneself. We can talk about the submissive body. In Plato, the soul surpasses the body and readings of *Alcibiades* are explicit. But, according to Foucault, for Plato, virtue passes through the body to become active. “In Plato [...] gymnastics provides the training of these two virtues, courage and self-control.”<sup>30</sup> At the beginning of the restoration of Christian pastoral power this tendency disappears. Gymnastics disappears because the soul is affirmed “not by gymnastics, but by abstinence”<sup>31</sup>, by the body of abstinence or by renouncing itself.

Different understanding of body and, perhaps, another dialectic of body appears in late modernity and still continues even today. Instead of talking about the submissive body, we can talk about a specific submission to the body. Today the good life does not include metaphysical or moral questions, but it includes health issues. Levels of glucose and cholesterol are more important than moral issues. Today we have entered in the realm of somatic culture. The body took place of morality. We are in the gyms, with headphones on, cultivating a specific autism and not an openness to the world and to the social. Or, in Francisco Ortega’s words, following Foucault, “we lost the world and we gained the body.”<sup>32</sup>

Why does this happen? Why this somatic culture creates apolitical identities? Here Foucault talks about the new disciplinary power that determines societies from the XVIII century onwards. This new form of society that even appears as something that protects us and takes care of our security, is fundamentally controlling and determining us. Foucault, detecting the capillaries of micro-powers, talks, for example, how the ATMs also allow to “control how they were used”<sup>33</sup>, or how the credit cards are advertised as the possibility of capitalist enjoyment without limits and without money, which control us in the same way.

This control includes the bodies as well. Foucault says that “from the nineteenth century onward, the body acquired a completely different signification; it was no longer something to be tortured but something to be moulded, reformed, corrected [...]”<sup>34</sup>

In this context, the second dialectic of the body emerges. We are in the somatic culture, subjected to the body, but within a culture that disciplines and normalizes us. How to rethink and reframe the body? What would be ‘the right to body’?

Return to the (one)self, says Foucault, was never dominant as it was in Hellenistic and Roman times.<sup>35</sup> Capitalism, among other things, is the manipulation of our desires that always comes as imposition and not as an affirmation of our potentiality, in the Spinoza’s sense. This alienation only becomes more radical. As Sueli Rolnik puts it: “In the contemporary reinvention of capitalism, the distance between product and consumption disappears: the consumer himself becomes the raw material and the product of his own processing.”<sup>36</sup>

30 Ibid., p. 428.

31 Ibid., loc. cit.

32 Ortega, F., ‘Da ascese à bio-ascese’. In Rago, M., Orlandi, L.B.L, Viegas-Neto (Eds.), *Imagens de Foucault e Deleuze*, Rio de Janeiro, 2002, p. 173.

33 Foucault, M., ‘Truth and Juridical Forms’. In Faubion, J.D. (Ed.), *Power. Essential works of Foucault 1954-1984*, London, 2000, p. 81.

34 Ibid., p. 82.

35 Foucault, M., *The hermeneutics of the Subject*, New York, 2005, p. 253.

36 Rolnik, S., ‘Despachos no museu’. In Rago, M., Orlandi, L.B.L, Viegas-Neto (Eds.), *Imagens de Foucault e Deleuze*, Rio de Janeiro, 2002, p. 310.

Foucault articulates a concept which will later inspire Agamben: The form of life. With Christians we learn that life must be regulated, says Foucault. Here the rule of life appears, *regula vitae*. But life does not obey rules, but “really the forms”.<sup>37</sup> The form of life, as Agamben will later understand, is our decision about life, and not life exposed to social norms. Ultimately, it is not the law that creates practices, including erotic ones. It is life itself. Thus, the point is not to create more laws in the future, but to affirm our own freedom, our own power.

For Foucault, this is also the possibility of rethinking subjectivity itself. “It is not power, but the subject, that is the general theme of my research”,<sup>38</sup> he writes in *The Subject and Power*. We have seen how the possible subjectivity of direct action is reduced in positivist modernity to the questions of knowledge and the reproduction of laws. Reinventing this subjectivity today means putting yourself beyond the identity culture of bodies and of the world.

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<sup>37</sup> Foucault, M., *The Hermeneutics of the Subject*, New York, 2005, p. 484.

<sup>38</sup> Foucault, M., ‘The Subject and Power’. In Faubion, J.D. (Ed.), *Power. Essential works of Foucault 1954-1984*, London, 2000, p. 327.