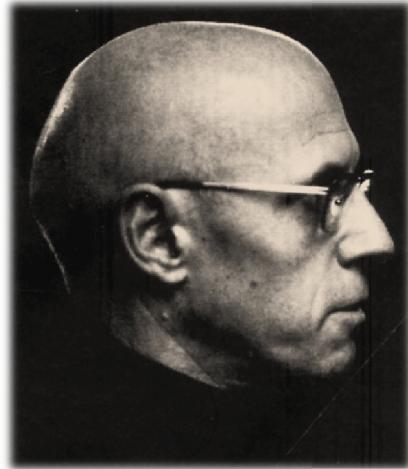
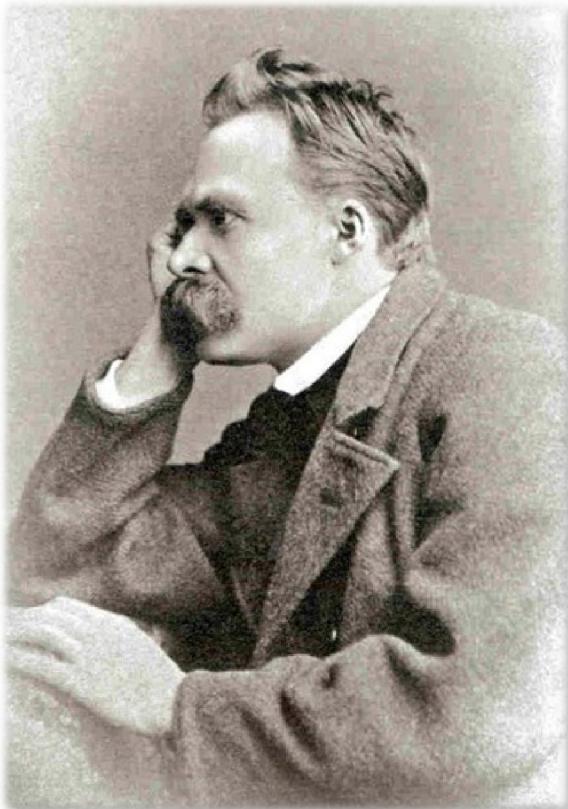


A Genealogy of Morality

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embedding Nietzsche's thought and method into the study of morality and crime



Bachelor Thesis: a study by Levi van den Bogaard in 14030 words,
written for Research Seminar III (Criminal Minds), taught by dr. W.G. Ruberg, at Utrecht
University.

Student number: 3617858
Course code: 200700213
Date of completion of the final version: 18-01-2013

‘Wohl bin ich ein Wald und eine Nacht dunkler Bäume: doch wer sich vor meinem Dunkel nicht scheut, der findet auch Rosenhänge unter meinen Cypressen.’¹

‘To be sure, I am a forest, and a night of dark trees: but he who is not afraid of my darkness, will find banks of roses under my cypresses.’

¹ F. Nietzsche, Also Sprach Zarathustra II (1883) KGW='VI-1.135' KSA='4.139'.

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ABBREVIATIONS

As a means to improve the readability of the text, the following abbreviations of Nietzsche's works are used, after a first mention of their German titles.

BGE	Jenseits von Gut und Böse (1886), translated as Beyond Good and Evil. Prelude to a Philosophy of the Future.
BT	Die Geburt der Tragödie (1872), translated as The Birth of Tragedy from the Spirit of Music.
GM	Zur Genealogie der Moral (1887), translated as On The Genealogy of Morality. A Polemic.
GS	Die fröhliche Wissenschaft (1882), translated as The Gay Science. With a Prelude in German Rhymes and an Appendix of Songs.
HA	Menschlich, Allzumenschliches (1878), translated as Human, All Too Human. A Book for Free Spirits.
Z	Also Sprach Zarathustra (1883-85), translated as Thus Spoke Zarathustra. A Book For All and None.

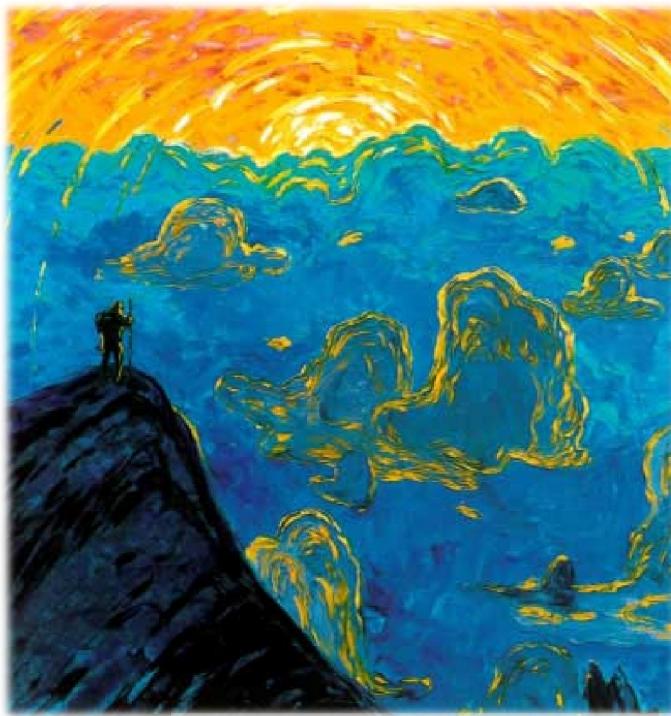
Quoted passages from Nietzsche's works are all borrowed from the recent and presumably reliable translations from German, appearing as a part of the series of Cambridge Texts in the History of Philosophy, except for one fragment found only in the DKG (Digitale Kritische Gesamtausgabe), based on the critical texts of G. Colli and M. Montinari (ed. P. D'Iorio) at www.nietschesource.org.

INTRODUCTION

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The philosopher with a hammer

The Lone Walk of the Philosopher



2

From the shadows of the forest a figure emerges, walking onwards and upwards toward the bright light of noon. Through the trees, swaying in the wind, flickering rays of sunlight are reflected in the dew that still lies on the leaves and twigs cracking under his feet. The chanting of birds is accompanied by the soft and far away sound of the stream in the valley below. A path leads him up on the slope of the mountain, and further away from the green hills and pastures down below, finally disappearing from sight through the last cracks in the thickening mist. Though their comfort and safety might seem tempting to some, there are others who long for something else, for another type of terrain. The climb does not end here, no! For to truly strengthen the spirit one must face the adventure, danger, and even pain that is necessitated by the climb to the top. There can be no fulfillment without difficulty which, like the mountain, is to be faced and conquered. Indeed, the mountains call only to the brave and strong, this land of the sky, where the clouds roam freely. And so, on the summit, as the lone walk of the philosopher comes to a halt, a profound stillness remains and settles within him. The air he breathes is cold and dry, but the light that shines on one side of his face warms it and dances in his eyes. It also reveals a rather large mustache and, looking up to a beautiful blue sky, a mouth underneath it that curls up into a smile. It is not too hard to feel as tall as a mountain, when emerging triumphant on the pure white peak of one,

² W. Hablik, Sunset, Mont Blanc (1906) Wenzel Hablik Museum, Itzehoe.

stretching out above all else. Between the earth and skies, all of nature is but a reflection of time and a mirror of oneself, where seasons pass unseen and even the mountain, feeding the Alpine lakes from its sources, must erode, though slow it may be. And it is precisely here, that the spirit laughs with joy.

This is the laugh of philosopher Karl Friedrich Nietzsche, and his plea for struggle and hardship did not go unnoticed. In fact, it would come to have great consequences in the decades after his death in 1900, but in a way that would have devastated him had he known, moreover due to the fact that it was at the hand of his sister his writings got re-edited through the prism of anti-Semitism, which he abhorred.³ Nietzsche was born in 1844 in the small village of Röcken, near Leipzig in Saxony (a Prussian province), were his father, Carl Ludwig Nietzsche, whom he revered all his life, was the parson of the local Lutheran church.⁴ Unfortunately, he died unexpectedly in 1849 when Nietzsche was only four years old, and the year after his youngest child and second son Ludwig Joseph died as well, at age two, leaving only Nietzsche, his mother and his younger sister Elisabeth (born in 1846). Most biographers point out the profound effect these events Nietzsche endured at a young age would have on him for the rest of his life.⁵ Now the only male left in the family, he took charge and burdened himself with the responsibility of caring for his mother and sister. He became a very serious child that only sparsely engaged in child-like activities, always standing somewhat isolated from his classmates. During his teenage years he stood out in another sense, as his talents were soon discovered and he received a scholarship to Schulpforta, the leading Protestant boarding school in Germany, after which he enrolled at Bonn University, where he studied classical philology and theology. At age 24 he was offered a professorship in classical philology at the University of Basel in Switzerland, an exceptional feat considering his young age. Three years later *Die Geburt der Tragödie* was published, marking the start of a fruitful and remarkable career. From that point onwards, Nietzsche's thought develops incessantly, each of his works tacking on its predecessor in order to complement or elaborate on certain concepts that had been explored, often offering various arrays of considerations that are not intended to form a systematic whole, or to have the reader necessarily adopt the same position. Besides the mistreatment of Nietzsche's Nachlass after his death, this also has partially contributed to the many misplaced accusations of him as being a misogynist, nihilist, relativist, anti-Semite, or even a Nazi.⁶

However, his eclectic range of ideas has also been appropriated in a more productive manner, having been widely influential within a variety of scholarly fields. Among these fields can be counted the study of crime, which is conducted from a variety of different perspectives, or disciplines, among which can be counted criminology, sociology and criminal justice. Yet his thought has largely been excluded from these 'criminological' perspectives. Not only does the study of crime fail to acknowledge the paramount importance Nietzsche has had in its development, through the appropriation of his

³ This was also the main cause of his split with Richard Wagner in 1876, with whom he had developed a close friendship in the late 1860s.

⁴ J. Young, Friedrich Nietzsche. A Philosophical Biography (Cambridge 2010) 8-9.

⁵ Young, Friedrich Nietzsche, 9-10.

⁶ Many of these rumors are adequately dealt with in Chapter 1, 'Rumors: Wine, Women, and Wagner' in: R.C. Solomon, K.M. Higgins, What Nietzsche really said (New York 2000) 3-51.

genealogical method and some of his ideas (such as the ‘will to power’) by philosopher Michel Foucault (1926-1984), it also overlooks the value of his ideas and methodology for future studies of crime. Thus, it seems that both his philosophical ruminations, from a historical and philosophical perspective, as well as the method he applied, namely the philosophical ‘genealogy’ (most notably in the 1887 work *Zur Genealogie der Moral*, but also in the 1878 work *Menschlich, Allzumenschliches*), should be accorded a more central spot in studying crime. The present study aims to give a first push in this direction. In order to do so, his thought must first be placed in context, by surveying the philosophico-anthropological discourse of his lifetime (mainly the second half of the nineteenth century). This will be the goal of the first chapter, which can be viewed as an attempt to reconstitute the field within which Nietzsche moved, and the various dominant and marginal movements he may have identified with, or felt compelled to confront and oppose. Contextualizing Nietzsche’s thought in such a way will make clear the positions he took regarding morality and crime, and to what extent these positions were exceptional ones. This will then enable us to study the method he himself introduced as an alternative to the ‘un-historicists’ and ‘English psychologists’ of his time, who also voiced their own opinions on what morality and crime is, but with a rather different connotation, namely as constitutive of scientific knowledge, and to which he himself also contrasted his own approach. This will be the aim of the second chapter, which asks what genealogy actually brings to the table. What precisely does it propose? What sort of approach does it facilitate? In what sense might it be valuable to historical inquiry? Here it is, however, of the utmost importance to distinguish between Nietzsche’s and Foucault’s approach to genealogy. This then requires a critical examination of both the work of these philosophers as well as secondary literature on the subject of genealogy. As an acknowledgement of the way in which the thought and work of both thinkers developed incessantly as a sign of their developing philosophy, a chronological development of it, as far as it is relevant to genealogy, will be laid out. Thus it will be shown that there has been, and still is, much confusion surrounding an exact definition of the method, or even whether it might be considered a method at all. In the conclusion I will then argue that Nietzsche has to be, in a sense, re-evaluated in the face of the misinformed perspectives some scholars have taken. Additionally I will argue for a renewed appreciation of Nietzsche’s thought and methodology for the study of crime.

How to Philosophize With a Hammer

Nietzsche’s love for the Alpine mountains in which he hiked daily whilst in Sils-Maria (a small village in southern Switzerland), always carrying his notebooks with him, is shown very clearly through not only the enthusiastic letters he sent to his friends, but also through the many metaphors and aphorisms in his main texts, in which he invoked the mountains to illustrate his points.⁷ More importantly, Nietzsche often used his mountain metaphors as a means to describe the kind of attitude he desired from those intent on carrying forth the genealogical project he inaugurated:

⁷ A. de Botton, *The Consolations of Philosophy* (London 2000) 217-218.

'For that purpose, we would need another sort of spirit than those we are likely to encounter in this age: (...) they would (...) need to be acclimatized to thinner air higher up, to winter treks, ice and mountains in every sense'⁸

As described vividly in the first paragraph of this introduction, they need to be able to withstand the harshness of the climb in order to be elevated above everyone else. Only from this perspective will they be able to see clearly, and to value clearly, for that is their central task: 'If a shrine is to be set up, a shrine has to be destroyed', and in order to do this one has to philosophize with a hammer, tapping the idols as a physician would his patient's sore abdomen.⁹ Moreover, aphorisms such as the 'Path to equality' in the 1878 work *Der Wanderer und sein Schatten* (*The Wanderer and His Shadow*), give a clear demonstration of the result of the genealogy, by stating:

'A few hours' mountain climbing make of a rogue and a saint two fairly equal creatures. Tiredness is the shortest path to equality and fraternity - and sleep finally adds to them liberty.'¹⁰

The identity of the two main figures in this aphorism is based on a moral judgment which to Nietzsche is ultimately a societal construct, and a nonsensical one at that. Moreover, in the course of tracing the genealogical history of their identities, a transposition has taken place, where the origins of 'morality' have become 'immoral'. Thus, whilst simultaneously mocking the French Revolution and the democracy that has sprung forth from it, the rogue and the saint have become equals: 'Peak and abyss - they are now merged as one!'¹¹

This study is an attempt to uncover some of the roots of the study of crime emanating from Nietzsche, that have been forgotten through the passing of time. They have become ingrained truths, too obvious to notice, just as those Nietzsche attacked from high up in the Oberengadin mountains. Thus, in a very Nietzschean sense, one might in fact say this in itself constitutes a humble attempt at a genealogy. But even for a humble attempt such as this one, Nietzsche offers a hopeful perspective:

'In the mountains of truth you will never climb in vain: either you will get up higher today or you will exercise your strength so as to be able to get up higher tomorrow.'

¹²

Continuing this self-questioning and self-renewing tradition of critique, I will thus embark upon my own hike up the mountain.

⁸ F. Nietzsche (transl. C. Diethé, ed. K. Ansell-Pearson), *On the Genealogy of Morality. A Polemic (Revised Student Edition)* (1887; Cambridge 1997) 66.

⁹ Nietzsche, *On the Genealogy of Morality*, 65-66 ; *Twilight of the Idols*, or, *How to Philosophize with a Hammer*.

¹⁰ F. Nietzsche (transl. R.J. Hollingdale), *Human, All Too Human. A Book for Free Spirits* (Cambridge 1996) 373.

¹¹ F. Nietzsche (ed. A. del Caro and R.B. Pippin, transl. A. del Caro), *Thus Spoke Zarathustra. A Book For All and None* (Cambridge 2006) 121.

¹² Nietzsche, *Human, All Too Human*, 293.

CHAPTER I

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Positioning Nietzsche's thought in the philosophico-anthropological discourse on morality and crime between 1850-1900

1.3 Time and Space

1.3.1 A Discourse

The content of this chapter extends itself throughout 'time' and 'space', in both a literal and metaphorical sense. These concepts make up the essential and intrinsically interconnected building blocks of what is described, but are also experienced and understood in a complex and historically specific way, the influence of which permeates all thinking, however autonomous or atemporal it may seem or may be portrayed. This also makes it possible to conduct an analysis of certain ways of thinking and speaking within such a spacio-temporal framework. The central aim of this chapter then, is to describe the philosophico-anthropological discourse on morality and crime as it was created and maintained throughout the second half of the nineteenth century (which also comprised the lifetime of Nietzsche bar his first six childhood years), how it intersected with other discourses and practices, and how it enclosed as well as excluded many different and sometimes conflicting currents of thought, some of which dominated and some of which found themselves nearer the margins. Criminology did not yet exist as a separate scientific field, so to speak of a criminological discourse is to speak of a variety of fields, such as anthropology, jurisprudence, physiology, phrenology and psychiatry, in which crime was studied and discussed. Of course the scope of this overview is limited and will be primarily concerned with positioning Nietzsche's philosophy within a wider interval of thoughts and ideas. Still, a reading of these texts and events as texts has to be understood as part of a wider historical context that does not neglect important 'non-textual' social and economic continuities and discontinuities.

1.3.2 Nihilism and the Death of God

In Western-Europe, this can be described as a period of increasing differentiation and integration in which the state heightens its grip on society and the network of interactions between people and between groups of people expands its geographical scope whilst increasing its speed and frequency. It is commonly understood as a time of technological development through industrialization and mechanization, accompanied by urbanization and social turbulence. Herein 'modern' time is found to be equally mechanical, meaning precise and quantifiable as it is broken up into equal units which together make up the 'working day', as it is experienced in the many newly created and ordered spaces such as the workhouses, factories, banks, schools, hospitals and prisons, and becomes increasingly cut loose from the cyclical rhythms of the natural seasons.¹³ Along with these changes many of the traditional structures of society slowly started to erode. While secularization and individualization grew, the influence of the

¹³ S. Makdisi, *Romantic Imperialism. Universal Empire and the Culture of Modernity* (Cambridge 1998) 180 ; M. Foucault, 'Different Spaces', in: M. Foucault (ed. P. Rabinow), *Aesthetics, Method, and Epistemology. Essential Works of Foucault 1954-1984, Volume II* (London 2000) 175-185.

Christian religion declined, along with its morals and conventions.¹⁴ This is what Max Weber - markedly influenced by Nietzsche - called the 'disenchantment of the world' (*die Entzauberung der Welt*), similar to what Karl Marx and Friedrich Engels described as a state of 'alienation', tragically depicting how 'All that is solid melts into air'.¹⁵ But whereas Marx to a certain extent retained his faith in the ideals of reason and progress, Nietzsche maintained a very critical view of the positivist science of his time that saw itself capable of establishing reasoned, value-free and universal truths.¹⁶ It would be a mistake to view the 'Enlightenment era' (roughly referring to the second half of the eighteenth century) as the high point of science, for it was in fact only until the second half of the nineteenth century that 'science', which had hitherto formed part of the discursive formation of 'natural philosophy', had established itself as a separate and distinctive *modus operandi* and was also accepted as such.¹⁷ Thus it seems no coincidence that Nietzsche's well-known tale of the madman announcing the 'death of God' to an oblivious crowd of people at the local marketplace - once the lively center of the community - was to appear in a work entitled *Die fröhliche Wissenschaft* (1882), for it had at least in part been the relentless rationalizing of the sciences, with their 'demand for certainty' and their unconditional 'will to truth' that had set society adrift, in response to which Nietzsche formulated his more 'free spirited' alternative approach. Nietzsche posited that 'around all these positivistic systems hover the fumes of a certain pessimistic gloom', which he attributed mainly to the supposed escapist (metaphysical) tendencies of Hegelianism and Kantian criticism.¹⁸ This is the century in which the cultural significance of nihilism grew considerably big, although Nietzsche announced it would come to its full realization over the course of the next two centuries:

'Nihilism is standing at the gate: from where does this uncanniest of guests come to us?'¹⁹

'Nihilism: the goal is lacking; an answer to the 'Why?' is lacking. What does nihilism mean? - That the highest values devalue themselves.'²⁰

The solution to nihilism proposed by a young Nietzsche in BT was still very much inspired by the Schopenhauerian metaphysical notion of 'die Welt als Wille', the 'world as will', and by the Romantic discourse of the first half of the nineteenth century in which he had reveled alongside his former friend Wagner, whose music he would later come to see as a dangerous incitement to 'anti-human' values.²¹ The staticist or deterministic picture of a stable and coherent universe had proven to be defenseless against the

¹⁴ J. Dohmen, *Het leven als kunstwerk* (Rotterdam 2008) 157.

¹⁵ M. Weber (ed. W.G. Runciman, transl. E. Matthews), *Max Weber. Selections in Translation* (Cambridge 1978) 4 ; K. Marx, F. Engels (ed. J.E. Toews), *The Communist Manifesto* (Boston 1999) 68.

¹⁶ E. Ellis, 'Modernity', in: M.C. Horowitz (ed.), *New Dictionary of the History of Ideas* Vol. 4 (2004) 1474.

¹⁷ D. Outram, *The Enlightenment* (Cambridge 2005) 95.

¹⁸ F. Nietzsche (ed. B. Williams, transl. J. Nauckhoff), *The Gay Science. With a Prelude in German Rhymes and an Appendix of Songs* (Cambridge 2001) 205.

¹⁹ F. Nietzsche (ed. R. Bittner, transl. K. Sturge), *Writings from the Late Notebooks* (Cambridge 2003) 83.

²⁰ Nietzsche, *Writings from the Late Notebooks*, 146.

²¹ W. Morrison, *Jurisprudence. From the Greeks to post-modernism* (London 1997) 292.

early stages of nihilism.²² ‘There is no pre-established harmony between the furtherance of truth and the well-being of mankind’, Nietzsche wrote in HA, thus discarding Friedrich Hegel’s portrayal of history as the inevitable progressing or becoming of the world’s ‘Spirit’ (*Weltgeist*) and its ‘Absolute truth’, and as the unfolding metaphysical story of freedom and reason.²³ With the end of the century approaching, both Arthur Schopenhauer and Nietzsche realized that there was no longer any room left for such ‘ruthless optimism’.²⁴ Schopenhauer in fact resented Hegel’s absolute idealism and what he saw as his use of nonsensical language which ‘enabled people to talk for days on end, without saying anything’.²⁵ Though Nietzsche was thankful to Schopenhauer for the questions he posed, he was not particularly pleased with the answers he had given, above all his unitary force of Will as the ‘true’ nature of reality.²⁶ He not only came to reject the vision of ‘man against the world’ that Schopenhauer’s pessimism depicted, a vision which saw ‘man as the measure of the value of things, as judge of the world who finally places existence itself on his scales and finds it too light’, but even the vision of ‘man and world’, which he called a false juxtaposition.²⁷ Here a more central project of Nietzsche’s philosophy comes into view, namely the revaluation of all values, which was along with the Übermensch the solution to nihilism that he came to advance in the later part of his career. In order to understand these concepts more fully, we will first need to get closer to the ‘nature of things’, so to speak.

1.4 The Nature of Things

1.4.1 Bodies and Minds

We might do well to start here on an Epicurean note, *de rerum natura*, which in its search for a ‘reliable standard’ that is by itself able to guarantee the ‘victory of truth over falsehood’ came to conclude that ‘(...) all sensations at all times are true’, thereby distinguishing between the causal processes that influence our senses, and our reasoning and judgment following it.²⁸ As a consequence of this atomistic reasoning the mind (or rather mind and spirit or animus and anima as a part of the soul) is found to be in the body but pleasures of the mind are to be valued higher than bodily pleasures, whereby the dichotomy of mind and body is fastidiously maintained. The influence of Epicureanism is seen most clearly in utilitarianism, which in turn exercised a great deal of influence on nineteenth century debate on morality and crime. The great utilitarian Jeremy Bentham offers a quantification of morality, his morality, based on the principle of utility or ‘the greatest happiness of the greatest number’, which burdens the individual that possesses ‘free will’ with an obligation weighing on their every action, and grants governments the right to judge their policies by

²² M. Dries, ‘Nietzsche’s Critique of Staticism. Introduction to Nietzsche on Time and History’, in: M. Dries (ed.), *Nietzsche on Time and History* (Göttingen 2008) 7.

²³ Nietzsche, Human, All Too Human, 182 ; Nietzsche, *The Gay Science*, xiv-xv ; D.E. Cartwright, *Historical Dictionary of Schopenhauer’s Philosophy* (Lanham 2005) 75.

²⁴ Cartwright, *Historical Dictionary of Schopenhauer’s Philosophy*, 75.

²⁵ Ibidem, 73.

²⁶ Nietzsche, *The Gay Science*, 219-220.

²⁷ Ibidem, 204.

²⁸ T. Lucretius Carus (ed., trans. M.F. Smith), *On the Nature of Things* (Indianapolis 2001) 113-114.

their effect on the ‘general well-being’ of the population.²⁹ John Mill’s *On Liberty* (1859) and Utilitarianism (1861) helped maintain the strong hold of utilitarian benefit-oriented thought on the philosophical discourse in the latter half of the century, and along with Immanuel Kant, whose new modern moral philosophy sought to prove how morals could solely be the result of reason and the product of rational being through the universalizing maxim of the *Kategorischer Imperativ*, the categorical imperative, these perspectives maintained the mind as the axiom to which all philosophical attention should be devoted.³⁰ Nietzsche however turned against these universalizing and normalizing aspirations, for ‘The most basic laws of preservation and growth require the opposite: that everyone should invent his own virtues, his own categorical imperatives’, thus valuing the exception or deviation above the norm, and criticized Kant’s notion of the *Ding an Sich*, the thing-in-itself, the unknowable but assumed, because his critiques had laid open a hidden path to ‘the concept of a ‘true world’, the concept of morality as the essence of the world (- the two most vicious errors in existence!)’³¹ Furthermore, these philosophies, lacking a sense of reality and of history, were modeled on false ideas of what constituted good and evil, or rather, false oppositions in general. Though his exact views are hard to pin down, there is no doubt that Nietzsche criticized the traditional Christian theological view of the body as subordinate to the mind (referring to the Christian’s faith as ‘simply a kind of Epicurean’), and stressed the intrinsic interconnectedness of mind and body.³² The language of science, the reigning Hegelian dialectic, ‘(...) cannot get over its crassness and keeps talking about opposites where there are only degrees and multiple, subtle shades of gradation (...)’.³³ This dependence on a constant creation and re-creation of opposites leads science, founded on ‘ignorance’ and ‘untruth’, to present us with a ‘simplified, utterly artificial, well-invented, well-falsified world’.³⁴ Thus it comes as no surprise that Nietzsche vehemently disagreed with the view held by his former friend Paul Réé in his 1877 work *Der Ursprung der moralischen Empfindungen* (The Origin of the Moral Sensations), a view typical of his age, that the man of morals ‘stands no closer to the intelligible (metaphysical) world than does physical man’.³⁵ Nietzsche concluded that ‘In morality man treats himself not as *individuum* but as *dividuum*.³⁶ This ‘essentially unhistorical’ and unnatural reasoning of the ‘moral and legal genealogists’ – supposedly referring to Hume and Locke– and ‘English psychologists’, a tradition wherein Réé has worked and in which Nietzsche now also found himself to be, was his prime motivation for writing GM and formulating his own ‘immoral’ vitalistic ethics ‘beyond good and evil’.³⁷

²⁹ J. Bentham, *An Introduction to the Principles of Morals and Legislation* (Oxford 1996) 14,160,225.

³⁰ E. Mendieta, ‘The Practice of Freedom’, in: D. Taylor (ed.), *Michel Foucault. Key Concepts* (Durham 2011) 119.

³¹ F. Nietzsche (ed. A. Ridley and J. Norman, transl. J. Norman), *The Anti-Christ, Ecce Homo, Twilight of the Idols, and Other Writings* (Cambridge 2005) 9.

³² Nietzsche, *The Anti-Christ, Ecce Homo, Twilight of the Idols, and Other Writings*, 272.

³³ F. Nietzsche (ed. R. Horstmann, J. Norman, transl. J. Norman), *Beyond Good and Evil. Prelude to a Philosophy of the Future* (Cambridge 2001) 24.

³⁴ Nietzsche, *Beyond Good and Evil*, 25.

³⁵ Nietzsche, *Human, All Too Human*, 33.

³⁶ Ibidem, 42.

³⁷ Nietzsche, *On the Genealogy of Morality*, 10-11,53 ; S.E. Aschheim, ‘Max Nordau, Friedrich Nietzsche and Degeneration’, *Journal of Contemporary History* 28:4 (1993) 653.

1.4.2 Crime and Punishment

Nietzsche's views on the body and mind divide can be understood as signaling a change in the philosophico-anthropological discourse of the second half of the nineteenth century, which would have its consequences for both practitioners and theoreticians in the field concerned with morality and crime, now engaging in an intellectual struggle on the nature of man. This watershed had been set in motion by perhaps the most epochal publication of the described period and the greatest influence exerted upon the thoughts of its many intellectual minds: Charles Darwin's *On the Origin of Species* (1859). It popularized the language of 'extinction' and 'proliferation', of 'descent' and 'survival', of 'genetic mutations' and 'environmental pressures' within the whole of scientific discourse, insofar as we can speak of one.³⁸ Darwin had been influenced by but remained critical of Herbert Spencer's consolidation of socialism and evolutionary biology in *Social Statics* (1851), which is why *Origin* rather emphasized nature's communal care, altruism and industry, nature as possessing a 'moral spine'.³⁹ This controversial blurring of the boundaries between human and animal on account of their origin and the extent of their moral capabilities can also be detected in Nietzsche's writings, who often referred to humans as animals, whereas Kant for instance had kept this distinction firmly in place.⁴⁰ In fact, this negation of the boundary between nature and culture constitutes a central element of Nietzsche's genealogical project. Furthermore, in GM he too rejected Spencer's explanation of life as an 'increasingly efficient inner adaptation to external circumstances' in favor of the 'will to power', a concept with which he transformed the central idea of the German philosophical tradition, namely that of *der Wille*, which in the context of both chapters will prove to be a valuable explanatory concept, for it provides us with the amorphous layer laying beneath the surface of his copious biological metaphors.⁴¹ As a warning to the physiologists as well as the genealogists he states:

'Physiologists should think twice before positioning the drive for self-preservation as the cardinal drive of an organic being. Above all, a living thing wants to discharge its strength – life itself is will to power –: self-preservation is only one of the indirect and most frequent consequences of this. – In short, here as elsewhere, watch out for superfluous teleological principles!'⁴²

However, Darwinism had made possible this turn to nature in order to seek the answers to the same questions of the origins of good and evil and of truth and falsity, and had with this turn opened up a new site of scientific inquiry and scrutiny: the body.⁴³ Attention now turned to the bodily processes in order to reveal the interior states, dispositions and drifts affecting human behaviour. Nietzsche frequently

³⁸ C. Darwin (ed. G. Beer), *On the Origin of Species* (Oxford 2008) vii-ix.

³⁹ R.J. Richards, 'Darwin on mind, morals and emotions', in: J. Hodge and G. Radick (ed.), *The Cambridge Companion to Darwin* (Cambridge 2003) 103,100.

⁴⁰ 'The fact that the human being can have the "I" in his representations raises him infinitely above all other living beings on earth. Because of this he is a person, and by virtue of the unity of consciousness through all changes that happen to him, one and the same person - i.e., through rank and dignity an entirely different being from things, such as irrational animals, with which one can do as one likes.'; I. Kant (ed., transl. R.B. Louden), *Anthropology from a Pragmatic Point of View* (Cambridge 2006) 15.

⁴¹ Nietzsche, *On the Genealogy of Morality*, 52 ; Morrison, *Jurisprudence*, 292.

⁴² Nietzsche, *Beyond Good and Evil*, 15.

⁴³ G. Moore, *Nietzsche, Biology, Metaphor* (Cambridge 2004) 9.

mentions these drifts and the extent to which they determine our behaviour, commenting accordingly, and anticipating Freud, that 'The personality is synthetic'.⁴⁴ In this new discursive context Cesare Lombroso was now able to sow and harvest the soil that had been ploughed by utilitarian penologist Cesare Beccaria's *Dei delitti e delle pene* (On Crimes and Punishments) in 1764, thereby establishing the field of criminal anthropology. Lombroso picked up that which he found useful from Darwin's work and his own scientific endeavors in order to formulate his own biological theory of crime, which he promulgated most influentially in *L'uomo delinquente* (The Criminal Man), published in 1876. Though phrenology had already been designated as a 'pseudo-science' (by physiologist François Magendie) at the end of the first half of the nineteenth century, phrenological (un)reasoning remained, as evident in Lombroso's physiognomic analyses of the alleged born criminal's facial features, and through this measuring of skulls he was able to unmask the criminal as an anthropological type that showed certain physical characteristics.⁴⁵ With the separation of the criminal type(s) from the rest of society as a degenerated subset of the human species a clear dividing line was established between 'good' and 'evil', 'us' and 'them', the 'Same' and the 'Other'. In England, Germany and elsewhere Lombroso's ideas received the support of a highly self-conscious bourgeoisie which feared the rising crime rates would eventually cause their demise and consequently that of society as a whole. The social body had become sick, and a remedy needed to be found. Here we can see, though not exclusively connected to this period, the event of the linking together of the social, scientific and criminal body taking place. This led to the rise of a new penal reform movement which carried the evident stamp of utilitarian reasoning, though Darwin himself had never envisioned such a mechanical and materialistic application of Darwinism.⁴⁶

1.4.3 What is justice?

As a result of this, criminology came to be recognized as a distinctive scientific field in Germany, France, Italy and elsewhere in the second half of the period described in this chapter.⁴⁷ Lombroso's work stood to testify to these successful scientific aspirations of the study of crime. Now that the criminal body formed a 'text' in which present and future dangers to society could be read, a complete knowledge of the body and mind of the criminal was required.⁴⁸ Though it would take some years for Lombroso's work to have reached most German ears (the German translation by Hans Kurella appeared ten years after the original Italian publication), criminal psychology could now point out that insanity was not something exceptional but in fact common, grounded in biology instead of culture (or nature instead of nurture), and that there was a causal link between crime and insanity.⁴⁹ His work was indeed criticized, but even there, such as in Abraham Baer's 1893 *Der Verbrecher in anthropologischer Beziehung* (The criminal in anthropological perspective), Lombroso's work was rejected in favor of degenerative stigmata present in all of the lower classes,

⁴⁴ A. Claassen, *An Inquiry into the Philosophical Foundations of the Human Sciences* (New York 2007) 35.

⁴⁵ R.F. Wetzell, *Inventing the Criminal. A History of German Criminology, 1880-1945* (Chapel Hill 2000) 42.

⁴⁶ Wetzell, *Inventing the Criminal*, 2.

⁴⁷ Ibidem, 2.

⁴⁸ D.G. Horn, *The Criminal Body. Lombroso and the Anatomy of Deviance* (New York 2003) 1-2.

⁴⁹ Wetzell, *Inventing the Criminal*, 46.

solvable only through harsh social reform programs.⁵⁰ On the other hand, Kurella's *Naturgeschichte des Verbrechers* (Natural history of the criminal), published in the same year, attempted to reinforce Lombroso's thesis precisely by applying certain aspects of degeneration theory and Darwinism.⁵¹ The idea of *dégénérescence* had been popularized within psychiatric discourse in 1857 by physician Bénédict Morel's investigations into the origins of crime and madness, where it came to be seen as the lesser and more common stage that preceded insanity.⁵² Degeneration theory emphasized the importance of physical and environmental factors such as alcoholism, bad hygiene and anxiety disorders as they led to 'pathological deviations from the normal human type', which severely heightened public fears of a society drifting irreversibly towards a progressively worsening decay, and would lead to an enormous amount of works informed by social Darwinist ideas on degeneration of the species.⁵³ One example of this was Max Nordau's 1892 major work *Entartung* (Degeneration), which criticized Nietzsche among many other artists as being 'degenerate'. Nietzsche's apparent immoralism and irrationalism was perceived by Nordau as a great threat, who spoke of 'a severe mental epidemic... a sort of black death of degeneration and hysteria'.⁵⁴ However, the language of degeneration was also no stranger to Nietzsche who, for instance, saw the kind of repression the criminal faced as a 'recipe for physiological degeneration'.⁵⁵ The discourse on degeneration also reinforced anti-Semitic thought, although both Nietzsche and Nordau were vehemently against it. Arthur De Gobineau's *Essai sur l'inégalité des races humaines* (Essay on the Inequality of the Human Races), published between 1853 and 1855 had significantly added to the inception of 'race' as scientific category. Evidently the 'Jewish Question' was the most important race issue at the time.⁵⁶ Simultaneously there was of course the emergence of an active and fast growing Zionist movement which rejected anti-Semitic rhetoric in favor of the proposal for a separate Jewish nation state, in turn formulating its own counter-discourse.⁵⁷ For instance, the work that Eugen Dühring, whom Nietzsche referred to as 'today's biggest loudmouth of morality, even amongst his kind', published in 1881, namely *Die Judenfrage als Frage der Racenschaedlichkeit* (The Jewish-Problem as a Problem of Race, Morals and Culture) attempted to establish a scientific basis for anti-Semitism grounded in philosophy, biology and history, which very much influenced Theodore Herzl's work.⁵⁸ In this period an almost constant reappearance of the concepts of 'race' and 'species' within the discourse of degeneration becomes visible, as they could also be extended

⁵⁰ Ibidem, 50-51.

⁵¹ Ibidem, 52.

⁵² Ibidem, 46.

⁵³ Ibidem, 47.

⁵⁴ S.E. Aschheim, 'Max Nordau, Friedrich Nietzsche and Degeneration', *Journal of Contemporary History* 28:4 (1993) 644.

⁵⁵ Nietzsche, *The Anti-Christ, Ecce Homo, Twilight of the Idols, and Other Writings*, 219.

⁵⁶ J. Scott, 'On the Use and Abuse of Race in Philosophy. Nietzsche, Jews, and Race', in: R. Bernasconi and S. Cook (ed.), *Race and Racism in Continental Philosophy* (Bloomington 2003) 53.

⁵⁷ Consider for instance the following excerpt from T. Herzl (transl. S. d'Avigdor), *The Jewish State* (New York 1988) 76-77, 80. 'No nation on earth has survived such struggles and sufferings as we have gone through. Jew-baiting has merely stripped off our weaklings; the strong among us were invariably true to their race [Stamme] when persecution broke out against them.'

⁵⁸ Nietzsche, *On the Genealogy of Morality*, 91.

far beyond their seemingly well-delineated boundaries to include for instance the female sex. In 1885, anthropologist Henri Thulié therefore made the following diagnosis:

‘Scientists have finally aroused public attention. Cries of alarm are heard everywhere: (...) the vitality of France has been undermined . . . women defend themselves against men with vitriol and with the revolver. They no longer seek legal justice which does not have the power to protect them; hence they take vengeance. This weakening of the nation, these vices and violences, are symptoms of a profound sickness from which France is suffering.’⁵⁹

Additionally Paul Broca, founder of the French Anthropology Society in 1859 and the Anthropology School in 1875, concluded in 1861 that the results of his research on skull measurement and brain weight estimations pointed to the fact that the brain was bigger ‘(...) in men than in women, in eminent men than in men of mediocre talent, in superior races than in inferior races.’⁶⁰ His findings were reported in medical books as late as 1905.⁶¹ This leads one almost automatically to the Nietzschean question, on the basis of what morality were these judgments made? In his criticism of false dichotomies Nietzsche also included the oppositional concepts of ‘man’ and ‘woman’.⁶² Furthermore, Nietzsche’s critique of criminal justice is intimately linked to his fierce criticism of the state and the ‘tame, mediocre, emasculated’ society in general, where ‘a natural person from out of the mountains or the adventures of the sea necessarily degenerates into a criminal.’⁶³ The organized body of law acted as the instrument with which the state was able to re-affirm and to propagate moral truths, in accordance with scientific developments, and thus keep firmly in place perceived gender roles, not only motivated by but also reinforcing ideas on sexual difference and inequality.⁶⁴ In Germany, the system of law treated women as though they were the property of their husbands.⁶⁵ However, in its attempt to establish a credible basis for judging insanity, German criminological discourse in this period was heavily concerned with a once exclusively philosophical problem, namely that of agency, of free will. Nietzsche too had been concerned with this question in the context of a trial, having Zarathustra comment in ‘On the Pale Criminal’: ‘But thought is one thing, and deed another, and the image of a deed yet another. The wheel of motive does not roll between them.’⁶⁶ Kant, for instance had regarded what was in his time still philosophy-anthropology as the only fitting faculty to solve this troubling question:

⁵⁹ A.L. Shapiro, “Stories more terrifying than the truth itself”. Narratives of female criminality in fin de siècle Paris’, in: M.L. Arnot and C. Usborne (ed.), *Gender and Crime in Modern Europe* (London 1999) 205.

⁶⁰ M.L. Stewart, *For Health and Beauty. Physical Culture for Frenchwomen, 1880s–1930s* (Baltimore 2001) 31.

⁶¹ Stewart, *For Health and Beauty*, 32.

⁶² F.N. Oppel, *Nietzsche on Gender. Beyond Man and Woman* (Charlottesville 2005) 1.

⁶³ Nietzsche, *The Anti-Christ, Ecce Homo, Twilight of the Idols, and Other Writings*, 219.

⁶⁴ L. Abrams, ‘Crime against marriage? Wife-beating, divorce and the law in nineteenth-century Hamburg’, in: M.L. Arnot and C. Usborne (ed.), *Gender and Crime in Modern Europe* (London 1999) 120.

⁶⁵ Abrams, ‘Crime against marriage? Wife-beating, divorce and the law in nineteenth-century Hamburg’, 121.

⁶⁶ Nietzsche, *Thus Spoke Zarathustra*, 26.

'(...) physicians and physiologists in general are still not advanced enough to see deeply into the mechanical element in the human being so that they could explain, in terms of it, the attack that led to the atrocity, or foresee it (without dissecting the body).'⁶⁷

'And forensic medicine (*medicina forensis*) - when it depends on the question of whether the mental condition of the agent was madness or a decision made with sound understanding - is meddling with alien affairs, which the judge does not understand.'⁶⁸

However, times had changed. The German judicial system that developed in this period not only sought to extend its power within society, but was also the site of internal power struggles between different groups within the field of medicine, such as the assertive forensic psychiatrists, who offered insight into both mind and body, as opposed to the physicians, who had since at least the beginning of the nineteenth century played a significant role in judging the insanity of the accused.⁶⁹ The shift from social to medico-biological explanations had marginalized criminal statisticians in the 1880s but increased the role of the medical doctors in criminological research and in court.⁷⁰ It was now standard procedure to call in their assistance which, though their opinion was not binding, showed the growing influence of forensic psychiatry in judging the insanity of the accused. These many struggles in the face of justice and the way in which they were concerned with the 'bodily' traits and dispositions show the credibility of Nietzsche's critiques, and prove that to this day the problem of agency remains a philosophical one as well as a scientific one.

⁶⁷ I. Kant (ed., transl. R.B. Louden), *Anthropology from a Pragmatic Point of View* (Cambridge 2006) 108.

⁶⁸ Kant, *Anthropology from a Pragmatic Point of View*, 108.

⁶⁹ S.A. Skålevåg, 'The matter of forensic psychiatry: an historical enquiry', *Medical History* 50 (2006) 67.

⁷⁰ Wetzell, *Inventing the Criminal*, 39.

CHAPTER II

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Methodological perspectives on morality and crime

2.3 Nietzsche's genealogy

2.3.1 Truth, power, subject

In the very first sentence of GM, Nietzsche presents to the reader the following problem:

‘We are unknown to ourselves, we knowers: and with good reason. We have never looked for ourselves, - so how are we ever supposed to find ourselves?’⁷¹

This is the fundamental question of not only science but of the seemingly unknowable self, the ‘I’, as it presented itself to Nietzsche and which he tried to resolve by initiating a genealogical project. But how did he do this, and did he succeed? Extracting a genealogical methodology from the work of Nietzsche is a problematic undertaking. Apart from the title of the essential book and eleven mentions inside the text, most of which refer to his ‘English’ antagonists, Nietzsche never used the term, neither before nor after GM, nor even explained it. On the surface Nietzsche’s genealogy does not even appear to differ much from the traditional form of genealogical analysis, which strives to trace one’s own origins or lineage through making use of historical records and genetic analysis, for both types of inquiry are equally concerned with history, language and biology. Nevertheless many attempts have been made to create a specific definition of the genealogical method of critique from this and other works, the first of which was at the hand of Foucault, and of those that followed many were inspired by Foucault’s interpretation, which did not necessarily coincide with Nietzsche’s own views.⁷² There has also been a lot of talk on Nietzsche’s style of writing, but not much on his method. One way to resolve this might be to view his style as part of this method, namely that the form in which he chose to present his interpretation depended on his awareness of the fact that this interpretation too is to be interpreted. In *Nietzsche. The Body and Culture. Philosophy as a Philological Genealogy* (1991), Eric Blondel seems to agree with this view. According to Blondel, Nietzsche the philologist aims to replace the creation of a ‘system’ with the act of reading, as he does not intend to offer us a ready-made and applicable method, but seeks to make the genealogy ‘work within the imaginary’.⁷³ Nietzsche does not interpret the ‘real’ meanings of words but the interpretations previously given to these words.⁷⁴ For ‘what things are called is unspeakably more important than what they are’, as through the belief in this interpretation ‘and its growth from generation to generation’, it slowly grows ‘onto and into the thing’ and eventually become ‘its very body: what started as appearance in the end nearly always becomes essence and effectively acts as its essence!’⁷⁵ This is the kind of lineage a

⁷¹ Nietzsche, *On the Genealogy of Morality*, 3.

⁷² B. Leiter, *Nietzsche on Morality* (London 2002) 166.

⁷³ E. Blondel, *Nietzsche. The Body and Culture. Philosophy as a Philological Genealogy* (London 1991) 251.

⁷⁴ P. Major-Poetzl, *Michel Foucault’s Archaeology of Western Culture. Toward a New Science of History* (Brighton 1983) 34.

⁷⁵ Nietzsche, *The Gay Science*, 69-70.

genealogist seeks to trace, in order to uncover this generally ‘mistaken and arbitrary’ origin, which is not the ‘true nature’ or ‘essence’ of this thing, but the story of becoming of change.⁷⁶ In order to understand how this is done we first need to look at the three presuppositions that Nietzsche’s genealogy makes, and which are as such essential to understanding the method itself, which are:

- i. truth – perspectivism
- ii. power – will to power
- iii. subject – body

Perspectivism might be interpreted as the epistemological lens through which Nietzsche enacted his research, but it is far from a complete theory of knowledge. Rather, it is an ‘awareness’ of the fact that ‘There is only a perspectival seeing, only a perspectival ‘knowing’, because language does not mirror but constructs the world through the use of metaphors, metonymies and anthropomorphisms, which in the end we come to see as constituting truth, while ‘truths are illusions of which we have forgotten that they are illusions’.⁷⁷ However, ‘we can use the difference in perspectives and affective interpretations for knowledge’, and ‘the more affects we are able to put into words about a thing, the more eyes, various eyes we are able to use for the same thing, the more complete will be our ‘concept’ of the thing, our ‘objectivity’.’⁷⁸ And where does this drive to truth, this drive to knowledge which motivates all science then come from? This is what Nietzsche calls the will to power, a vital and natural force in which the idea that ‘every purpose and use is just a sign that the will to power has achieved mastery over something less powerful, and has impressed upon it its own idea [Sinn] of a use function’ finds its expression, and through which we can understand ‘the whole history of a ‘thing’, an organ, a tradition’.⁷⁹ The body, then, is a metaphor for the surface upon which ‘truth’ and ‘power’ appear and can be analyzed. The clearest formulation of the goal of genealogy Nietzsche formulates in the Preface of GM:

‘So let us give voice to this new demand: we need a critique of moral values, the value of these values should itself, for once, be examined -and so we need to know about the conditions and circumstances under which the values grew up, developed and changed (morality as result, as symptom, as mask, as tartuffery, as sickness, as misunderstanding; but also morality as cause, remedy, stimulant, inhibition, poison), since we have neither had this knowledge up till now nor even desired it. People have taken the value of these ‘values’ as given, as factual, as beyond all questioning’⁸⁰

There are several clues to extract from this excerpt. Firstly it shows, as pointed out by Brian Leiter in *Nietzsche on Morality* (2002), that ultimately evaluation is the most important element of the genealogy.⁸¹

⁷⁶ Ibidem, 69 ; E. Blondel, 308.

⁷⁷ Nietzsche, On the Genealogy of Morality, 87; F. Nietzsche (ed. R. Geuss and R. Speirs, transl. R. Speirs), *The Birth of Tragedy and Other Writings* (Cambridge 1999) 146.

⁷⁸ Nietzsche, On the Genealogy of Morality, 87.

⁷⁹ Ibidem, 51.

⁸⁰ Ibidem, 7-8.

⁸¹ Leiter, *Nietzsche on Morality*, 165.

However, initially genealogy performs the preparatory work of understanding and explaining before delving into such an evaluation.⁸² But it does not face its ‘object’ of analysis head on, nor relies upon a prior determination of its value.⁸³ Rather, it goes and searches for the conditions of emergence and the effects instead of the ‘thing-in-itself’, thereby continuously keeping in sight the permeable and ever-changing boundary between the ‘object’ and its surroundings in space and time.⁸⁴ Secondly, the genealogy is concerned with evaluations made by different people or rather different groups of people across time, not the people themselves. Through these value-judgments we try to make sense of the world, and as sets of evaluations they make up concepts like ‘morality’ or ‘culture’, thereby constituting what counts as ‘true’.⁸⁵ Paradoxically, this must mean that genealogy tries to stay closer to the ‘facts’ than truth itself, for it attempts to ‘look for error precisely where the actual instinct of life most unconditionally judges there to be truth’.⁸⁶ Thirdly, and most importantly, the genealogist must, in order to fulfill this immense task, attend to that which has been neglected and scorned for so long: the body. This complete inversion of the values of philosophy hitherto is part of what Nietzsche calls the ‘revaluation of all values’. Metaphysics tended to abstract and argue away from materiality and historicity, with the aim of establishing the universal and the indefinite. Nietzsche instead analyzes the temporal and the irregular, the embodied and the arbitrary, with the aim of demonstrating how abstractions such as reason or soul or value can be found to actually be inscribed in the body.⁸⁷ As Blondel summarizes:

‘Through this textual labour, Nietzsche’s philosophy and genealogy present themselves simultaneously as concept and affect, inasmuch as an affect, a way in which life is apprehended via the body, is the imaginary non-totalizable linking of perspectives.’⁸⁸

This body is not an instrument or a technicality, but a perspective, a product of its surroundings, experienced and changed through history and culture, and motivated by drives and affects.⁸⁹ In essence the body itself is also found to be constituted by a ‘relationship of forces’, be they chemical, biological, social or political.⁹⁰ Here we see clearly how Nietzsche’s views on truth and power are integrated in and understood through the physiology of the body as it attempts to become both the object and subject of analysis, effectively overcoming the ‘false’ dichotomies of nature and civilization, of body and mind, of reality and illusion, of truth and untruth.

Of course this form of genealogical critique and its assumptions has not gone uncriticized. Michael Mahon for instance asserts in Foucault’s *Nietzschean Genealogy. Truth, Power and the Subject* (1992) that for Nietzsche

⁸² M. Forster, ‘Genealogy’, *American Dialectic* 1:2 (2011) 232.

⁸³ L. Spinks, *Friedrich Nietzsche* (London 2003) 58.

⁸⁴ A. Szakolczai, ‘Nietzsche’s Genealogical Method. Presentation and Application’, *EUI Working Paper SPS* 93:7 (1993) 41.

⁸⁵ Blondel, *Nietzsche. The Body and Culture*, 250.

⁸⁶ Nietzsche, *On the Genealogy of Morality*, 86.

⁸⁷ J. Oksala, ‘Freedom and Bodies’, in: D. Taylor (ed.), *Michel Foucault. Key Concepts* (Durham 2011) 86.

⁸⁸ Blondel, *Nietzsche. The Body and Culture*, 251.

⁸⁹ *Ibidem*, 5.

⁹⁰ G. Deleuze, *Nietzsche and Philosophy* (Cambridge 1983) 40.

'beneath the series of interpretations there is nothing, no thing', thereby overlooking the nexus of activity or of forces that is the will to power.⁹¹ Additionally, his analysis of Nietzsche's genealogy relies heavily on the posthumous publication *Der Wille zur Macht* (The Will to Power), first published in 1901, which to this day remains a questionable compilation of Nietzsche's notes.⁹² And while Alasdair MacIntyre excellently contrasts the genealogist's mode of moral inquiry with the encyclopaedist's view (based on the ninth – nineteenth century- edition of the *Encyclopedia Britannica*) that what constitutes as 'good' and as 'just' relies upon the degree of conformity of an action to the law as it imposes an obligation, we encounter the same problem in his account of Nietzsche's genealogy, where he too assumes that Nietzsche sees only 'a multiplicity of perspectives and idioms, but no single world which they are of or about'.⁹³ Though both their accounts stem from a problematic reading of Nietzsche's philosophy, for Nietzsche himself stated that he did mean for his work to be 'a real history of morality' and was only interested in 'that which can be documented, which can actually be confirmed and has actually existed', a certain epistemological tension between Nietzsche's views on truth, power and the subject seems to remain.⁹⁴ To acknowledge illusion as a condition for reality, or the reversal, is not an easy thing, and whether or not this issue can be resolved remains a topic for future inquiry and discussion.

2.3.2 The Genealogical Projects

When applied, the genealogy appears to be covering the following perspectives:⁹⁵

- (a) natural/biological history (of evolution)
- (b) psychology (of culture)
- (c) philology/interpretation (of language and symbolism)
- (d) evaluation (of values)

The clearest example of this can be found in the first essay of GM, entitled "Good and Evil", 'Good and Bad'. Here Nietzsche famously introduces the model of a society composed of the 'masters' and the 'slaves'. The masters, or 'the mighty' or 'the commanders' or 'the truthful', as they typically call themselves, are the military and politically dominant group in society, who possess 'the freedom to manifest strength', to manifest their will to power, to physically affirm themselves through whatever it is that they desire, be it bodily pleasures or otherwise.⁹⁶ The masters are their own ideal, pursue their own sense of excellence, and as such do not need to question themselves or their own status: they themselves are what is good, and when they fail in this, when they are 'unhappy' or 'unsatisfied' or 'low', this is what

⁹¹ M. Mahon, Foucault's Nietzschean Genealogy. Truth, Power and the Subject (New York 1992) 90.

⁹² Young, Friedrich Nietzsche, 554.

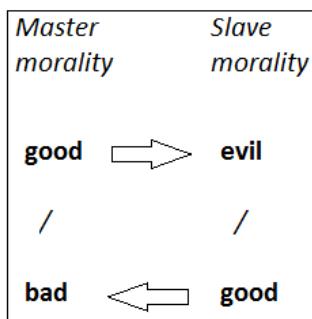
⁹³ A. MacIntyre, Three Rival Versions of Moral Inquiry. Encyclopedia, Genealogy and Tradition (Notre Dame 1990) 174.

⁹⁴ Nietzsche, On the Genealogy of Morality, 8.

⁹⁵ This diagram largely resembles the one found in E. Blondel, 'The Question of Genealogy', in: R. Schacht (ed.), Nietzsche, Genealogy, Morality. Essays On Nietzsche's Genealogy of Morals (Berkeley 1994) 309.

⁹⁶ Nietzsche, On the Genealogy of Morality, 14-15.

is considered to be bad.⁹⁷ These valuations together make up their 'noble' morality. As an example of this model Nietzsche introduces the Greek and Roman nobility and the ancient Hebrews, a people who lived under the rule of the masters, who did not agree with their religious and cultural views, which in fact led to them literally becoming enslaved. Lacking the power of self-assertion, the power to say 'yes' to themselves, this event led to a great deal of self-questioning and resentment for the slaves. But, Nietzsche explains, 'The beginning of the slaves' revolt in morality occurs when ressentiment itself turns creative and gives birth to values'.⁹⁸ Through a psychological act, a 'reversal of the evaluating glance' takes place whereby the slaves, by virtue of being resentful, are capable of saying 'no' on principle to everything that is 'outside', 'other', 'non-self'.⁹⁹ Thus, their morality becomes everything that master morality is not, a reversal of values that is visualized in the following diagram:



Thus, the slaves internalize their newly created morality, wherein self-assertion becomes evil, and instead the ascetic ideal is deemed to be good: to exercise one's power over one's own body through delaying gratification.¹⁰⁰ What is good and bad/evil is thereby shown in GM to be subject to the self-interest and self-expression of the dominant groups in society and the resentful and hypocritical but creative act of the weak and suppressed.¹⁰¹ Again, Nietzsche does not point towards a precise or actual historical event, but more or less describes its circumstances and its effect, and spends a great deal of time explaining the relation of the masters and slaves to their own bodies. Initially, he also does not evaluate one type of morality to be greater than the other, and both types can even be said to be internalized within a conflicted self, or 'T', suffering from these internal forces. And in a more historical sense, he in fact sees the birth of slave morality as an important event in natural history, but in the end comes to conclude that it has played its part in history as a dominant set of value-judgments (the Christian worldview) and that both types require revaluation, by virtue of the same act that had made this morality possible.¹⁰²

⁹⁷ Ibidem, 20,22.

⁹⁸ Ibidem, 20.

⁹⁹ Ibidem, 20.

¹⁰⁰ Ibidem, 68.

¹⁰¹ P. Major-Poetzl, Michel Foucault's Archaeology of Western Culture. Toward a New Science of History (Brighton 1983) 34.

¹⁰² Nietzsche, On the Genealogy of Morality, xxviii.

Then there is also the example of a critical genealogy of law and punishment that Nietzsche undertakes in GM and in his other works as well. First of all, Nietzsche sets some 'ground rules' by distinguishing between the origin and the purpose of punishment, its relative permanence as a custom, act, or 'drama' and its fluidity regarding its meaning and purpose ('only something which has no history can be defined'), which ultimately makes it 'undefinable'.¹⁰³ 'Just' and 'unjust' as such do not exist. However, in earlier stages its synthesis of 'meaning' was much clearer, and thus can be analyzed. The origins of justice are to be found in places where there is something like a 'power balance': where multiple parties of equal power engage in an exchange of demands.¹⁰⁴ Ancient criminal law was defined by a religious concept, a belief in the 'expiatory force of punishment', which meant that punishment cleansed, because it was a form of retribution that restored the natural balance.¹⁰⁵ This form of punishment 'evolved quite independently of any assumption about freedom or lack of freedom of the will': the idea that 'the criminal deserves to be punished because he could have acted otherwise' is in fact a late construct of thought, based upon the notion of a 'the contractual relationship between creditor and debtor'.¹⁰⁶ These kinds of moral concepts such as 'debt', 'conscience', 'duty' and 'sacred duty' stem from the 'sphere of legal obligations' within a society that values the criminal to be 'dangerous to the life of the community'.¹⁰⁷ Then Nietzsche evaluates: the origins of the modern legal system lie in ressentiment, as it offers no more than a legitimization of exacting revenge upon the individual or even of emotional reactions in general through the use of the term justice, coupled with the idea of scientific 'fairness' or 'balance'.¹⁰⁸ Within this system, the possibility of the criminal being someone in need of help is generally not considered: "Enemy" you should say, but not "villain"; "sick man" you should say, but not "scoundrel"; "fool" you should say, but not "sinner."¹⁰⁹ And the effect of punishment within this set of value-judgments is that it becomes counter-productive: 'On the whole, punishment makes men harder and colder, it concentrates, it sharpens the feeling of alienation; it strengthens the power to resist.'¹¹⁰

2.4 Foucault's Nietzschean genealogy

2.4.1 The Historian and the Genealogist

As becomes clear in the article 'Nietzsche, Genealogy, History', genealogy offers Foucault the means to subject all claims of essences, foundations and constants regarding the body to a project of suspicion, in order to prove the existence of a 'plurality of truths'. According to Foucault, Nietzsche seizes sleeping truths in order to pronounce 'the interpretation that all truth functions to cover up'.¹¹¹ Whereas genealogy

¹⁰³ Ibidem, 50.

¹⁰⁴ Nietzsche, Human, All Too Human, 49.

¹⁰⁵ Nietzsche, Writings from the Late Notebooks, 265-266 ; Nietzsche, On the Genealogy of Morality, 39.

¹⁰⁶ Nietzsche, On the Genealogy of Morality, 40.

¹⁰⁷ Ibidem, 40,54.

¹⁰⁸ Ibidem, 48.

¹⁰⁹ Nietzsche, Thus Spoke Zarathustra, 26.

¹¹⁰ Nietzsche, On the Genealogy of Morality, 54.

¹¹¹ M. Foucault, 'Nietzsche, Freud, Marx', in: P. Rabinow (ed.), Aesthetics, Method, and Epistemology. Essential Works of Foucault 1954-1984, Volume II (London 2000) 276.

as method ‘demands relentless erudition’ and ‘opposes itself to the search for “origins”’¹¹², the historian pursues a ‘suprahistorical’ perspective, claims to possess ‘an apocalyptic objectivity’ and believes in ‘eternal truth’.¹¹³ This oversimplified view Foucault requires to be able to then oppose his approach to histories of ideas or of mentalities. For in describing the emergence of new disciplinary forms or regulatory techniques, Foucauldian genealogy avoids popular distinctions such as ‘idea’ and ‘institutional reality’, ‘theory’ and ‘practice’, ‘fact’ and ‘ideology’, for these norms are neither localizable in institutions, nor reducible to an ideology or idea, but are, as in Nietzschean genealogy, the in-between.¹¹⁴ The most important question of Foucault’s genealogy is ‘not how a (theoretically objectionable or false) category came to be or continues to be believed in, but rather: how has the category of a person been regularly yet variously used in its everyday, civic existence, and with what effects?’¹¹⁵ The implication of this is that the concept of person becomes displaced on to the ‘terrain of phenomena’ that are noticed and deciphered, as is the case with Nietzsche’s genealogy.¹¹⁶ Central to Foucault’s genealogical research is the knowledge that bodies are shaped by the uses, experiences and practices we put it through within a societal framework, and above all that there exists a relation between the body and power that can be analyzed.

2.4.2 Archaeology and/as genealogy

In Foucault’s work we again recognize the Nietzschean insight that through interpretation we unavoidably distinguish between what is the ‘same’ and what is ‘other’, what is strange and dangerous, reducing the one to the other, as he aptly demonstrates in his genealogies of social and institutional constructs such as madness in the 1963 publication *Naissance de la clinique* (*The Birth of the Clinic*) and the penal system in *Surveiller et punir* (*Discipline and Punish*), published in 1975.¹¹⁷ In order to describe the genealogies Foucault conducted in his work a distinction between three domains he himself suggested in an interview from 1983 seems to be convenient:¹¹⁸

- i. a historical ontology of ourselves in relation to truth through which we constitute ourselves as subjects of knowledge

This first category of genealogies stems from a period in which Foucault did not yet refer to his works as genealogies, but rather as archaeologies, in an effort to set them apart from the conventional forms of analysis at the time. Yet their Nietzschean attitude is never far from view, such as in the 1966 work *Les mots et les choses* (*The Order of Things*), in which Foucault announces the death of man following Nietzsche’s

¹¹² M. Foucault, ‘Nietzsche, Genealogy, History’, in: P. Rabinow (ed.), *Aesthetics, Method, and Epistemology. Essential Works of Foucault 1954-1984, Volume II* (London 2000) 370.

¹¹³ Foucault, ‘Nietzsche, Genealogy, History’, 379.

¹¹⁴ J. Minson, *Genealogies of Morals. Nietzsche, Foucault, Donzelot and the Eccentricity of Ethics* (London 1985) 21.

¹¹⁵ Minson, *Genealogies of Morals*, 17.

¹¹⁶ Ibidem, 17.

¹¹⁷ P. Bornedal, *The Surface and the Abyss. Nietzsche as Philosopher of Mind and Knowledge* (Berlin 2010) 541.

¹¹⁸ M. Foucault, ‘On The Genealogy of Ethics. An Overview of Work in Progress’, in: P. Rabinow (ed.), *Aesthetics, Method, and Epistemology. Essential Works of Foucault 1954-1984, Volume II* (London 2000) 262.

announcement of the death of God, or rather, he reserves the honor for Nietzsche himself who, being ‘the first to connect the philosophical task with a radical reflection upon language’, was not concerned with ‘knowing what good and evil were in themselves’, but with ‘who was speaking when one said Agathos to designate oneself and Delos to designate others.’¹¹⁹ This profound concern with the distorting nature of language in Nietzsche leads Foucault to set up in his figure and philosophy the climax of his narrative:

‘Rather than the death of God – or, rather, in the wake of that death and in a profound correlation with it – what Nietzsche’s thought heralds is the end of his murderer; it is the explosion of man’s face in laughter, and the return of masks; it is the scattering of the profound stream of time by which he felt himself carried along and whose pressure he suspected in the very being of things; it is the identity of the Return of the Same with the absolute dispersion of man.’¹²⁰

In Foucault’s archaeologies, that review entire *épistèmes*, the disrupting and mutating forces that form structures of knowledge, or discursive formations, are no longer ignored, but are accorded their place in his discourse.¹²¹ As such the practice of genealogy seems to already be embedded within them, where this ‘genealogical knowledge recoils on itself and from itself, without the benefit of origins or essences’, just as in the genealogical work of Nietzsche.¹²² That which lacks in them is Foucault’s later well-known emphasis on power, or more precisely, power relations.

ii. a historical ontology of ourselves in relation to a field of power through which we constitute ourselves as subjects acting on others

In *Discipline and Punish* Foucault turns to the body of the condemned, in order to analyze a corpus of knowledge, techniques and scientific discourses which are entangled with the practice of a once sovereign but now disciplinary power, and as such they form systems of punishment which can be situated in a certain ‘political economy’ of the body.¹²³ Foucault describes the central aim of the book as follows:

‘This book is intended as a correlative history of the modern soul and of a new power to judge; a genealogy of the present scientific-legal complex from which the power to punish derives its basis, justifications and rules, from which it extends its effects and by which it masks its exorbitant singularity.’¹²⁴

Why does Foucault here introduce the soul as the object of his analysis? In so doing he seems to be breaking with Nietzsche’s genealogy which specifically rejected the idea of a soul in favor of the body as a manifestation of will to power. Firstly, the systems of punishment Foucault aims to describe ‘claim to have only the secret souls of criminals as their objective’ and, secondly, the history of bodies has already been

¹¹⁹ M. Foucault, *The Order of Things. An Archaeology of the Human Sciences* (London 2002) 332-333.

¹²⁰ Foucault, *The Order of Things*, 420.

¹²¹ C.E. Scott, *The Question of Ethics. Nietzsche, Foucault, Heidegger* (Bloomington 1990) 58.

¹²² Scott, *The Question of Ethics*, 60.

¹²³ M. Foucault, *Discipline and Punish. The Birth of the Prison* (London 1977) 23,25.

¹²⁴ Foucault, *Discipline and Punish*, 23.

written by historians.¹²⁵ But thirdly, and most importantly, the body that is useful only as a productive and subjected body is the surface upon which power relations take hold.¹²⁶ Knowledge of this body is only the ability to conquer it: a diffuse and un-localizable ‘political technology of the body’.¹²⁷ The ‘micro-physics of power’ resides in the field between the ‘apparatuses and institutions’ and the ‘materiality’ of the bodies themselves, a power that is exercised through strategies, not possessed, and not repressive but productive: power-knowledge as they constitute one another and together determine ‘forms and possible domains of knowledge’ are central to Foucault’s argument.¹²⁸ What then is this soul? The soul is the non-corporeal ‘correlative of a certain technology of power over the body’ which, through the functioning and exercising of power becomes a reality ‘produced permanently around, on, within the body’, once again bearing a striking resemblance to the constituent element of will to power in Nietzsche’s genealogy.¹²⁹ Foucault then concludes: ‘man’ is the effect of the ‘soul’, which is the effect of a political anatomy of power exercised on the body: thus, the ‘soul is the prison of the body.’¹³⁰ What on the surface appears to be a complete reversal of Nietzsche’s genealogy, can be explained as Foucault’s way of designating the non-corporeal space wherein power relations appear.

iii. a historical ontology of ethics through which we constitute ourselves as moral agents

In *La Volonté de savoir* (The Will to Knowledge – the title itself being a direct reference to Nietzsche), the first volume of his *Histoire de la sexualité* (The History of Sexuality) trilogy, published in 1976, we see Foucault returning to precisely this ‘history of bodies’ he claimed had already been written, in order to dissolve the distinction between biology and history.¹³¹ To the question ‘does the analysis of sexuality necessarily imply the elision of the body, anatomy, the biological, the functional?’ Foucault answers no, because through ‘bodies, functions, physiological processes, sensations, and pleasures’ we become aware of the workings of power.¹³² Yet again Foucault’s genealogy disconnects a quality from the body which Nietzsche’s genealogy would not, which is the subjective category of ‘sex’, a discursively constructed unity of ‘unique signifier’ and ‘universal signified’, the functioning of which could bring about a ‘fundamental reversal’ of the ‘representation of the relationships of power to sexuality’.¹³³ Is this most fundamental element in a ‘deployment of sexuality organized by power’, as it maintains its grip on the material body and all of its dispositions, the prison of the body? Foucault does not ask himself this question, but the answer appears again to be yes. And as this sex ‘joins the force of a drive to the singularity of a history’, it seems again to be a manifestation of will to power as Nietzsche would have interpreted it. In the end, the Foucauldian and Nietzschean genealogy do not lie that far apart from each other after all.

¹²⁵ Ibidem, 25.

¹²⁶ Ibidem, 25,26.

¹²⁷ Ibidem, 26.

¹²⁸ Ibidem, 28.

¹²⁹ Ibidem, 29.

¹³⁰ Ibidem, 30.

¹³¹ M. Foucault, *The History of Sexuality. Vol. I: An Introduction* (New York 1978) 152.

¹³² Foucault, *The History of Sexuality. Vol. I: An Introduction*, 151-152.

¹³³ Ibidem, 153

CONCLUSION

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Writing the history of the present

Untimely Meditations

The element of time is essential in understanding the relevance and interconnectedness between the two chapters of this short study on the relevance of Nietzsche's thought and method to the study of crime.

First of all, in a historical sense, the discourse studied in the first chapter was oriented towards the interlocking languages of 'progress' and 'degeneration', two concepts that were both crucial to understanding nineteenth century thinking, but each moving in the opposite direction through time.

Uncertainty reigned at large, and Nietzsche wanted this great doubting of the modern spirit to come to an end. However, in this period, another solution was found, as we might speak of such an event as the rediscovery of the criminal body, as more than the object of humiliation and punishment, or in other words of revenge, for this new body was the very source of society's well-being. The irrationality of some of the theoreticians in the criminological field pay testament to Nietzsche's criticism of science's claim to objectivity. Although he never refers to them directly, he did heavily criticize all that informed and motivated them and all they sought to achieve, which was to have their scientific claims to truth acknowledged and acted upon, effectively meaning to organize and regulate society in accordance with them. Through its collecting, measuring and categorizing ways the field of criminology, or criminal anthropology, showed a sturdy will transcending the individuals that formed a part of it, as it sought to assert and maintain power, towards a totalizing science, thus forming a compelling example of Nietzsche's will to power. This discursive formation wherein Nietzsche operated simultaneously constrained and enabled his abilities to speak out on the various issues of his age. His attempts to formulate a solution to these problems were exceptional, not in the least because of his awareness of the limits that language put on thinking, and thus also that of him and his contemporaries: an awareness that many other scholars and scientists in this positivist but uncertain age lacked. Regardless of their many attempts, this has made Nietzsche's thought more enduring than theirs: he was as much a break away from the many movements in thought of his age as he was a product of their typical ways of thinking, bound to their discourse.

Second of all, in a philosophical sense, many of Nietzsche's views are deeply rooted in time, as opposed to some of his philosophical 'opponents' who aimed to establish something transcendent and absolute. In the face of overwhelming teleological narratives of past, present and future by philosophers and historians alike, Nietzsche set out to demonstrate instead historical contingency and to describe the 'nature of things', but not in the traditional, Epicurean sense.¹³⁴ In genealogical analysis man as subject is removed from the centre of the perspective, and the body becomes both subject and object as it wills beyond itself, a perpetual compulsion or will to self-overcoming that is the will to power. This reveals a startling discrepancy between him and other dominant philosophers of his time, such as Kant and Bentham.

¹³⁴ Minson, *Genealogies of Morals*, 18.

Genealogy is then ultimately not concerned with a logical knowing of the world, but with being the world, or rather, becoming it, a ‘becoming what one is’.¹³⁵ This is how Nietzsche’s philosophy and ‘method’ aim to problematize time. Furthermore, the genealogist would agree that the conditions of emergence as described, interpreted and evaluated in the first chapter were essential to understanding and valuing the ideas and the method itself, central to the second chapter.

We Fearless Ones

In his last interview in 1984 Foucault stated: ‘I am simply a Nietzschean’.¹³⁶ Can we conclude that Foucault is Nietzsche’s rightful ‘heir’? Both his archaeologies and genealogies were clearly influenced by Nietzsche’s thinking, and as the analysis has shown, genealogy as a method was present in almost all of his works. However, in Foucault’s hands, genealogy takes on a more subversive shade, as it becomes an instrument for writing the history of the present, as he himself described his work, in which ‘knowledge is not made for understanding; it is made for cutting’.¹³⁷ Foucauldian genealogy is meant to be a subversive technique, not attempting to unmask apparent ‘truths’ by revealing their ‘ignoble origins’, but precisely by showing that there are no such origins. Furthermore, it always analyses the body as a part of what constitutes the self, or what Foucault calls a ‘technique of the self’. However, these nuances do not detract from the clear similarities between both types of critique. The ‘theory’ or ‘methodology’ as applied by both Nietzsche and Foucault appears to be inseparable from their empirical findings and hypotheses, in other words, they inform and determine one another to a certain extent. To point out the historical problems facing genealogy its theoretical framework needs to already be implemented in the historical narrative, and vice versa. If genealogy provides a sufficient answer to the fundamental problem of the relation between ‘idea’ and ‘reality’ remains uncertain. However, it does enable Nietzsche and Foucault to confront the issue by entering a space and time where neither evaluation becomes necessary. As such they are already one step ahead of all those histories and philosophies that fail to do so.

Nietzsche asked his contemporaries to face precisely those problems and question marks that were the hardest to face. And even today, his philosophy still represents this for us. Through the genealogical project the body is turned against what it stands for, and is made to question the origins of our modern values, as a part of the revaluation of all values. ‘Man’ is not the end, and most certainly not the goal of evolution, and as such does not exist for Foucault and Nietzsche. Nietzsche was always more concerned with the philosopher of the future, he who is beyond good and evil, the life-affirming Übermensch for whom man is simply a ‘bridge’. But destroying the old gods is not the only task of this philosopher: ‘Only as creators can we destroy’!¹³⁸ The genealogist has to have the courage to face things as they truly are, a ‘courage to truth’ as Foucault stated. And when he does, when his revaluation has succeeded, ‘we

¹³⁵ P. Foot, ‘Nietzsche’s Immoralism’, in: R. Schacht (ed.), Nietzsche, Genealogy, Morality. Essays On Nietzsche’s Genealogy of Morals (Berkeley 1994) 8.

¹³⁶ M. Foucault, ‘The Return of Morality’, in: J. Johnston (transl.) and S. Lotringer (ed.), Foucault Live (Interviews, 1966-1984) (New York 1989) 471.

¹³⁷ Foucault, Discipline and Punish, 31 ; Foucault, ‘Nietzsche, Genealogy, History’, 380.

¹³⁸ Nietzsche, The Gay Science, 70.

philosophers and 'free spirits' feel illuminated by a new dawn': 'finally our ships may set out again'.¹³⁹ An inspiring message to the study of morality and crime, and that of history at large: through the way we construct and re-construct, or evaluate and re-evaluate the past and all of its 'bodily' experiences, we write the history of the present, and thereby that of the future.

¹³⁹ Ibidem, 199.

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