

## CONTEMPORARY COMMENT

### The Notion of the 'Dangerous Individual' in Bob Carr's Get-Tough Politics

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In a media debate which had already been running for various weeks, April Pham of the Immigrants Women's Speakout Association said that:

comments about ethnic crime had incited a race debate that was dividing the community....The sensationalist, unethical and racist portrayals of particular groups in society operate to mask the incompetency of the Carr Government in responding to the needs of disenfranchised groups in the community, the high level of unemployment amongst young people, the amount of drugs...and the systemic racism and harassment.<sup>1</sup>

Bob Carr, the Premier of New South Wales, however, stood by his comments on ethnic crime. He insisted that "we should be unembarrassed to use information including ethnic origins, if it is going to help police identify people and produce an arrest", but added that "we have to be careful that we don't group people and make young people defensive of their backgrounds. They come from law-abiding families. We have to guard against this sort of stereotyping".<sup>2</sup> But this is a classic case of having one's cake and eating it; the stereotyping which Carr wishes to avoid is intimately implicated in a kind of thinking that categorizes people according to their ethnic origins.

Two days later, another article appeared in the *Sydney Morning Herald* announcing that the Premier and Peter Ryan, his Police Commissioner, had been accused of playing the race card. Professor Mark Findlay, the head of the Institute of Criminology at Sydney University, questioned the language they had used in discussing certain "rapes of

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<sup>1</sup> Jacobsen, Gesche, 'Carr accused of demonising ethnic communities', *Sydney Morning Herald*, 21 August, 2001 <<http://www.smh.com.au>>

<sup>2</sup> Jacobsen, note 1.

Caucasian women by Lebanese youth gangs from Bankstown".<sup>3</sup> He said that what he finds "extraordinary is that both Ryan and Carr have chosen to pull the race card out for their own interests".<sup>4</sup>

By the twenty fourth day of August 2001, the media was able to announce that "ethnic communities have called on the Premier to denounce comments linking crime with ethnicity".<sup>5</sup> A forum composed of the leaders of some of Sydney's ethnic communities had criticised "the use of ethnic terms to describe alleged offenders - a practice endorsed by Mr Carr".<sup>6</sup> Participants in the forum had said that "ethnic labels, such as of 'Middle Eastern' or 'Asian appearance', were vague and used only for certain ethnic groups",<sup>7</sup> that is, ethnic labels are not used to describe people of, for instance, Anglo/ Celtic appearance.

The journalists exhibited some glee in pointing out that the Premier "was yesterday backed by the One Nation MP, Mr David Oldfield" but that he still "stood firm in favour of the use of ethnic terms".<sup>8</sup> A spokesperson for Carr said that he would "not resile from allowing police to use such descriptions to help make arrests". It seems that Oldfield "congratulated Mr Carr on his 'strong stand' against ethnic leaders", pointing out that in his view – "most crime in Sydney was ethnically based".<sup>9</sup> By flirting with the racial metaphors which lie along the dangerous borders of inter-cultural communication, Bob Carr finds himself in the same discursive domain as others who are proud of their racial prejudices.

It can be seen from his participation in this debate that Carr is not afraid to employ racially-specific stereotypes when identifying the individuals he considers dangerous to the body of society. For the premier and his police force, the dangerous individual is usually of 'middle-Eastern' (if not 'Asian' or 'Aboriginal') appearance. It is true that police intelligence has been producing evidence over the past few years of crimes committed by Lebanese gangs in the Bankstown/

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<sup>3</sup> Moore, Matthew, Mercer, Neil and Jacobsen, Geesche, 'Carr and Ryan accused of exploiting race', *Sydney Morning Herald*, 23 August, 2001 <<http://www.smh.com.au>>

<sup>4</sup> Moore, Mercer and Jacobsen, note 3.

<sup>5</sup> Jacobsen, Geesche and Kennedy, Les, 'Ethnic leaders demand crime summit', *Sydney Morning Herald*, 24 August, 2001 <<http://www.smh.com.au>>

<sup>6</sup> Jacobsen and Kennedy, note 5.

<sup>7</sup> Jacobsen and Kennedy, note 5.

<sup>8</sup> Jacobsen and Kennedy, note 5.

<sup>9</sup> Jacobsen and Kennedy, note 5.

Cabramatta area of Sydney;<sup>10</sup> but the reckless use of racially-specific identity indicators by Carr inscribes all people of Lebanese origin with the otherness of the dangerous individual.<sup>11</sup> Even his empathy for women, displayed in his most recent crusade against rape, lets slip a Freudian confession of his preference for a monocultural and scientifically rational society when victims of ethnic rape are described as 'caucasian'.<sup>12</sup>

In his pathos for a simple solution to the complex problems of Bankstown and Cabramatta, the Premier looks to the archives of Enlightenment thought on the art of governing. He revives the political epistemology of the *polizeiwissenschaft*, the science of policing the state through surveillance techniques, designed to produce knowledge about the totality of the populace in order to better control the welfare of citizens. Michel Foucault suggests the utopian text of Turquet de Mayenne,<sup>13</sup> as an early example of an emerging *raison d'état* - an exclusively rational approach to the governing of a state - in which 'policing', rather than being just an institution of the state, is considered as central to the science of governing itself. Turquet's title characterises the state as a '*Monarchie aristodémocratique*', a contradiction in terms which Foucault sees as symptomatic of a desire to produce a type of government whose only goal is the total rationalisation of the state.<sup>14</sup>

The text demonstrates that "the 'police' appears as an administration heading the state, together with the judiciary, the army, and the exchequer" - as we might expect - but it is much more inclusive than this; it "embraces everything else": "the *police* includes

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<sup>10</sup> Moore, Matthew and Mercer, Neil, 'Bankstown - where no-one's safe from fear', *Sydney Morning Herald*, 1 September, 2001 <<http://www.smh.com.au>>

<sup>11</sup> For a detailed description of the construction of racial stereotypes in the criminal justice system see: Greta Bird and Mark McDonell 'Muslims in the Dock: A Transgressive Narrative of Law and Life', (1997) 3:2 *Australian Journal of Human Rights* pp111-133. Bird and McDonell write: "The words "Muslim" or "Arab" are connected with the image "terrorist" in the Western psyche...[S]ince the collapse of the Soviet union the Muslim nations have assumed for the West the category of deviant and dangerous "other"... The discourse of the court in this and the two later hearings contains negative images of Muslims and Islamic society.' (pp116-117).

<sup>12</sup> Moore and Mercer, note 10.

<sup>13</sup> Turquet de Mayenne, *La Monarchie aristodémocratique, ou le gouvernement composé des trois formes de légitimes républiques*, 1611, J. Berjon, Paris.

<sup>14</sup> Foucault, Michel, 'Omnes et Singulatim: Towards a Criticism of Political Reason', [The Tanner Lectures on Human Values; Stanford University 1979] in (ed) L.D. Kritzman, *Michel Foucault: Politics, Philosophy, Culture* Routledge, New York, 1988, pp. 57-85, p.77.

everything”.<sup>15</sup> “It branches out into all of the people’s conditions, everything they do or undertake. Its field comprises justice, finance and the army”.<sup>16</sup> Foucault says that Turquet’s text “is but one example of a huge literature circulating in most European countries of the day”,<sup>17</sup> a literature concerned with the teaching of administration techniques that was known in Germany as *polizeiwissenschaft*, and without which people “wouldn’t be able to live; or their lives would be precarious, poverty-stricken, and perpetually threatened”.<sup>18</sup>

Intimately related to the objective, third-person position of scientific observation, *polizeiwissenschaft* takes as its object the ‘dangerous individual’, the fictional personality type considered most likely to inflict damage on the ‘rational’ social body. This typology comes into its own as the potential delinquent commits his or her first summary offence. The summary offence is considered, in our aetiologically and teleologically oriented judicial tradition, as always and inevitably leading to more serious crime unless radical steps be taken to nip the potentially sociopathic behaviour in the bud. The objective gaze of police science creates a body of knowledge about criminality, its nature, its patterns and its dispersion. Its typology emerges from the conditions of its existence as a type of rationality dedicated to the behavioural organisation of large groups of people. That is, *polizeiwissenschaft*, participates in a rationalisation of human behaviour whose aim is to protect the metaphorical ‘social body’ from infection by its sociopathic elements which must themselves be rendered metaphorical - symbolic (imaginary) bodies - in order to function within a rationalistic knowledge paradigm whose syntax is provided by a thoroughly symbolic order.

In Foucault’s *Dangerous Individual*, a man accused of rape refuses to provide explanations, motivations or confessions for his crime. In so doing he “evades a question which is essential in the eyes of a modern tribunal, but which would have had a strange ring to it 150 years ago: ‘who are you?’”.<sup>19</sup> The personality, the character, the nature of the criminal becomes of more importance than the crime itself, and, as the notion of ‘criminality’ gathers in importance, the crime itself is

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<sup>15</sup> Foucault M, note 14, pp.78-79.

<sup>16</sup> Turquet de Mayenne, ‘La Monarchie aristodémocratique’, quoted in Foucault, ‘Omnes et Singulatim’, note 14, p.78.

<sup>17</sup> Foucault M, ‘Omnes et Singulatim’, note 14, p.79.

<sup>18</sup> Foucault, note 17.

<sup>19</sup> Foucault M, ‘The Dangerous Individual’, [Address to the Law and Psychiatry Symposium; York University, Toronto 1978] in [ed] Kritzman, LD and Foucault, Michel, *Politics, Philosophy, Culture*, Routledge, New York, 1988,p.126.

reduced in importance to a mere 'shadow hovering about the criminal'.<sup>20</sup> Knowledge, from a Foucaultian point of view, is not discovered but created: third-person observation creates a symbolic domain by excluding the first-person, existential aspects of cognition.<sup>21</sup> The question 'who are you?' is never answered from this existential sense of situatedness; its answer would be totally out of place within the symbolic domain. An objectively oriented knowledge paradigm can only hold discourse with someone who has been thoroughly individualised, seen from the outside by an observer. The thinking, speaking subject - in order to function within this paradigm - must situate itself as observer of itself; it must replace the subject with an object.

Foucault gives an example of such a paradigm in the form of the discontinuous transformation of the objects of study in psychopathology in the nineteenth century. Certain psychological terms and objects were transformed adaptations from the eighteenth century, while the notions of "moral insanity, instinctive insanity, aberration of the instincts, and finally perversion", are all unique semantic creations of the nineteenth.<sup>22</sup> Every culture, as well as each era of every culture, has its own peculiarities in the way it forms its knowledge. Foucault's point seems to be that despite radical and discontinuous changes in the way knowledge is constructed, it is always constructed on the foundations of archaic issues and themes whose predominant symbols are reinterpreted in the light (or darkness) of the present manifestation of the 'will to power'.

The Nietzschean notion of a will to power as the fundamental driving force of human life is always present in Foucault's theory. Foucault gave the name, 'Nietzsche's hypothesis' to "the proposition that truth is produced in the struggles and wars that amalgamate it with power and that at the basis of power relations lies the hostile engagement of forces".<sup>23</sup> Truth is negotiated, imposed and emerges as a kind of consensus from a matrix of socio-political forces: it is the product of

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<sup>20</sup> Foucault M, note 19 at 128.

<sup>21</sup> This paraphrases a Foucaultian viewpoint with the aid of a terminology developed by Francisco Varela in which 'third-person' cognitive practices refer directly to 'the "objective", the "outside", the content of current science'; while 'first-person' practices refer to 'the lived *experience* associated with cognitive and mental events' Varela, Francisco and Shear, Jonathan, 'First-Person Methodologies: What Why, How?', in Varela and Shear [eds] *The View From Within: First-Person Approaches to the Study of Consciousness*, Imprint Academic, Thorverton, 1999, p.1.

<sup>22</sup> Varela and Shear, note 21, at 141.

<sup>23</sup> Thiele, Leslie, 'The Agony of Politics: The Nietzschean Roots of Foucault's Thought'(1990) 84:3 *American Political Science Review*, pp907-925 at .915.

transactions between individuals and groups who are differentially situated within the struggle for discursive power. Power is said to circulate within a discursive domain because it is always intimately related to knowledge, to the ability to set the rules of battle, to control the means of communication. And having influence over the means of communication provides certain people with the license to participate in the creation of meanings and values: to be advantageously positioned within such a discursive domain, to be recognised as an 'expert' knower, is to participate in the creation of truth.

Psychiatry began to exert a powerful influence within the legal system during the nineteenth century because it "applied a new medical rationality to mental or behavioural disorders" and, perhaps more importantly, it "functioned as a sort of public hygiene".<sup>24</sup> As the community came to be referred to as a 'social body', threatened by attack and in need of protection, psychiatry emerged with rationalistic remedies for breakdowns in the processes of the new rational state. Enlightenment preoccupations with empirical proof and epistemological certainty, together with the arising of *raison d'état* from the ashes of monarchical power, set forth the conditions for the emergence of a new form of power. Power began to circulate more freely within a discursive domain enhanced and empowered by a gradually emerging multimedia arena (beginning with the invention of the printing press) wherein certain groups and individuals became more privileged, and others more disadvantaged, according to the accessibility of sources of knowledge. In such a domain individuals became symbolic bodies, inscribed with cultural significance and values, static nouns to be taken up in discourse and subjected to a process of definition through opposition; self and other, good and evil.

Psychiatry - as the keeper of public mental hygiene - developed and prospered in this rationalistic environment. As a speciality within the greater field of medicine (public physical hygiene), it transported its signs, symptomatology, and objective methodology over from the field of natural science ('hard' science). But Foucault, Varela, Laing, Deleuze, and many others, question the assumption that issues involving the mental, emotional - the totality of human cognitive interactions with the world - can be discussed in purely third-person objective signs and syntax. The dream of the Enlightenment thinkers was the construction of a purely rational society, one that would work like a well-oiled machine - the dominant utopian symbol of the times - and that this machine would function perfectly if all its parts (individual citizens) thought and acted in a (perfectly) rational manner. Psychiatrists and lawyers would be its mechanics, rushing to plug up

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<sup>24</sup> Thiele L, note 23 at 134.

its leaks and perform first-aid to its breakdowns: signs and symbols would be their tools - schizophrenia, criminality, 'moral insanity' - connected through a consensually developed syntax, a tentative and somewhat arbitrary synthesis between legal and medical imagery.

There can be little doubt that Bob Carr is dedicated to such a rationalistic utopia. If the individual instances of criminal behaviour can be grouped, categorized and metaphorised, they can be brought into a domain where rationalised practices can be employed. Knowledge about each individual is taken up in a process which simultaneously gathers information, and disperses that information, as projections and inscriptions onto the bodies from which the information was - supposedly through objective observation - gathered. The knowledge paradigm of *polizeiwissenschaft* is constructed from a strictly third-person viewpoint but one which performs a regimentation of behaviour through its very act of looking. Subjected to constant surveillance, pastoral care and 'disciplinary punishment', children are trained through a process involving a constant 'correction' of behaviour, and in which punishment is 'isomorphic with obligation itself'.<sup>25</sup> However, punishment is only a contributory element in the process of ethical training; the results themselves are directly brought about through recursivity, through a 'reduplicated insistence' on certain practices.<sup>26</sup>

As Turquet de Mayenne anticipated, the process of rational policing can never be confined to an institution of the state; it is the state itself, its *modus operandi*. A multiplicity is subjected to the imposition of a set of terms; such as the notion of a 'social body' (which is potentially rational in nature), or to a notion of 'criminality' as a subset of that social body - one that is irrational and intent on disrupting the rational processes the *polis* depends on. Its function then must be to constantly patrol the boundaries of rational behaviour, to practice a particular type of rationality, one which instils rational habits as it produces objective knowledge about human beings. It sows as it gathers; producing generalisations, stereotypes and metaphors because the metaphysical is its natural domain.

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<sup>25</sup> Foucault Michel, *Discipline and Punish*, Penguin, London, 1991,p.180.

<sup>26</sup> Foucault M, note 25 at 180.