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Attempt to Think the Plebeian

Exodus and Constituting as Critique

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Critique is not a position outside the realm of modes of governing, it is an attitude that keeps struggles virulent. Critique is the ongoing questioning of the way of being governed. Against the background of these succinct theses from Foucault, it is possible to focus on the fundamental fragility and instability[1] of governmental circumstances. Questioning naturalized, stable circumstances means not only showing that things have become as they are and can therefore be changed again, but also, as Foucault says in his text on critique, always principally thinking the possible disappearance of certain relations of government.

With and beyond Foucault, I would like to propose an immanent manner of resistive critique, in which rejection and refusal can be understood as a productive practice. When I speak of refusal as critique in the following, I want to introduce refusal in a seemingly paradoxical movement not as a simple negation, but rather as productivity. In addition, I want to show how it becomes

imaginable to elude certain relations of government, specifically not as entering an outside of power relations, but rather as an immanent exodus.

In the winter of 1977, a year before his text on critique, Foucault gave an interview entitled “Powers and Strategies”, in which he clarified his understanding of critique and resistance with the help of a new contextualization. In this conversation Foucault brought up, relatively abruptly and comparatively briefly, the example of the plebeians, the social formation representing a foundation of the Roman Republic.[2]

This brief reference from Foucault is also interesting, because the interview was conducted by Jacques Rancière, who would later base his political theory, not least of all, on the relationship of domination between patricians and plebeians. However, Rancière subjected ancient Roman history from the 5th century BCE to a relatively abbreviated and shifted reading that would not be an example for the understanding of critique and resistance that I want to represent here.[3]

I find Foucault’s brief mention of the plebeians considerably more interesting, although he does not historically analyze them, but instead introduces them as an abstract figure of resistance and critique (the plebeian). Here Foucault writes: “The ‘plebs’ certainly have no sociological reality. However, there is always something in the body of society, in the classes, the groups and in the individuals themselves, which evades power relations in a certain sense; something that is not more or less malleable or recalcitrant raw material, but rather a centrifugal movement, a contrary, liberated energy.”[4] This is an important thought for what I would like to show: here Foucault considers the recalcitrant as belonging to that which is “formed”, better perhaps as that which *emerges* through

power relations. What *evades* them, on the other hand, he calls "contrary", *centrifugal*. The centrifugal refers to the energy of fleeing away from the center. What evades power relations is a force that flees, e-vades, departs. Critique can be understood accordingly as fleeing.[5]

Foucault continued: "'The' plebs undoubtedly do not exist, but there is 'something' plebeian. There is something plebeian in the bodies and souls, it is in the individual, in the proletariat, in the bourgeoisie, but with various expansions, forms, energies and origins. The part of the plebs forms less of an outside in relation to the power relations, but rather perhaps their boundaries, their flip-side, their echo;" – and later: this plebeian "reacts to every advance of power with an evading movement; this motivates every new development of the constellation of power."[6] For this reason, it is indispensable for every analysis of dispositives of power to assume the "perspective of the plebs", specifically that of the reverse side and the boundary of power.[7] In order to think "the plebeian", I would like to briefly recount a part of the more or less "actual" history of the plebeians, specifically the start of the struggles with the patricians at the beginning of the Roman Republic. Let us return to the period in the early 5th century BCE. I will subsequently transform the strategic struggles of the plebeians into an abstract figure again, in order to understand critique and resistance as productive refusal.

In telling of the struggles between the patricians and plebeians, I refer primarily to the line of the historiography of Titus Livius. The Roman historiographer wrote a chronology of the political history of Rome beginning with the time of the kings in the 6th century BCE up to the time of his own life, the period of the principality of Augustus in the 1st century BCE. In other words, Livius was writing almost 400 years *after* the events to be recounted

now. There are no written sources for this period, for which reason, among others, Livius' account has had such a strong historical influence. It is relatively certain that Livius would have had no interest in the reading I offer of what the plebeians were doing in the early 5th century BCE in Rome. In his historiography he was primarily interested in highlighting the strengths and the glory of Rome and representing the history in such a way that it necessarily culminated in the rule of Augustus. This is one reason why Livius, in all his detailed representations of conflicts, ultimately always emphasizes the *concordia*, the Roman concord.

The conflicts that interest me here are those between the patricians, the Roman aristocracy, and the plebeians, a very heterogeneous mixture of mostly Roman peasants, who were differently positioned, especially economically, but who were all considered "free" in terms of personal status; they were not slaves, but they had few political rights. We find ourselves at the beginning of the Roman Republic. The last tyrannical king had been driven out a few years before, and a republic was established under the rule of the patricians. Republican order could not yet be characterized as stable, and patricians and plebeians did not form a homogeneous group.

My focus on the events of the early Roman Republic consists of the question of how that which is called "secession" in the ancient sources can be understood as a political division or separation, specifically as the departure of the plebeians from Rome. I would like to theorize this event as "exodus".

Livius places the history of the first of three secessions explicitly in the context of military service and indebtedness: according to his account, around 495 BCE the situation in Rome became increasingly tense in terms of both domestic and foreign policies.

The conflict between the patrician senators and the plebs broke out especially because of the plebeians who had ended up in debt bondage, were in other words economically dependent on a patrician patron. Then these indebted plebeians protested increasingly audibly that they were permitted to risk their lives for the freedom of Rome, but in times of peace were kept in servitude as a kind of serf.[8]

Following several victorious wars against the Volsci, Sabines and Aurunci, a promised edict was not granted, a decree that had promised the plebeians security and protection of property and *familia* during a campaign. Debt bondage was not ended. The patrician senators feared rebellions and conspiracies among the plebeians, but as creditors they supported the further disregard of the decree.[9] For this reason, they attempted again to obligate the plebeians fit for military service to the existing pledge of allegiance and gave the legions the command march out of the city because of a presumably expected attack. According to Livius, "that accelerated the outbreak of outrage."[10]

The armed plebeian men, following Livius' dramatic account, then considered whether they should murder the consuls to prevent conscription. Instead of implementing these kinds of ideas, however, the plebeians fit for military service did something completely different: they refused and withdrew, according to Livius, "without command from the consuls to the *Sacred Mountain*"[11], to a hill outside the boundaries of Rome and thus beyond the sphere of influence of the patrician rulers. This exodus from Rome marks the first secession of the Plebeians.

The exodus of the plebeians, going out of the city, beyond the boundaries of the city, means revealing the boundary of the patrician dominated power relations at the same time. Becoming

aware of the boundary also means leaving, withdrawing, and thus no longer taking this boundary as an absolute horizon. Foucault writes that the plebeian "forms less of an outside in relation to the power relationships, but perhaps its boundary instead". The exodus does not lead into a beyond the realm of power. Instead it involves a withdrawal and leaving that results in a centrifugal force, which motivates a "new development of the assemblage of power". The plebs dynamized the demarcation of patrician dominated power relationships, the structure of power in Rome began to move, to change.

The plebeians' strategy of fighting for their political, economic and legal goals with a secession is still extremely unusual today. No indications can be found in the existing sources that this could have involved a civil war, nor even a singled armed battle between patrician and plebeian men. The struggle against patrician rule consisted at first exclusively in disobedience. It was a refusal of obedience in both military and political terms, a revocation of the acceptance of constraining patrician power.

Those who refused, without using their weapons to fight, were the armed plebeian men.[12] In other words, they were the ones who, under other circumstances, defended Rome and thus always also its patrician dominated power relationships against warring attackers from the outside. These plebeians then withdrew from armed battle to enforce their internal political and economic interests. They refused allegiance to the patricians, both as commanders and as creditors.

This revocation of the acceptance of patrician power through refusal and exodus from political and economic limitation is an example for the questioning, the rejection of the acceptableness, the self-evidence of modes of governing that Foucault addresses in

his text on critique. And according to the post-Operaist philosopher Paolo Virno, this revocation, this refusal can be called "radical disobedience"[13], because with their exodus, the plebeians eluded the jurisdiction of laws and commands. It was important to Livius to write that it was "without command from the consuls"[14] that the plebeians went out to the sacred mountain. The plebs eluded by leaving. They not only acted here on their own authority, but with their action they fundamentally questioned the *imperium*, the consuls' authority of command, in other words the structure of public rulership in Rome.

In this respect the secession of the plebeians can be understood as exodus. However, it is not the form of exodus of the Israelites, who did not return to Egypt.[15] The exodus of the Plebeians signified a strategy of *self-constitution as a political alliance*. And at the same time, the exodus, the withdrawal through departure, is a means of pressure and threat to express political demands for rights.

When they arrived on the sacred mountain, as Livius continues the story, the plebeian men set up a strong camp without being attacked or attacking. During their stay on the sacred mountain, the plebeians formed an alliance with an oath and agreed in sacred laws to install plebeian tribunes for their protection and to achieve their political interests. These *tribuni plebis* were to be invulnerable, sacrosanct and have a right to aid for the plebs. Negotiators and the patriciate accepted these demands of the now constituted plebs. From this point on, the plebs were granted their own sacrosanct officials, and anyone who 'violated' the *tribuni plebis* faced the death penalty. Following the election of two tribunes the plebeians returned to Rome.[16]

The plebeians departed three times, three times they returned, as their struggle was for a republican political legal order *in Rome*. From the beginning, the plebeian exodus was thus not something 'new' in the sense of founding a city of their own with its own constitution. Yet it was also not solely a reaction, but rather an action specifically because this withdrawal was the first act for a newly invented constituting. This constituting, along with the plebeian power/order emerging in it, heralded the instrument and the weapon for intervening in the existing patrician power and rulership order that had become endangered and unstable due to the exodus. There was no new order thus created in a new place, but rather an 'alternative' order as a means of intervention.[17] First of all, however, the plebeian exodus called the power relationships radically into question, because secession meant eluding binarity, the binarity between command/law on the one hand and revolt on the other, in order to return again with a shared capacity and fight. In Livius' account, the capacity space of the plebeian, so to speak, is the sacred mountain a few miles outside the city. It is the space of alliance and organizing.

Without sufficient political rights and without any representation of interests, the plebeians invented themselves in a sense independently from the existing patrician order and rulership structures as capable of political action. Their strategy for this consisted primarily in a self-empowerment that I would like to consider with the term *constituent power*.[18]

In keeping with the various meanings of the Latin verb *constituo*, the term '*constituent*' power moves in a semantic field of 'situate"together', 'set', 'settle', but also 'decide', 'create', 'determine'. The prefix *con-* imbues *constituo* with a strong meaning of the shared, of joint situating. This line of meaning is

the basis for "common agreement and decision-making, 'con-stituting' in other words, found a common 'con-stitution'."[19]

Against this background the plebs assembled on the sacred mountain as a community of interests, as an alliance: according to Livius, they settled themselves there "securely", in a strong camp with wall and moat and, as he emphasizes, "without leaders".[20] No one forced or led the plebeians, they (re-)moved (themselves) together, giving themselves tribunes as representatives only in a second step. The formation as an alliance initially developed without leadership, without being led and governed. It was only in the process of constituting that representation first emerged, only then were the tribunes elected.

The plebeians decided to bind themselves together with an oath and to secure themselves politically and legally by their own authority through the alliance outside patrician-defined legality. When I speak of a 'plebeian' constituent power, I mean this capacity to join together, to protect and defend oneself based on a refusal of obedience.

This form of critique, the refusal of obedience is, in this sense, a productive practice. Productivity relates to the constituting, the composition, productivity refers to the centrifugal force and the constituent capacity. Constituent plebeian power is the capacity of composition, of constituting an order of one's own, which means the capacity for (self-) organizing. The plebeians constituted themselves as a political community of interests, not as a rigid order that separated itself permanently in Rome to oppose the patricians in an equally rigid dichotomous relationship. Rather, the constituent power of the plebs effected a flexible order, which instigated a political, legal and economic transformation process, ultimately leading in 287 BCE into the *Lex Hortensia*. This law

determined that the plebiscite also officially no longer represented only the decrees and resolutions of the plebeians, but was now 'legally' binding for everyone living in Rome.

The plebeian constituent power, this capacity is thus instituted in several acts: first the withdrawal through departure, the exodus, then through the act of the oath and legislation, and finally through the creation of an office, the holders of which, the *tribuni plebis*, are to protect the plebs with the threat of the most severe punishment for their violation. With these acts the plebeians turned their meager political capacity into such a potent power that they were armed for conflicts with the patricians.

The exodus and the self-constitution of the plebs modified the power relationships in which the struggles over order between plebs and patriciate took place, instead of accepting the power of the patricians as an immutable horizon. Yet the battle strategy of the plebeian men is one that is in turn limited and does not question, revoke or reject relationships of power and domination beyond one's own interests. Throughout all the confrontations between plebs and the patriciate, the domination of the *pater familias* in the *domus* was not fundamentally questioned, just as little as slavery was.

For an abstract figure of resistive critique, it must also be stated again in this framework: the capacity of a constituent power always remains limited itself as well, produces exclusions and always also manifests certain relationships of power and domination instead of rejecting, reversing or even making them disappear. Eluding constraining power relationships is only possible to the degree, only with the means available for becoming aware of the limitation. There is not one way of rejection, not one way of withdrawal, not

one way of critique, but always only specifically limited ways that are differently actualized.

Nevertheless, what is true for plebeian struggles is that they change the contexts in which a problem emerges as a problem, rather than choosing one or another solution already offered. They change the assemblage of power and multiply the power relationships.[21]

Without the constituting of the plebeian, power relationships appear as *the* power, as relationships of domination without alternatives, the boundaries of which purportedly signify the horizon. The plebeian must be constituted, otherwise it remains a potentiality that inevitably emerges in power relationships. It is only when it is constituted as the plebeian, when it evades the limitations, that it newly composes itself. The plebeian always signifies an immanent refusal, that is why it is productive. The plebeian is the capacity to productively refuse power relations and elude them in this way, whereby the assemblage of power permanently changes and one or the other constraining mode of governing vanishes.

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[1] Michel Foucault: "What is Critique?", in: Sylvére Lotringer and Lysa Hochroch (Eds.), *The Politics of Truth: Michel Foucault*, New York: Semiotext(e) 1997, 23-82; Michel Foucault: "The Subject and Power". In: Ibid., *Power*, London: Penguin 2001, p. 326-348, p. 347.

[2] My own reflections on the plebeian, which are only briefly sketched in the following, are part of a larger study of the Roman struggles over order between the patricians and the plebeians and a resultant political theory of immunization.

[3] Jacques Rancière: *Das Unvernehmen. Politik und Philosophie*. Frankfurt/M.: Suhrkamp 2002, p. 35 ff .

[4] Michel Foucault: "Mächte und Strategien". Conversation with Jacques Rancière for *Les Révoltes logiques*, Winter 1977. In: Michel Foucault: *Dits et Ecrits. Schriften*, Vol. III, p. 538-550, p. 542.

[5] The concept of fleeing is not a slip on Foucault's part; in 1982, only a few years before his death, he wrote: There is "no relationship of power without the means of escape or possible flight (...)." Foucault: "The Subject and Power", p. 346.

[6] Foucault: "Mächte und Strategien", p. 542.

[7] Ibid.

[8] Liv. 2,23,1-2.

[9] Liv. 2,31,7 ff.; 2,32,1.

[10] Liv. 2,32,1.

[11] Liv. 2,32,2 [Herv. il].

[12] The plebeian men fought with the exodus from Rome for their 'full' political freedom, meaning to be regarded as 'free' to the same degree as patrician men. The free Roman women, patrician and plebeian women, were regarded as free only to a limited extent, as they were subject to the authority of their *pater familias* or their husband. Female and male slaves had no personal rights at all in the Roman Republic, they were considered 'unfree'.

[13] Paolo Virno: *Grammar of the Multitude*. New York: Semiotext(e) 2004, p. 69.

[14] Liv. 2,32,2.

[15] Cf. Michael Walzer: *Exodus and Revolution*. Basic Books 1986.

[16] Liv. 2,32,4-33,3; 3,55,7; 3,55,10.

[17] Cf. Roberto Fiori: *Homo sacer. Dinamica politico-constituzionale di una sanzione giuridico-religiosa.* Napoli: Jovene Editore 1996.

[18] This not only ties into central theorems of political history, such as Antonio Negri: "Repubblica Constituente. Umrisse einer konstituierenden Macht". In: Antonio Negri, Maurizio Lazzarato, Paolo Virno: *Umherschweifende Produzenten. Immaterielle Arbeit und Subversion*. Berlin: ID 1998, p. 67-82; Gerald Raunig: *Art and Revolution*. New York: Semiotext(e) 2007, p. 59-66; Antonio Negri: *Insurgencies. Constituent Power and the Modern State*. Minneapolis, London: U.of Minnesota Press 1999. The term *constituent power* also ultimately signifies a continuation of appraisals of secession in antiquity studies: cf. Franz Wieacker: *Römische Rechtsgeschichte*. 1. Absch. Handbuch der Altertumswissenschaft. Munich: Beck'sche Verlagsbuchhandlung 1988, p. 379; Theodor Mommsen: *Römisches Staatsrecht 2.1.* unveränd. Nachdruck d. 3. Aufl. Leipzig 1887, Darmstadt: Wiss. Buchgesellschaft 1971, p. 274; Jürgen von Ungern-Sternberg: 'Secessio'. In: *Der Neue Pauly.Enzyklopädie der Antike.* Ed. Hubert Cancik. Bd. 11, Stuttgart: Metzler 2001, p. 314 f.

[19] Gerald Raunig: "Instituent Practices, No. 2. Institutional Critique, Constituent Power, and the Persistence of Instituting": http://eipcp.net/transversal/0507/raunig/en.

[20] Liv. 2,32,4.

[21] Here I subscribe to Virno's ideas (cf. Virno: *Grammar of the Multitude*, p. 70 f.)