

# ‘To live outside the trial’ Anarchist implications in Foucauldian readings of Franz Kafka’s *In the Penal Colony* and *The Trial*

*David Tulley*

## ABSTRACT

Contemporary readings of Franz Kafka’s works often remark on the affinity between the ideas present in Kafka’s texts and those of postmodern philosophers such as Michel Foucault. Through an examination of some recent Foucauldian readings of *In the Penal Colony* and *The Trial*, this article argues that Kafka’s engagement with anarchist theory, particularly that of Peter Kropotkin, Mikhail Bakunin and Gustav Landauer, may be considered an unacknowledged source for the well-documented ‘postmodern’ aspect to his work.

**Keywords:** *Franz Kafka, Michel Foucault, Peter Kropotkin, Mikhail Bakunin, Gustav Landauer, literature, culture*

---

In *Franz Kafka and Michel Foucault*, Nicholas Dungey asserts:

It is uncanny that Foucault’s central claim in *Discipline and Punish* – that a science of human progress and a set of coercive and productive strategies originally designed for the modern penal system – would find such exquisite expression in Kafka’s macabre story ... [*In The Penal Colony*]<sup>1</sup>

The term ‘uncanny’ implies that there is something strange or inexplicable in the appearance of this Foucauldian resonance in a piece of literature written in 1914,<sup>2</sup> like a modern artefact making a mysterious appearance in the wrong historical era. Dungey continues: ‘it is my thesis that Kafka ... is intuitively aware of the

false idols of the Enlightenment'.<sup>3</sup> I argue that the clear correlation identified by Dungey between the world of Kafka's story and the historical processes described in Foucault's famous work is not as mysterious as it may first appear, nor should we simply attribute it to intuition. On the contrary, Kafka's criticism of 'progress', the 'false idols' of Enlightenment rationalism, and the coercive strategies of the modern state and penal system makes better sense when we acknowledge his engagement with anarchist thought. Similarly, Kafka's exploration of the relationship between the state and the individual, the nature of power, and the production of disciplined subjects in *The Trial*<sup>4</sup> lends itself well to Foucauldian readings.<sup>5</sup> A contextualisation of these aspects of the novel in terms of the ideas circulating in Kafka's intellectual milieu is rarely attempted, however, and I contend Kafka's exposure to anarchist theory can be considered an important source for the aspects of his works that resonate so strongly with Foucauldian ideas.

The precise nature of Kafka's relationship to the anarchist movement has been subject to vigorous debate among historians and biographers. While the historical facts surrounding his active involvement in the movement are open to question, the fact that he was reading about anarchism and discussing anarchist ideas is not. The primary sources in Kafka's letters and diaries alone demonstrate a familiarity with anarchist writers – for example the famous diary entry of October 15 1913 which reads simply 'Don't forget Kropotkin!' While some biographers downplayed the significance of this entry,<sup>6</sup> others such as Bill Dodd draw attention to the fact that Kropotkin's *Memoirs of a Revolutionist* was one of the books cited by Kafka's lifelong friend and confidant Max Brod as being among Kafka's favourites, making it reasonable to assume that he was 'acknowledging a special debt to Kropotkin'.<sup>7</sup> Further direct evidence of Kafka having read specific anarchist works is harder to pin down. We have the testimony of Kafka's acquaintance Gustav Janouch, who recalls Kafka having said that he 'went deeply into the lives and ideas' of a diverse range of anarchists such as 'Godwin, Proudhon, Stirner, Bakunin, Kropotkin, Tucker and Tolstoy',<sup>8</sup> but questions remain as to the specific texts he read and the accuracy of Janouch's testimony.<sup>9</sup> Nonetheless, we can say with some certainty based on hard historical evidence that Kafka read three major anarchist theorists: the aforementioned Kropotkin, Mikhail Bakunin and Gustav Landauer. Bakunin is mentioned by name in Kafka's diaries,<sup>10</sup> but as Dodd notes, this does not necessarily mean that he had read him.<sup>11</sup> Dodd adds that there is 'no evidence' that he had, but the information we have about Kafka's reading habits would suggest otherwise. Kafka was a regular reader of Franz Pfempfert's journal of expressionism and politics *Die Aktion*, and we know from their correspondence that Max Brod sent Kafka copies of this journal between 1917 and 1918.<sup>12</sup> Bakunin's works appear

in the journal several times over this period, as does a piece on his ideas by the French anarchist Bernard Lazare.<sup>13</sup> Of particular interest to Kafka would have been Bakunin's letters to Alexander Herzen, a writer of some importance to Kafka, as Dodd has noted.<sup>14</sup> Some of these letters even shared an issue of *Die Aktion* with work by Kafka's friend Max Brod, so it is a reasonable assumption that Kafka's mention of Bakunin in his diary was based on at least some prior reading. Gustav Landauer's *Letters from the French Revolution* appears on two lists of books which Kafka compiled in 1922 and 1924,<sup>15</sup> and his letters suggest that this inclusion was part of a deeper engagement with Landauer's work. For example, we know that Kafka paid close attention to the published translations by Milena Pollak, who translated Kafka's own work and with whom he corresponded regularly. From these letters we learn not only that Kafka read Pollak's translation of Landauer's long essay on Hölderlin, but that he actively assisted her in the translation. Kafka describes reading Landauer's essay as 'like entering a swamp, it's so difficult having to pull your foot out at every step', and he advises Pollak that 'there are two or three small misunderstandings in the translation. I am holding onto the translation for a little while'.<sup>16</sup> This suggests that Kafka took a keen and serious interest in Landauer and his ideas, particularly given the length of the piece, which was serialised over three issues of the left wing Czech artistic journal *Kmen* (edited by the Czech poet and anarchist Stanislav Kostka Neumann, who, according to Binder, was also translated into German with help from Kafka). After Landauer's death at the hands of the Freikorps in Munich in 1919, Kafka wrote to Max Brod referencing an obituary speech given by Landauer's friend Martin Buber, a transcript of which he read in the newspaper *Selbstweber*.<sup>17</sup> Although Kafka is quite critical of 'The Jews' (as he refers to the leaders of the Bavarian Soviet Republic), his problem is not with Landauer's anarchism, but with his attempt to 'force' upon Germany 'things that might have come to it slowly and in its own way, but which it was opposed to because they came from strangers'.<sup>18</sup>

Multiple firsthand accounts claim that Kafka attended meetings of anarchist organisations, although the reliability of this testimony has been called into question.<sup>19</sup> While this issue has not been conclusively resolved, Kafka's physical presence at anarchist meetings to which even the most partisan biographer accepts he did not contribute, is incidental to the question of an anarchist dimension to his works. After all, as Kafka wrote to his fiancée Felice Bauer in a letter of August 14, 1913, 'I ... am made of literature, I am nothing else, and cannot be anything else'.<sup>20</sup> Focusing on Kafka's literature, then, theorists such as Michael Löwy have noted the anarchist themes contained therein, and Jesse Cohn has gone further, describing Kafka's very mode of writing as an 'anti-representational', anti-authori-

tarian and specifically anarchist activity.<sup>21</sup> Cohn deploys the ideas of postmodern philosophers to make his case,<sup>22</sup> and given that Kafka has been connected with both postmodernism and anarchist thought in separate studies for decades, it is perhaps surprising that there are not more studies which link all three. In the light of Nathan Jun's thesis that 'classical anarchism is arguably the first political postmodernism'<sup>23</sup> and the long-standing interest of postmodern philosophers in Kafka's *oeuvre*,<sup>24</sup> an approach to the wealth of postmodern readings of Kafka's work which acknowledges the part that anarchist ideology may have played in its creation is now possible.

Dungey makes the case that the act of writing was for Kafka an act of political resistance in and of itself. According to Dungey's reading, Kafka's works 'are aesthetic exercises of power directed at the resistance to disciplinary power and norms; and they are the artistic practices and technologies Kafka develops and utilises in his active, self-conscious pursuit of the creation and expression of a life lived as a work of art'.<sup>25</sup>

This argument is well supported with evidence from Kafka's letters and diaries, and Dungey's use of a Foucauldian interpretive frame is very effective in making his case. However, Dungey neither places this mode of artistic resistance in historical context nor traces its lineage. As Sarah Ganz Blythe has shown, for anarchists of the *fin de siècle*, '[t]he artist's expression of originality, which often entailed the breaking down of established forms and conventions, could itself be taken as an anarchist act, be it conscious or not, that participated in undermining established power structures'.<sup>26</sup>

If, as his contemporary and acquaintance Michael Mares suggests, Kafka was interested in individuals such as Jean Grave,<sup>27</sup> and by extension Grave's influential newspapers *La Révolte* and *Les Temps Nouveaux*, he would have been exposed to the artistic philosophy of writers such as Emile Zola, who boldly claimed that 'My art is a negation of society, an affirmation of the individual, independent of all rules and all social obligation',<sup>28</sup> and Lucien Pissarro, who held that '[t]he distinction ... between 'art for art's sake' and 'art with a social tendency' does not exist'.<sup>29</sup> The ideas of anarchists in the French literary scene were powerfully expressed by Bernard Lazare, who publicly aligned writers with violent proponents of 'propaganda by the deed' in the pages of *La Révolte*:

Act does not just mean physical action: the picking up of rifle, dagger or dynamite; there is intellectual action and we know that only too well because we stand accused of targeting those around us for it ... Since you condemn us, condemn our elders too: condemn Rabelais, condemn Montaigne, condemn

La Bruyère, condemn Voltaire, condemn Heine, Hugo, Byron, Shelley, all the rebels, all the libertarians. We will certainly find ourselves in a company every bit as good as yours and, between them and you, we long ago made our choice.<sup>30</sup>

These ideas resonate with those found in Kafka's letters and diaries, for example where he writes of 'books that wound and stab', asserting that 'a book must be the axe for the frozen sea inside us'.<sup>31</sup> If Dungey is right about Kafka 'consciously writing as a mode of resistance',<sup>32</sup> then it is a mode of resistance with an established pedigree as an anarchist literary project.

## IN THE PENAL COLONY

*In The Penal Colony*<sup>33</sup> describes a meeting between a traveller and an army officer in an exotic, colonial location. The subject of their conversation is a large machine which tortures condemned men, using needles to inscribe its judgement into their skin for many hours, before executing them and disposing of them into a trench. The officer laments the fact that the machine is being retired from its role, as the new commandant believes it to be barbaric, in contrast to his predecessor who designed and built the apparatus. The officer attempts to find redemption by ending his own life in the machine, having the words 'Be Just' carved into his skin, but it malfunctions and breaks apart, clumsily killing the officer in the process.<sup>34</sup>

Scholars who have linked this tale with Foucault's work, especially his book *Discipline and Punish*, have accurately identified a strong correlation between the texts. A critique of the Enlightenment ideal of justice and an exposition of the ideology and effects of disciplinary power in a hierarchical penal context are central to both works. Numerous Foucauldian readings of *In The Penal Colony* have observed that it describes the distinctive disciplinary regimes outlined in *Discipline and Punish*: the era of sovereign power, with its theatrical public torture and execution, and the era of disciplinary power, characterised by the rise of the modern prisons.<sup>35</sup> In light of Kafka's famous resistance to definitive interpretation, it is quite appropriate that each Foucauldian reading reaches different conclusions when ascribing meaning to the apparatus. Dungey interprets the machine as a symbol of the new, enlightened system of technological discipline;<sup>36</sup> Carl Curtis sees it as the last expression of spectacular sovereign power;<sup>37</sup> and Ruth Cumberland comes down in the middle, arguing that it embodies both regimes.<sup>38</sup> Despite their differences, all three of these interpretations share the accurate observation that *In The Penal Colony* relates to the categories of analysis used by Foucault, particularly those

concerned with the evolution in the philosophy and technique of discipline between absolutist and 'Enlightened' states outlined in *Discipline and Punish*. Foucauldians agree that valuable insights into the nature and history of disciplinary society may be gained from reading one text in the light of the other; further insights are yielded by adding another text to this comparison, one which Kafka held in high regard and which also relates to the categories of analysis in *Discipline and Punish*: Kropotkin's autobiography and prison memoir *Memoirs of a Revolutionist*.

A critique of the penal system has been a central concern of the anarchist movement since its inception, and periodic incarceration has been a fact of life for active anarchists throughout much of the movement's history. One of the prisons mentioned by Foucault in *Discipline and Punish*, Clairvaux in northern France, was where Kropotkin spent three years between 1883 and 1886, having been found guilty of belonging to an illegal political organisation. Kropotkin describes his time in prisons in Russia and France in *Memoirs of a Revolutionist*, which, as established above, is one of the anarchist books owned and read by Kafka.<sup>39</sup> Four different prisons are featured in *Memoirs*. The first, the fortress of St Peter and St Paul in Russia, is described as a 'terrible fortress', a site of torture and execution, whose archives 'were annals of murder and torture, of men buried alive, condemned to a slow death, or driven to insanity in the loneliness of the dark and damp dungeons'.<sup>40</sup> Years later Kropotkin found himself imprisoned in Saint-Paul prison in Lyon, France, and his experience was quite different. In contrast to the fearsome monument to sovereign power which held him in absolutist Russia, this prison was 'a "modern" structure, built in the shape of a star, on the cellular system'.<sup>41</sup> The star shape of Saint-Paul brings to mind the panoptic surveillance principle first proposed by Jeremy Bentham, a strategy of power which, according to Foucault, was 'destined to spread throughout the social body'.<sup>42</sup> As Kropotkin recounts, he found that 'the medieval revengeful system ... has been given up long since in France'.<sup>43</sup> He recalls a warder telling him 'The watchword nowadays is that convicts are reformed in our prisons'.<sup>44</sup> This account of disciplinary regimes in both absolutist and 'enlightened' states is directly relevant to Foucault's analysis. Kropotkin experienced firsthand the two 'images ... of discipline' Foucault describes in *Discipline and Punish*:

At one extreme, the discipline-blockade, the enclosed institution, established on the edges of society, turned inwards towards negative functions: arresting evil, breaking communications, suspending time. At the other extreme, with panopticism, is the discipline-mechanism ... a design of subtle coercion for a society to come.<sup>45</sup>

Kropotkin provides a prisoner's eye view of Foucault's disciplinary regimes. In enlightened France Kropotkin recalls he 'began to realize the awfully demoralizing influence of the prisons upon the prisoners, which brought [him] later to condemn unconditionally the whole institution'.<sup>46</sup> The idea that prisons reform prisoners is even dismissed by the warder Kropotkin spoke with; after having informed him that the new 'watchword' is reform, he reportedly continues: 'This is all nonsense, and I shall never be induced to tell such a lie'.<sup>47</sup> This condemnation anticipates Foucault's findings in *Discipline and Punish*. Just as Foucault concludes that '[t]he prison cannot fail to produce delinquents',<sup>48</sup> Kropotkin calls prisons 'universities of crime'.<sup>49</sup> Other similarities between the Foucauldian critique and Kropotkin's work are abundant. For example, Kropotkin prefigures Foucault's ideas about the expansion of the disciplinary power beyond the limits of the prison, describing 'a world which revolves about the law courts and infuses its infection far and wide around them' with its attendant bureaucracy which has 'a far greater geographical extension than the prison walls'.<sup>50</sup> Kropotkin urges us to '(r)ead the trials, glance behind the scenes, push your analysis further than the exterior facade of law courts'.<sup>51</sup> In his essay *Law and Authority* Kropotkin theorises that 'the very essence of law' is 'authority having the right to punish'.<sup>52</sup> The concept of the 'right to punish' and its evolution is central to *Discipline and Punish*, and the phrase appears many times throughout the work. Other correlations include Kropotkin's comparison of the prison regime to that of monasteries,<sup>53</sup> and also lunatic asylums which are 'nothing else but prisons'.<sup>54</sup> Some theorists who have read Kropotkin through a Foucauldian lens have attributed to him the precisely opposite conception of disciplinary power to that outlined by Foucault, on grounds which I would challenge. Todd May argues in *The Political Philosophy of Poststructuralist Anarchism* that the 'image of power with which [Kropotkin's] anarchism operates is that of a weight, pressing down', a purely 'suppressive force'.<sup>55</sup> This is in contrast to Foucault's conceptualisation, in which '(p)ower is everywhere; not because it embraces everything, but because it comes from everywhere'.<sup>56</sup> This second, Foucauldian image of power is far closer to that which Kafka presents in *In The Penal Colony*. The idea of a fixed and stable hierarchy is undermined in the text as subject positions shift and invert, most obviously at the end of the story when the executioner voluntarily submits to his own execution.<sup>57</sup> If May's critique is accurate, it throws doubt on the case for an affinity between Kropotkin, Kafka and Foucault. However, recent scholarship has challenged May's view. Alan Antliff draws on Kropotkin's 1896 essay, *Anarchism: Its Philosophy and Ideal* to argue that 'Kropotkin, *contra* May, embeds power in the subject and configures the unleashing of that power on morality as the marker of social liberation'.<sup>58</sup> This reading is supported by Ruth Kinna's discus-

sion of Kropotkin's engagement with Russian nihilism, particularly the praxis of nihilist women.<sup>59</sup> In support of the claim that Kropotkin 'knew how cultures of irresponsibility sustained monstrous regimes of domination, reproducing master-slave relationships in everyday behaviours'. Kinna quotes from *Memoirs of a Revolutionist*:

Having been brought up in a serf-owner's family, I entered active life, like all young men of my time, with a great deal of confidence in the necessity of commanding, ordering, scolding, punishing, and the like. But when, at an early stage, I had to manage serious enterprises and deal with men, and when each mistake would lead at once to heavy consequences, I began to appreciate the difference between acting on the principle of command and discipline, and acting on the principle of common understanding. The former works admirably in a military parade, but it is worth nothing where real life is concerned and the aim can be achieved only through the severe effort of many converging wills.<sup>60</sup>

This contingent, interpersonal conception of the operation of power, sustained through a culture of 'commanding, ordering, scolding, [and] punishing' is directly relatable to Foucault's 'microphysics of power'.<sup>61</sup> In *From Bakunin to Lacan: authoritarianism and the dislocation of power*, Saul Newman directly contrasts Kropotkin's view of prisons with that of Foucault:

Kropotkin argues that the prison is ineffectual against crime because it dehumanizes the prisoner—robs him of his humanity— inculcating within him a greater propensity for crime. Instead of treating crime, then, as a sin to be punished, it should, Kropotkin argues, be treated as a sickness to be cured. The criminal should therefore be taken out of the prison and treated humanely, in order to restore to him a sense of humanity and morality.<sup>62</sup>

The reference Newman provides is to Kropotkin's *In Russian and French Prisons*, and he provides a short quote. I reproduce it here from the source, with context:

Instead of merely curing diseases, medicine tries now to prevent them; and we all know the immense progress achieved, thanks to the modern view of disease. Hygiene is the best of medicines.

The same has to be done with the great social phenomenon which has been called Crime until now, but will be called Social Disease by our children. Prevention of the disease is the best of cures.<sup>63\*</sup>



It is clear from the context that Kropotkin is not, as Newman claims, treating crime as a 'sickness to be cured' in the individual prisoner. Kropotkin's metaphor of 'Social Disease' is specifically about prevention, not cure; at the level of society as whole, not in individual subjects. The idea that we need to change society to prevent the phenomena we currently call 'crime' from happening, is a very different proposition to the idea that we need to 'cure' criminals, after the fact. Newman proceeds to subject 'Kropotkin's proposal that the criminal should be cured rather than punished' to Foucauldian critique, but provides no further evidence that Kropotkin proposed any such thing. Kropotkin does mention a 'cure' for some sections of the prison population elsewhere in *In Russian and French Prisons*, but he directs his remarks at the 'limited number of persons whose anti-social passions [are] the result of bodily diseases'.<sup>64</sup>

With regard to mental illness, Mathew Adams has identified Kropotkin's enthusiasm for the pioneering physiologist Philippe Pinel as a point of divergence from Foucault.<sup>65</sup> Kropotkin thought that Pinel's practice of unshackling the mentally ill from the walls of the asylum in favour of social treatment was an advance that prefigures the means by which an anarchistic society could deal with anti-social behaviour. Citing Foucault's view that 'the asylum becomes, in Pinel's hands, an instrument of moral uniformity and of social denunciation', Adams asserts that '[t]he shackles restraining the prisoners may have been broken, but in recasting the metal into the bonds of social conformity, an arguably greater tyranny was unleashed'.<sup>66</sup> While Kropotkin would have strongly disagreed with the suggestion that the mentally ill were actually better off chained to the wall like animals, his assertion that '[t]he chains disappeared, but asylums (another name for prisons) remained, and within their walls a system as bad as that of the chains grew up by-and-by'<sup>67</sup> demonstrates that he was quite aware Pinel's system did not bring real liberation. His belief that an institutional regime built around 'brotherly words' and 'brotherly treatment' could ultimately be 'as bad' as one based on physical restraint suggests an affinity with Foucault's analysis, but it is not identical. Unlike Foucault, Kropotkin does not posit a fundamental epistemological shift between disciplinary regimes. Pinel's asylums are ground breaking in their abandonment of restraint, but their institutional form remains true to an ancient, punitive disciplinary tradition. Rather than a break, Kropotkin saw the penal system of his day as a compromise between old and new forms of discipline: 'our penal institutions have been nothing but a compromise between the old ideas of revenge, of punishment of the 'bad will' and 'sin,' and the modern ideas of 'detering from crime', both softened to a very slight extent by some notions of philanthropy'.<sup>68</sup>

This conception of the modern penal institution corresponds to Kafka's appa-

ratus far more closely than do the Foucauldian readings of either Dungey or Curtis, whose attempts to slot the machine into one of Foucault's discrete categories of analysis are ultimately unconvincing. The fact that both studies are rigorous and well-argued but reach opposite conclusions shows that each leaves something out in order to make their concept fit, a point observed by Daniel Boyer.<sup>69</sup> According to Boyer, Kafka's (and also, as we have seen, Kropotkin's) conception 'challenges Foucault's sense of a radical epistemological shift between torture and discipline'.<sup>70</sup> Boyer's piece is effective in showing how Kafka's apparatus emphasises continuity between the old and new regimes of discipline, a conception much closer to Kropotkin's 'compromise' than Foucault's transition. Boyer does hint at the existence of a radical political position in Kafka's work, for example when he suggests that Kafka had an affinity with the working class, and had contended with various 'oppressive and hegemonic forces' throughout his life.<sup>71</sup> However, the possibility that this 'remarkably prescient'<sup>72</sup> conceptualisation of penal discipline could be related to Kafka's engagement with Kropotkin, or anarchist theory in general, is not touched upon by Boyer, or by any Foucauldian reading of *In The Penal Colony*.

## THE TRIAL

In his book of fragments and aphorisms *The Blue Octavo Notebooks* Kafka wrote 'Freedom and bondage are in their essential meaning one',<sup>73</sup> a statement which, though hard to fully understand in a literal sense, speaks to the inadequacy of these abstract binary oppositions in describing the intersecting web of power relations that determines the courses of action available to us. In Kafka's most famous novel, *The Trial*, the lines between freedom and bondage, guilt and innocence, public and private, accuser and accused, are blurred and indistinct. This blurring of the lines between freedom and imprisonment is expressed at the end of the arrest scene, when K. is surprised to discover that he is supposed to carry on with his life as normal:

I presume you'll want to go to the bank now?' 'To the bank?' K. asked. 'I thought I'd been arrested' ... 'How can I go to the bank when I've been arrested?' 'Oh,' said the supervisor, who was already at the door, 'you have misunderstood me. Yes, you have been arrested, but that should not prevent you from going to work. Nor should anything prevent you from going about your daily life as usual'. 'Then being arrested is not too bad,' said K., going up close to the supervisor. 'I never meant it in any other way', the latter said. 'But in that case telling me I've been arrested does not even seem to have been very

necessary', said K., going even closer. 'It was my duty', said the supervisor. K. remained adamant. 'A stupid duty', he said.<sup>74</sup>

This exchange reveals a great deal about the nature of authority in *The Trial*. On one hand, K. is completely at the mercy of these low level, non-uniformed officials, apparently prepared to be incarcerated by them without having been informed of the charges against him and offering no resistance. On the other hand, their intervention in his affairs is brushed off as 'stupid', an inconsequential formality which is 'not too bad' after all. We are left without any real sense of the nature of K.'s situation; he has entered into some disciplinary process, but its power over him has no clear source or concrete effects. For commentators such as Walter Benjamin, this condition is not unique to Josef K. Rather, as Benjamin wrote in his correspondence with Gershom Scholem, this is the lot of the 'modern citizen ... who knows he is at the mercy of vast bureaucratic machinery, whose functioning is steered by authorities who remain nebulous even to the executive organs themselves, let alone the people they deal with'.<sup>75</sup> This is not K.'s own view, however: his idea of the relationship between the citizen and state is grounded in classic liberal terms, as he thinks to himself while being arrested: 'After all, K. had rights, the country was at peace, the laws had not been suspended – who, then, had the audacity to descend on him in the privacy of his own home?'<sup>76</sup>

K. experiences this imposition as a violation of a social contract, one which is enshrined in laws guaranteeing his privacy and autonomy in his own home. The essentially fictitious and deceptive nature of this kind of liberal social-contract theory becomes obvious during the course of the novel, and it is also one of the key insights of nineteenth-century anarchism. Michael Bakunin called the social contract an 'absurd fiction'.<sup>77</sup> As he contends in his critique of the ideas of Jean-Jacques Rousseau:

Society is the natural mode of existence of the human collectivity, independent of any contract. It governs itself through the customs or the traditional habits, but never by laws. It progresses slowly, under the impulsion it receives from individual initiatives and not through the thinking or the will of the law-giver.<sup>78</sup>

For anarchists like Bakunin, the logic of the state presupposes a kind of original sin, the 'fundamental assumption that all men are essentially bad and that when left to their natural liberty they will tear one another apart'.<sup>79</sup> In this conception, for the state to infringe upon the liberty of citizens is not an aberration, but the

founding premise of state power, an institution which 'even according to this [social contract] theory, is not the product of liberty, but, on the contrary, the product of the voluntary negation and sacrifice of liberty'.<sup>80</sup> From the perspective which sees the state as an arbitrary imposition based on an assumption of 'man's original wickedness',<sup>81</sup> the guilt of every individual is already presupposed, as is the right of the state to coerce them. As Bakunin wrote:

A republican State, based upon universal suffrage, could be very despotic, more despotic even than the monarchical State, if, under the pretext of representing everybody's will, it were to bring down the weight of its collective power upon the will and the free movement of each of its members.<sup>82</sup>

This analysis is shared by Foucault, for whom the bourgeois liberal state, contrary to claims made by its champions, did not represent the advance of individual liberty. Rather, Foucault's research suggests the opposite: that the creation of the modern state was in fact accompanied by a massive increase in forms of disciplinary control which placed the individual under greater normative pressure than ever before:

[W]e should not be deceived by all the Constitutions framed throughout the world since the French Revolution, the codes written and revised, a whole continual and clamorous legislative activity: these were the forms that made an essentially normalizing power acceptable.<sup>83</sup>

In Foucault's account of the development of the new disciplinary society, the methods of social control favoured by the absolutist state such as public torture and execution give way to a dispersed and pervasive form of control, in which individuals are encouraged to discipline themselves through a regime of constant regulation, monitoring and surveillance.<sup>84</sup> An important aspect of these strategies is the collection and organisation of knowledge about individuals, which allows disciplinary institutions to check and observe them, to construct them as subjects according to normative codes and categories which are internalised and adopted as essential components of individual identities.<sup>85</sup> Reading *The Trial* through a Foucauldian lens, we can understand Josef K.'s arrest as simply making visible a disciplinary process that has been underway since he was born. As Dungey writes:

For his entire life, a mass amount of data about Josef K. has been quietly and meticulously collected, documented and arranged into a 'case'. His 'case' has

made him visible, and from the information gleaned from his 'case', he has always been and is now being judged.<sup>86</sup>

So while K. struggles to give a full and frank account of himself to the various courts, as he enters petitions, makes statements, and produces items of identification, he only succeeds in further embedding himself in the web of disciplinary power which surrounds him. In giving up increasing swathes of his time and devoting all of his physical and mental energy to pursuing his case, he increasingly internalises his own subject position, that of the accused, a man on trial, an object of scrutiny. Dungey sums up this reading well:

In the name of justice, Josef K. participates in his own elaborate confessional descriptibility that only reaffirms the very powers against which he thinks he is fighting. In a grand metaphysical attempt to defend and free himself, Josef K. strengthens the hold disciplinary power has over him by reaffirming the very descriptions that constitute him.<sup>87</sup>

Strong precursors of this idea of internalised disciplinary power can be found in the writings of anarchists, particularly those close to Kafka, such as Gustav Landauer. More than sixty years before Foucault described the transition from absolutism to bourgeois liberalism as a transition from external to pervasive internal mechanisms of control, Landauer observed:

The absolute monarch said: I am the state. We, who have imprisoned ourselves in the absolute state, must realize the truth: *we* are the state! And we will be the state as long as we are nothing different; as long as we have not yet created the institutions necessary for a true community and a true society of human beings.<sup>88</sup>

This idea of state power as a social relation between people, emphasised by anarchists like Landauer and developed by postmodern theorists like Foucault, is given expression in the ambiguous position of Josef K., who is told he has been arrested but can go about his daily life as usual. There is no need for imprisonment or physical violence; the network of observation, social obligation and internalised self-regulation in which he moves is enough to keep him firmly within the apparatus of the trial, moving towards its conclusion. It becomes clear why everyone K. meets in the course of the novel, from his workmates to his lovers, painters to priests, are all eventually revealed as functionaries of the court in one form or

another. The court is everyone and everywhere, as everyone is constructed through the same processes of disciplinary power, and everyone participates in the surveillance and monitoring by which individual subjects are judged and regulated. As the painter Titorelli explains to K:

'The girls belong to the court too'. 'What?' asked K., moving his head away to one side and looking at the painter. But the painter went back to his chair and said, half as a joke, half in explanation, 'But everything belongs to the court'.<sup>89</sup>

The process of subjectification by which individuals are incorporated into disciplinary societies implicates everyone in the creation and maintenance of oppressive social relations. This brings to mind Bakunin's concept of 'social tyranny', which 'does not assume the violent imperative character of the legalised and formalised despotism which marks the authority of the State';<sup>90</sup> rather,

it is gentler, more insidious, more imperceptible, but no less powerful and pervasive than is the authority of the State. It dominates men by customs, by mores, by the mass of prejudices, by the habits of daily life ... It overwhelms the individual from birth, it permeates every facet of life, so that each individual is, often unknowingly, in a sort of conspiracy against himself.<sup>91</sup>

'[I]n a sort of conspiracy against himself' is an excellent description of the position of Josef K. in *The Trial*. Although the existence of an accuser or slanderer is posited in the first sentence of the novel, this assumed accuser takes no further action, never appears in the novel or influences events in any way, and Josef K. hardly gives him a moment's thought. In fact, at several points, K. is the one driving proceedings forward, attending offices when he has not been summoned and barging into court proceedings out of turn. The offices and proceedings themselves often seem ad hoc, unofficial, disorganised and unrelated to any concrete or coherent bureaucratic procedure. K. is by far the most proactive element in his trial, which Kafka depicts as a convoluted labyrinthine process that may not have progressed at all were it not for K.'s desperate efforts to impose sense on it. From the moment he rings the bell that appeared to summon the first man into his bedroom, K.'s reactions and assumptions are what draw him inexorably towards verdict and sentence.

Reflecting Landauer's conception of a subject who has imprisoned himself in the state, K. is at once free and imprisoned, accuser and accused, innocent victim and active participant in his trial and execution. His desperate efforts to escape his trial from within the field of social relations that brought it about inevitably come to nothing. The foundational principles of liberal society in which Josef K. firmly believes – equality before the law, the independence of the judiciary and

the neutrality of the state – are principles which the events of the novel ultimately undermine, satirise and expose as meaningless abstractions. In this respect Kafka suggests that, if there is a way, as Josef K. wishes, to ‘break out of the trial ... to live outside the trial’,<sup>92</sup> it cannot be found through ‘official’ channels, or accessed by means of social status. In presenting the court as a totalising and pervasive force in society, which individualises itself in human subjects, Kafka suggests that ‘to live outside the trial’ would entail a wide-ranging social transformation, the successful subversion and dismantling of the subjectifying power of the state and all forms of hegemonic power.

## CONCLUSION

Kafka’s affinity for the ideas of anarchists including Kropotkin, Bakunin and Landauer is reflected in aspects of his work which have recently been identified and explored by means of Foucauldian analysis. From Kafka’s own ideas about writing as a conscious mode of resistance to his exploration of shifting strategies of discipline and coercion, in his portrayal of state power as a subjectifying social relationship and his exposé of classical liberal values, the resonance with anarchist political philosophy is strong. Rather than understanding Kafka’s ideas as an anomalous early postmodernism which can only be clearly articulated with reference to later twentieth-century developments in philosophy, it is possible to read his work as reflective of an evolving critique with its roots in nineteenth-century anarchism. The more nuanced and expanded understanding of historical anarchism which has been advanced in recent years, particularly in relation to art, culture and postmodern philosophy, allows us to trace these continuities from Bakunin and Kropotkin through Kafka to Foucault, continuities to which the various Foucauldian interpretations of Kafka’s work owe an unacknowledged debt.

**Dave Tulley** is a Teaching Fellow and PhD candidate at the University of Western Australia. His research focuses on the evolution and interaction of anarchism, psychoanalysis and the avant-garde in early twentieth-century German-speaking Europe.

## NOTES

1. N. Dungey, *Franz Kafka and Michel Foucault: Power, Resistance, and the Art of Self-creation* (New York: Lexington Books, 2014), p29. The grammatical error in this sentence appears in the original.

2. F. Kafka, 'In The Penal Colony' in *The Complete Stories*, by Franz Kafka, Willa and Edwin Muir (trans.), (New York: Schocken Books, 1983), pp129-52.
3. *Ibid.*, p30.
4. F. Kafka, *The Trial*, Ritchie Robinson (ed.), Mike Mitchell (trans.), (Oxford: Oxford University Press, 2009).
5. For example, Dungey, *Franz Kafka*; J. Bogaerts, 'K. as "Confessional Hero". A Foucauldian Reading of Kafka's Der Prozeß', *Arcadia - International Journal for Literary Studies*, 46, 1 (2011).
6. For example, H. Binder, *Kafka: Ein Leben in Prag*, cited in B. Dodd, *Kafka and Dostoyevsky: The Shaping of Influence* (New York: St. Martin's Press, 1992), p27.
7. B. Dodd, *Kafka and Dostoyevsky*, p27.
8. G. Janouch, *Conversations with Kafka* (New York: New Directions, 1971), p90.
9. For a sceptical analysis of Janouch's account, see: E. Goldstucker, 'Kafka's Eckermann?' in Claude David (ed.), *Franz Kafka: Themen und Probleme* (Göttingen: Vandenhoeck and Ruprecht, 1980), pp238-255.
10. F. Kafka, *The Diaries of Franz Kafka*, Max Brod (ed.), Joseph Kresh and Martin Greenberg (trans.), (New York: Schocken Books, 1948), p296.
11. B. Dodd, *Kafka and Dostoyevsky*, p28.
12. M. Brod, F. Kafka, M. Pasley (eds), *Eine Freundschaft* (Frankfurt: S. Fischer Verlag, 1989), pp181, 185, 193, 206, 211, 221, 230, 233, 237, 490, 512.
13. The full archive of *Die Aktion* can be found digitized here: [https://en.wikisource.org/wiki/Die\\_Aktion](https://en.wikisource.org/wiki/Die_Aktion)
14. B. Dodd, *Kafka and Dostoyevsky*, p28.
15. The purpose of these lists is not clear; they were published by Max Brod who found them 'written in Kafka's own hand' among his papers. Brod notes that we can't say for certain that Kafka had read everything on the list, but he knew for sure that he had read some of them. See, M. Brod, *Über Franz Kafka* (Frankfurt: Fischer Taschenbuch Verlag, 1976) p342; D. Pan, 'Kafka as a Populist: Re-reading "In the Penal Colony"', *Telos*, 101 (1994): 4.
16. F. Kafka, *Letters to Milena*, Willi Haas (ed.), Tania and James Stern (trans.), (New York: Schocken Books, 1965), p137, quoted in M. Nekula, *Franz Kafka and his Prague contexts: studies on language and literature* (Prague: Karolinum Press, 2016), p194.
17. R. Stach, and Shelley Laura Frisch, *Kafka, the years of insight* (Princeton: Princeton U Press, 2015), p619.
18. Kafka, letter to Brod, quoted in Stach, *Kafka*, p343.
19. See, for example, R. Robertson, *Kafka: Judaism, Politics, and Literature* (Oxford: Clarendon Press, 1985), p140; W. Prochazka, 'Kafka's Association with Jaroslav Hašek' pp283-85.



20. F. Kafka, *Letters to Felice*, E. Heller and J. Born (eds), J. Stern and E. Duckworth (trans.), (New York: Schocken Books, 1973), p406.
21. J. Cohn, "'Don't Trust Anybody, Not Even Us': Kafka's Realism as Anarchist Modernism", *Studies in 20th & 21st Century Literature*, 35, 2 (2011): 295-315.
22. Primarily those of Jacques Derrida, see Cohn, 'Don't Trust Anybody', pp296, 300, 305, 307.
23. N. Jun, *Anarchism and Political Modernity* (New York: Continuum, 2012): xiii.h
24. See, for example, Gilles Deleuze and Felix Guattari, *Kafka: Toward a Minor Literature* (Minneapolis: University of Minnesota Press, 1986); Jacques Derrida, *Acts of Literature*, Derek Attridge (ed.), (New York: Routledge, 1992); and Giorgio Agamben, 'K.' in *The Work of Giorgio Agamben: Law, Literature, Life*, Nicholas Heron, Justin Clemens and Alex Murray (eds), (Edinburgh: Edinburgh University Press, 2008).
25. N. Dungey, *Franz Kafka and Michel Foucault: Power, Resistance, and the Art of Self-creation* (New York: Lexington Books, 2014), pxxvi.
26. S. Blythe, 'Promising Pictures: Utopian Aspirations and Pictorial Realities In 1890s France' (Ph.D., New York University, 2007), p60, <http://search.proquest.com/docview/304842047>.
27. M. Löwy, *Redemption and Utopia: Jewish Libertarian Thought in Central Europe: A Study in Elective Affinity* (Stanford: Stanford University Press, 1992), p83.
28. A. Antliff, *Anarchy and Art: From the Paris Commune to the Fall of the Berlin Wall* (Vancouver: Arsenal Pulp Press, 2007), p29.
29. Blythe, 'Promising Pictures', p111.
30. B. Lazare, 'Anarchy and Literature' in *Anarchism: A Documentary History of Libertarian Ideas. Vol. 1*, R. Graham (ed.), (Montreal: Black Rose Books, 2005), p217.
31. F. Kafka, *Letters to Friends, Family and Editors*, R. Wilson and C. Wilson (trans.), (New York: Schocken, 1977), p35.
32. Dungey, *Franz Kafka*, p106.
33. F. Kafka, 'In The Penal Colony' in *The Complete Stories*, by F. Kafka, W. and E. Muir (trans.), (New York: Schocken Books, 1983), pp129-52.
34. Kafka, 'In The Penal Colony', p147.
35. See, for instance, Dungey, *Franz Kafka*; C. Curtis, 'Justice, Punishment, and Docile Bodies: Michel Foucault and the Fiction of Franz Kafka' (Ph.D., Florida State University, 2010); R. Cumberland, 'Inscribed Bodies: The Cruel Mirage of Imperialistic Idealism in Kafka's 'Penal Colony'', *Papers on Language and Literature*, 49, 2 (Spring 2013): 203-22 ; and D.W. Boyer, 'Kafka's Law-Writing Apparatus: A Study in Torture, A Study in Discipline', *Yale Journal of Law and the Humanities*, 27, 1 (Winter 2015): 83-114.
36. Dungey, *Franz Kafka*.

37. Curtis, 'Docile Bodies'.
38. Cumberland, 'Inscribed Bodies'.
39. R.T. Gray, *A Franz Kafka Encyclopedia* (Westport, Connecticut: Greenwood Press, 2005), p170. Kropotkin also discusses his time in prisons in *In Russian and French Prisons* (London: Ward and Downey, 1887), [http://dwardmac.pitzer.edu/Anarchist\\_Archives/kropotkin/prisons/chap10.html](http://dwardmac.pitzer.edu/Anarchist_Archives/kropotkin/prisons/chap10.html); P. Kropotkin, 'Prisons and their Moral Influence on Prisoners', in *Kropotkin's Revolutionary Pamphlets*, R.N. Baldwin (ed.), (Vanguard Press Inc, 1927), [http://dwardmac.pitzer.edu/Anarchist\\_Archives/kropotkin/revpamphlets/prisonsmoral.html](http://dwardmac.pitzer.edu/Anarchist_Archives/kropotkin/revpamphlets/prisonsmoral.html); 'Russian Prisons', *The Nineteenth Century*, 1883, [http://dwardmac.pitzer.edu/anarchist\\_archives/kropotkin/MutAid19CJan1883.pdf](http://dwardmac.pitzer.edu/anarchist_archives/kropotkin/MutAid19CJan1883.pdf); 'The Fortress Prison of St Petersburg', *The Nineteenth Century*, June, 1883, [http://dwardmac.pitzer.edu/anarchist\\_archives/kropotkin/fortress.html](http://dwardmac.pitzer.edu/anarchist_archives/kropotkin/fortress.html)
40. P. Kropotkin, *Memoirs of a Revolutionist* (1899), accessed September 28, 2015, <http://theanarchistlibrary.org/library/petr-kropotkin-memoirs-of-a-revolutionist.pdf>, p. 218.
41. Kropotkin, *Memoirs*, p285.
42. M. Foucault, *Discipline and Punish: The Birth of the Prison*, A. Sherridan (trans.), (New York: Vintage Books, 1995), p207.
43. Kropotkin, *Memoirs*, p289.
44. *Ibid.*, p209.
45. Foucault, *Discipline and Punish*, p209.
46. Kropotkin, *Memoirs*, p285.
47. *Ibid.*, p209.
48. Foucault, *Discipline and Punish*, p266.
49. Kropotkin, *Memoirs*, p212.
50. *Ibid.*, p213.
51. P. Kropotkin, *Anarchism: Its Philosophy and Ideal*, in *Kropotkin's Revolutionary Pamphlets*, R.N. Baldwin (ed.), (Vanguard Press Inc, 1927), accessed January 10, 2017, [http://dwardmac.pitzer.edu/Anarchist\\_archives/kropotkin/revpamphlets/Anarchism.html](http://dwardmac.pitzer.edu/Anarchist_archives/kropotkin/revpamphlets/Anarchism.html)
52. P. Kropotkin, *Law and Authority: An Anarchist Essay* (London: William Reeves, 1886), accessed September 28, 2015, [http://dwardmac.pitzer.edu/Anarchist\\_Archives/kropotkin/lawauthority.html](http://dwardmac.pitzer.edu/Anarchist_Archives/kropotkin/lawauthority.html), Ch. IV
53. P. Kropotkin, 'Prisons and their Moral Influence on Prisoners'.
54. P. Kropotkin, 'Are Prisons Necessary?', in *In Russian and French Prisons*.
55. T. May, *The Political Philosophy of Poststructuralist Anarchism* (University Park, PA: Pennsylvania State Univ. Press, 1994), p61.
56. M. Foucault, *The History of Sexuality, Vol. 1: An Introduction*, Robert Hurley (trans.), (New York: Random House, 1978), p93.

57. This is also the case in *The Trial*, as I argue later.
58. A. Antliff, 'Anarchy, Power, and Poststructuralism', *Substance: A Review Of Theory & Literary Criticism*, 36, no. 2 (May 2007): 58.
59. R. Kinna, *Kropotkin: reviewing the classical anarchist tradition* (Edinburgh: Edinburgh University Press, 2016), pp105-6.
60. *Ibid.*, p106.
61. M. Foucault, *Discipline and Punish*, p27.
62. S. Newman, *From Bakunin to Lacan: anti-authoritarianism and the dislocation of power* (Lanham: Lexington, 2007), p84.
63. P. Kropotkin, 'Are Prisons Necessary?'
64. *Ibid.*
65. M. Adams, *Kropotkin, Read, and the intellectual history of British anarchism: between reason and romanticism* (Hampshire: Palgrave Macmillan, 2015), p161.
66. *Ibid.*, p161.
67. Kropotkin, 'Are Prisons Necessary?'
68. Kropotkin, 'Prisons and their Moral Influence'.
69. Boyer, 'Kafka's Law-Writing Apparatus', p106.
70. *Ibid.*, p87.
71. *Ibid.*, p177.
72. *Ibid.*, p177.
73. F. Kafka, *The Blue Octavo Notebooks* (Boston: Exact Change, U.S., 2004), p46.
74. F. Kafka, *The Trial*, p15.
75. W. Benjamin and G. Scholem, *The Correspondence of Walter Benjamin and Gershom Scholem, 1932-1940*, G. Smith (trans.), G. Scholem (ed.), (Cambridge, MA: Harvard University Press, 1980), p223.
76. F. Kafka, *The Trial*, p7.
77. M. Bakunin, 'The Immorality of the State', in *The Political Philosophy of Bakunin*, by G.P. Maximoff (New York: The Free Press, 1953), accessed 28 August 2015, <https://www.marxists.org/reference/archive/bakunin/works/various/state-im.htm>
78. M. Bakunin, 'Rousseau's Theory of the State', accessed 28 August 2015, <https://www.marxists.org/reference/archive/bakunin/works/various/rousseau.htm>
79. Bakunin, 'The Immorality of the State'.
80. *Ibid.*
81. *Ibid.*
82. Bakunin, 'Rousseau's Theory of the State'.
83. M. Foucault, 'The History of Sexuality', in *Power/Knowledge*, Colin Gordon (ed.), (New York: Pantheon, 1980), p145.
84. Foucault, *Discipline and Punish*.

85. Ibid., pp170-195.
86. Dungey, *Franz Kafka*, p55.
87. Dungey, *Franz Kafka*, p57.
88. G. Landauer, 'Weak Statesman, Weaker People!' in *Revolution and Other Writings: a Political Reader*, G. Kuhn (ed. and trans.), (Oakland: PM Press, 2010), p214.
89. Kafka, *The Trial*, p107.
90. Bakunin, 'Man, Society, and Freedom'.
91. Ibid.
92. Kafka, *The Trial*, p159.