Economics of Convention Meets Foucault

Rainer Diaz-Bone [*]

Abstract: »*Economics of convention meets Foucault*«. The contribution exam-
ines concepts and the methodology of Michel Foucault from the standpoint of
the French institutionalist approach of economics of convention (in short EC).
EC is briefly introduced. Then, it is argued that Foucault should be regarded as
an "ally" for EC, because his theory shares main positions with EC, but Foucault
also provides concepts and methodological strategies, which could improve EC's
capabilities to analyze practices and strategies of convention-based processes
as critique, justification and the social construction of qualities and worth.
Some representatives of EC have already adopted Foucaultian concepts. Fou-
cault also pioneered the analysis in domains, highly relevant for EC, as in the
field of law and neoliberalism, but these works are not well recognized so far.
Moreover, Foucault began the study of individual's strategies of self-conduct
and self-formation, which EC approached later on as well. The article claims
that it is especially Foucault's notions of episteme and power as well as Fou-
caultian discourse analysis, which offer innovative theoretical and methodolog-
ical perspectives for EC.

Keywords: Foucault, economics of convention, discourse, discourse analysis,
law, technologies of the self, regimes of engagement, episteme, power.

1.   Introduction

The institutionalist approach of economics of convention (convention theory, in
short EC) has become an international scientific movement for the analysis of
economic coordination, of processes of the construction of collectively
recognized values and of economic dispositives. EC nowadays can be
conceived not only as an economic approach, but as a socio-economic as well
as a sociological approach. As part of the new French social sciences, EC
recombines pragmatist ways of thinking with structuralist conceptual elements,
thereby addressing classical as well as contemporary questions of social
science research and methodology.[1] EC was developed in the context of French

[*] Rainer Diaz-Bone, Department of Sociology, University of Lucerne, Frohburgstrasse 3, 6002
    Lucerne, Switzerland; rainer.diazbone@unilu.ch.
[1] For a presentation of classical pragmatism see Bacon (2012), for new French pragmatist
    social sciences see Nachi (2006), Corcuff (2011) and Diaz-Bone (2015). Dosse (1998a, 1998b)
    introduces into French structuralism.

social sciences as an alternative not only to neoclassical, mainstream economics but also to a prevailing structuralist tradition, which since the 1980s did not adequately integrate pragmatist and pluralist conceptions for the analysis of contemporary socio-economic phenomena (Dosse 1998c). This kind of structuralism was mainly represented by the highly influential sociology of Pierre Bourdieu and his collaborators.[2] EC was developed not only as an alternative to neoclassical economics and Bourdieusian sociology, but emerged also in the context of another program in the social sciences that addresses anew a recombination of structuralism with pragmatist ways of thinking: the research program of Michel Foucault. As Bourdieu did, Foucault early invented structuralist concepts as the concept of episteme as deeper structure. But contrary to the theory of Bourdieu, in Foucault's work the concept of structure itself is not the final explanatory principle although an important element in the socio-historical articulations of knowledge, valuation and coordination.[3]

In this contribution, it is argued that Foucault can be regarded as an "ally" of EC, because many of his scientific interests, concepts and analytical strategies are similar to the ones of EC or could be linked to the EC's engagement. These linkages, so the argument in this contribution, in some cases could improve (or already have improved) convention theory or compensate some deficiencies of EC. Nowadays, this improvement is most evident in the case of EC's adaption of the notion of "dispositive", which was recently received from Michel Foucault's work, in which this concept was worked out and linked to his concept of power (Favereau 2014). For Foucault, power should not be conceived as a substance

> […] but as a strategy, that its effects of domination are attributed not to "appropriation", but to dispositions, maneuvers, tactics, techniques, functionings; that one should decipher in it a network of relations, constantly in tension, in activity, rather than a privilege that one might possess; […]. (Foucault 1995, 26)

Power is regarded by Foucault not as substantial in character: it is not the property of a class or institution and cannot be accumulated. Power is conceived as an effect (also as relational – in the practical sense of being

---

2 Nowadays, it is strange to see how Bourdieu's sociology became a representative of a dogmatic form of structuralism, because it was the early Bourdieu who emphasized practice theory as a countervailing position against the structuralism of Lévi-Strauss (Bourdieu 1977, 1990). But even in France, today's framing of Bourdieu has changed, see the contributions in Fornel and Ogien (2011).

3 It is also important to highlight the newer position of Luc Boltanski, who is a representative of EC and has (together with Arnaud Esquerre) worked out a recombination of pragmatism and structuralism, which he calls "pragmatist structuralism" (*structuralisme pragmatique*, see Boltanski and Esquerre 2017, 2018). This name articulates also EC's concern to reconcile structuralism and pragmatism, but starting with the project of bringing pragmatism back into a constellation of social sciences in France, where (Bourdieusian) structuralism was prevailing for long time.

immanent, mobilized and effectuated in relations) and not as suppressive in character only, but also as a productive force, generating new forms of practices and knowledge, therefore Foucault speaks of the power-knowledge-link (Foucault 1980a, 1980b, 1980c). Foucault related power to the court and to juridical practices, and argued that power-based, discursive practices were implemented to generate juridical forms of truth (Foucault 2000).

For EC, Laurent Thévenot (2016) has systematized some of EC's perspectives on power, as the power of conventions to structure coordination or the power of valorization introduced by Eymard-Duvernay (2012). However, a reception and discussion of Foucault's concept of power is missing. So far, in EC it is not fully recognized that Foucault's notion of power is not only repressive in character (Foucault 1985), but is linked to the generation of new ways of living (Foucault 1985) and linked to the production of knowledge (Foucault 1980a, 1980b, 1980c, 1995). Also Foucault integrated objects (devices as instruments, architectures), practices and processes into his socio-historical analyses so that his style of analysis has transformed into a non-substantialist and non-idealist (structuralist) mode of theorizing. Michel Foucault's work is close to many strands and positions of EC in his analysis of dispositives, but also in his studies of technologies of the self. The argument developed here is that Foucault's specific notions of power and discourse should be linked to EC's institutionalist program. This way, Foucault's concepts can satisfy theoretical needs and offer perspectives for the institutionalist approach of EC.

Foucault himself did not work on empirical economic coordination, real economies or economic institutions. But in his chapter on exchange (in the pre-modern centuries) in "The order of things" (Foucault 1989) and his later lectures on governmentality, the history of neoliberalism and bio-politics (Foucault 2007a, 2008), he studied the genealogy of economic ways of thinking and theorizing and he addressed also more specific economic issues such as the concept of markets (Foucault 2008) and analyzed the economic neoliberalism as a mode of "governmentality" (Laval 2018).[4] To relate elements of the Foucaultian theory to EC pursues the aim to improve socio-economic analysis of markets, organizations and law by including Foucaultian concepts. But the contribution will also work out the remaining fundamental differences (of these theoretical positions and their methodologies) and reflect on the preconditions of such an integration.

The contribution will first present economics of convention, thereby highlighting ongoing developments of this approach and circumventing some of its contemporary needs (section 2). In this section it is necessary to reflect on

---

[4] For a sketch of Foucault's analysis of economic theory and the reception by scholars in the field of economic history, economics and sociology see Miller and Rose (1990), Vallois (2015) and the contributions in Hatchuel et al. (2005).

preconditions and prerequisites for the integration of concepts developed outside (and before the emergence) of EC. Then, some contributions of Michel Foucault to EC will be introduced, which are already part of EC's theorizing (section 3). This part will follow conventionalists' pathways first developed by representatives of EC such as Olivier Favereau and Pierre-Yves Gomez, who started to include Foucaultian notions and demonstrated the same affinities of these two theoretical projects. Afterwards, other important contributions of Foucault will be introduced, which can be evaluated as also relevant for EC's conceptual basis and methodology. The question will be what could advance EC, when "meeting" the Foucaultian theory, therefore, the discussion of Foucaultian concepts will be selective. For this purpose, first, Foucault's perspective on law will be examined (section 4), afterwards, his work on "technologies of the self" are compared to EC's concept of regimes of engagement (section 5) and finally his concepts of episteme and discourse as well as the methodology of discourse analysis (section 6) will be related to EC.

2.   Economics of Convention

EC has been developed since the 1980s in the Parisian region as an interdisciplinary institutionalist approach for the analysis of economic coordination and valuation. In recent years, EC has also been recognized outside of France and can nowadays be regarded as an international scientific approach. From its beginnings, EC was projected not as a coherent paradigm, but as a scientific movement, organized around some core concepts and methodological positions. EC has developed the concept of conventions as logics of coordination. The theories of the logician David Lewis (1969) and the economist John M. Keynes (1936) have been influential from EC's start. Both conceived conventions as a result and as a solution to the problem of intersubjective coordination. Referring to Lewis and Keynes, EC developed the concept of convention and the important concept of convention today can be seen as a structuralist element within EC. The meaning of institutions and situations is identified by convention theory as incomplete. Actors are seen as capable to cope with this incompleteness by processes of learning and by applying conventions as principles and cognitive resources to interpret and handle institutions and situations. The pragmatist heritage in EC articulates itself by the assumption of a radical and coexisting plurality of conventions. This is another rupture to mainstream economic institutionalism in which only one principle is prevailing, economic efficiency optimized by market exchange between independent individual actors. Actors are also seen as capable of evaluating the appropriateness of conventions, of questioning, of switching and – if necessary – of combining conventions. EC rejects methodological individualism as explanatory strategy. Within convention theory, actors are not conceived as equipped with a univer-

sal and complete rationality. Instead, even rationality is understood as incomplete and as dependent on influential conventions as cognitive resources. And actors are entangled in situations, which are equipped with objects and cognitive formats, so that agency is ascribed to processes in situations, not to actors alone (Boltanski and Thévenot 2006). One of the main contributions in the field of institutionalism is EC's view on qualities, based not on intrinsic properties of objects (as products) but as being the result of a collective construction in situations, in which quality is built up on conventions about how to generate and evaluate realities – as the perceived quality of products. EC has generated two major models, which systemize the plurality of conventions. One model was presented by Luc Boltanski and Laurent Thévenot (2006), the other one by Michael Storper and Robert Salais (1997).[5]

EC shares with Foucault's theory an anti-substantialist ontology: properties, qualities and valuations of person, objects and actions are results of practices. Also, Michel Foucault has more and more emphasized the importance of practices of actors as well as the role of materialities and dispositives (Foucault 1995). For both approaches, explanation is based not on principles external to coordination but on constellations and processes in (historical and/or economic) situations. Although EC has a pragmatist model of actors' competences, actors are not pre-given and self-sufficient units, equipped with preferences and independent (calculative) rationalities. Instead, EC focuses methodologically on situations and processes as units of analysis. This way, coordination processes are distributed practices not controlled by single actors, authorities or (other) entities. This is one precondition for EC to adapt Foucaultian concepts. Another precondition is the aim to model conceptually the coherence of coordination. This is one of structuralists' strengths.

But EC is in some ways different from Foucault's theoretical project. First, it is a scientific movement built on contributions of a greater number of economists, sociologists, statisticians, historians and others over more than three decades now. Of course, Foucault also unfolded his agenda and changed some of his methodological and theoretical positions, but his work as process frames a more integrated theoretical architecture (Dreyfus and Rabinow 1983). Second, EC is an approach pragmatist to the core in terms of pluralism. Therefore, EC assumes constellations of different conventions as logics of coordination, instead of a wide-ranging system of oppositions and discursive rules organizing (historical formations of) discursive practices. Although Foucault's studies (as

---

[5] The introduction into EC offered here is elementary. See for more detailed presentations the contributions in Favereau and Lazega (2002), Diaz-Bone and Salais (2011, 2012), Diaz-Bone et al. (2015) and Diaz-Bone and Didier (2016). Foundational publications are the contribution in the special issue of *Revue économique* no 41(2) 1989 "Economie des conventions", the contributions in Salais and Thévenot (1986), in Orléan (2004) and in Eymard-Duvernay (2006a, 2006b). A newer presentation of EC is the French dictionary of convention theory (Batifoulier et al. 2016).

Foucault 1989, 1995) demonstrated the difference of deeper structures comparing different epochs, the idea of a radical coexistence of structures and structuring principles is hardly compatible with structuralists' ways of thinking, which was at least Foucault's earlier position. Third, EC has emerged around the empirical analysis of economic topics and problems, especially of economic coordination and valuation, which Foucault is not known for and Foucault mostly did not include in his work, although in "The order of things" (Foucault 1989) and in his studies of governmentality (Laval 2018) economic theory is an important object of study. One must be aware that Foucault's analyses of "economics" are contributions to the history of the philosophy of economic thinking and the socio-historical dynamics of thought systems.[6] Foucault did not analyze empirically economic institutions and practices as EC as an institutionalist approach did. But in other fields such as medicine, psychiatry and the penal system, he studied the historical dynamics of institutional arrangements, practices and discourses (Foucault 1973, 1995, 2006).

However, EC was invented in France, the country in which the work of Michel Foucault became one of the most influential theories not only in the humanities but also in the social sciences. As French social sciences in general, structuralist theories integrated step by step pragmatist elements and ways of thinking.[7] Here, the argument is that Foucault's theory has been part of the "theoretical context" during EC's development and became more and more influential and relevant for theoretical projects of EC.

3.   Existing Foucaultian Influences

As indicated, EC entails some structuralist moments as the concept of convention itself. Pierre-Yves Gomez has based his understanding of conventions explicitly on a structuralist position, arguing that conventions are the underlying, unquestioned and not justified deeper structures in organizations, which enable actors to cooperate efficiently (Gomez 1994, 1996; Gomez and Jones 2000). Christian Bessy and Francis Chateauraynaud (2014) worked out a specific version of conventionalism and applied it in the analysis of culture. For these authors, the perception and evaluation of cultural objects is structured by conventions, which enable actors to identify the authenticity and quality of cultural objects. These contributions of Gomez, Bessy and Chateauraynaud refer to Foucault's work and articulate a familiarity of EC's concept of conven-

---

[6]   In fact, Foucault was trained in the French tradition of historical epistemology (founded by Gaston Bachelard) and was elected as member of the prestigious *Collège de France* in 1970, where he held the chair for the "history of systems of thought" (Eribon 1991).

[7]   Therefore, outside of France, the Foucaultian theory is labeled as a "poststructuralism" (as the theories of other structuralists as the work of Jacques Derrida).

tion to Michel Foucault's concept of episteme (Foucault 1989). An episteme is a deeper and preconscious knowledge structure, which endows manifest knowledge with an inner coherence. It is this idea of the organization of the coherence of knowledge that makes EC's concept of convention similar to the one of episteme, whereby convention now is understood (also) as a deeper knowledge structure. Likewise, the reconstruction of orders of justification, which was presented by Boltanski and Thévenot (2006), can be interpreted as a structuralist practice – although Boltanski and Thévenot do not refer to Foucault. Quality conventions articulate themselves as orders of justification, when qualities, values and justice are questioned and justified by actors in situations. From this point of view, they are again similar to the concept of episteme, because they also build the normative ground for actors, what is right, true and evident. Interestingly, conventions as orders of justification were identified in situations of dispute and critique (Boltanski and Thévenot 2006), while other studies of EC – as the paradigmatic analysis of Camembert-production (Boisard and Letablier 1987; Boisard 1991) – identified conventions as necessary structuring principles for the "everyday business" of production, distribution and consumption, because these processes require a common knowledge for the interpretation and evaluation of "what is going on" in "normal situations".

Gomez advanced the application of Foucaultian terms in the field of EC. For Gomez, conventions are composed out of discourses and material dispositives, both relate coordinating actors and inform actors what to do is "normal" (Gomez 1996, 193). Here, Foucault's theory of discourse turns out as an influence for theorizing EC's perspective on organizations (enterprises) and markets. It is important to highlight that EC insists on this dual character of conventions: to be discursive and non-discursive. Conventions cannot be reduced to discursive realities, because they have to materialize also in objects (instruments, cognitive formats, machines etc.) to act as a dispositive for economic coordination.[8]

> A convention is not simply enunciated. It is necessary that the information is transferred to each individual, so that the assumed adhesion of all others will be mediated. The conviction also depends on the manner in which the information is transported. The clearest discourse will have practical consequences but will only be communicated convincingly if it is communicated physically to the actors. […] To study the way by which a convention articulates as process of information transfer […] is to perceive it as a material dispositive. (Gomez 1996, 194)[9]

---

[8] See for a short sketch of Gomez's theory of organizations (and enterprises) Diaz-Bone (2018, chap. 5).
[9] Translated by RDB.

The notion of dispositive is widespread in French philosophy and in French social sciences. It can be understood as tool or arrangement, which is "at someone's disposal" to exert an effect or to execute an intended purpose. In EC, the use of this concept is manifold also. Examples are Olivier Favereau's concept of rules in organizations as collective cognitive dispositives (Favereau 1989) or François Eymard-Duvernay's concepts of dispositives of valorization (Eymard-Duvernay 2012).[10] But the notion is also important for Foucaultian theory and more specifically here, because it is related to his concept of power. Foucaultian dispositives organize, mobilize and prolong power effects (Raffnsøe et al. 2016). It was Favereau who took over the Foucaultian notions of dispositive and power, and applied it to the analysis of enterprises. He interprets enterprises as (a) dispositives of valorizing, (b) dispositives for the mobilization of collectives and economic coordination, (c) dispositives for the balancing of personalizing and standardizing work and (d) dispositives for the development of privatized forms of power (Favereau 2014).

4.   Foucault and Law

As with economy, law is not one of Foucault's main objects of inquiry. Therefore, there is no Foucaultian theory of law.[11] But Foucault has included law in many of his analyses and related law to political economy.[12] Hunt and Wickham (1994, vii) have argued for the field of sociology of law and legal studies that Foucault's work on law still is not systematically recognized. There are several contributions of Foucault also to the socio-economic interpretation of law, and EC has still to evaluate systematically Foucault's perspective on law. To study the importance of Foucault's contributions to the analysis of law and its possible relevance for EC's view on economic coordination, political economy and the analysis of neoliberalism is an important task for EC, because EC regards law – like language and money – as one of the main economic institutions (Bessy and Favereau 2003). Also Foucault is interested in issues as critique, resistance and practices, as EC is. That is why one could expect an improvement of EC's analysis, when EC is informed by Foucaultian perspectives. As EC does, Foucault refuses a Marxist standpoint or an individualist perspective on law (as the law and economy approach does).[13]

---

[10] See for an overview of conventionalists' usages of the concept of dispositive Diaz-Bone (2017c).

[11] Although Foucault studied the history and genealogy of juridical forms (Foucault 2000).

[12] See the collection of articles on Foucaultian perspectives on law in Golder and Fitzpatrick (2010) and in Golder (2013).

[13] For a critique of the approach of law and economics from a conventionalist's view see Diaz-Bone et al. (2015).

For Foucault, law is neither a condition for the liberation of the individual, nor is it solely the result of class domination. Law cannot be adequately comprehended from the standpoints of subjects of action – whether they be based on individualism, class, or gender – or from the general structures through which everyday life is produced and experienced. Foucault claimed that liberalism, Marxism, and standpoints rooted in knowing subjects of action are inadequate because they share a "juridico-discursive model of power". This model limits the analysis of law and power because it formulates them as things that are possessed by agents of action, as repressive, and as centralized in core structures such as legal institutions and the state. By contrast, Foucault conceptualized power as it is exercised, as multiple and decentralized and as productive of social structures and knowledge. Law is an element in the expansion of power or, – more accurately – powers. In modern society, law combines with power in various locations in ways that expand patterns of social control, knowledge, and the documentation of individuals for institutionally useful ends. Ultimately, legality and associated techniques of knowledge and control expand to define and to provide empirical knowledge of every aspect, every fibre of society. Most especially, legality combines with other discourses to form the individual as the locus of ever greater networks of administrative control. (Turkel 2010, 170)

As the quotation emphasizes, for Foucault the analysis of law is closely linked to his specific notion of power. And Foucault made different interpretations of its role in his work. In "Discipline and punish", law was identified as a tool of power, to manage but also to invent crime and delinquency. Law was not conceived as a civic standard equally available to all citizens, it was interpreted as a dispositive of power, which was not applied to liberate individuals, to rationalize or to pacify society (Foucault 1995, 257-8). Also, the reality and impact of law cannot be grasped by studying law texts alone. Thereby, Foucault refuses implicitly the conception of law as a complete institution, guaranteeing its meaning solely by its explicitly written substance, i.e. refusing the idea of a complete meaning of written law texts. This is a position shared with EC's idea of law (Didry 2002; Diaz-Bone 2018). Like EC, which includes constellations of concepts, objects, actors, conventions, etc. in situations, Foucault stresses the need to include the other mechanisms present in situations in which law is mobilized.

Law is neither the truth of power nor its alibi. It is an instrument of power which is at once complex and partial. The form of law with its effects of prohibition needs to be resituated among a number of other, non-juridical mechanisms. (Foucault 1980, 141)

The reality of the penalty system is not determined by written law alone, but depends on the set of practices of the disciplinary system and "[…] 'the disciplines' as the characteristic and pervasive forms of power" (Hunt and Wickham 1994, 46), which are disciplinary "methods" as Foucault demonstrated in his

historical analysis of the prison.[14] These practices emerged as realities on their own, countervailing the classical idea of law.

> The "Enlightenment", which discovered the liberties, also invented the disciplines. In appearance, the disciplines constitute nothing more than an infra-law. They seem to extend the general forms defined by law to the infinitesimal level of individual lives; or they appear as methods of training that enable individuals to become integrated into these general demands. They seem to constitute the same type of law on a different scale, thereby making it more meticulous and more indulgent. The disciplines should be regarded as a sort of counter-law. They have the precise role of introducing insuperable asymmetries and excluding reciprocities. (Foucault 1995, 222)

Contrary to Weber's analysis of law (Weber 1978), Foucault was not interested in the analysis of the internal organization of law or its inner rationality. Also Foucault argued that legal studies implicitly assume still a unity of law, because of the idea of law as an instrument of a king or a monarchy (as "royal power"), a Roman conception of law, which was renewed in the Middle Ages (Foucault 1980b, 94). And the beginning of law as a profession and as theory in western societies from the medieval times onwards was linked to the task of lawyers to legitimate and to (discursively) defend this royal power (Foucault 1980b, 95-96). But if different modern institutions, which introduce disciplines (as prisons), can act as rule-setter and institutions (organizations) can enforce rules, then the acceptance of a state of "legal pluralism" in modern societies is the necessary consequence.[15] Based on his different idea about power, Foucault criticized the conception of power as based on law (Hunt and Wickham 1994, 41). Step by step, Foucault distanced himself from classical views of the unity of law, of law-based mechanisms as the origin of power and law as the result of legal actions transferring rights to exert power.

> [...] in the case of the classic, juridical theory, power is taken to be a right, which one is able to possess like a commodity, and which one can in consequence transfer or alienate, either wholly or partially, through a legal act or through some act that establishes a right, such as takes place through cession or contract. Power is that concrete power which every individual holds, and whose partial or total cession enables political power or sovereignty to be established. This theoretical construction is essentially based on the idea that the constitution of political power obeys the model of a legal transaction involving a contractual type of exchange (hence the clear analogy that runs through all these theories between power and commodities, power and wealth). (Foucault 1980a, 88)

---

[14] The notion of disciplines is specific for Foucault's analysis of power: "These methods, which made possible the meticulous control of the operations of the body, which assured the constant subjection of its forces and imposed upon them a relation of docility-utility, might be called 'disciplines' [...]" (Foucault 1995, 137).

[15] For the concept of legal pluralism see Merry (1988) or Berman (2009). A more recent perspective was offered by Duve (2017) introducing the concept of „multinormativity".

Instead, Foucault has studied the many ways in which different institutions and practices exerted their more "fluid" forms of power, of domination and of rule-enforcing, which cannot be allocated to persons as individual resources.[16] In his lectures at the *Collège de France* on bio-politics and governmentality, Foucault extended his interpretation of law by arguing that law and punishment is not only oriented towards past events (and their punishment), but is also oriented towards security and the influence on future behavior (Foucault 2007a, lecture 1). Foucault's analysis of the genealogy of thinking in terms of security does not postulate a series of phases, but does assume

> […] as series of complex edifices in which, of course, the techniques themselves change and are perfected, or anyway become more complicated, but in which what above all changes is the dominant characteristic, or more exactly, the system of correlation between juridico-legal mechanisms, disciplinary mechanisms, and mechanisms of security. (Foucault 2007a, 8)

Also Foucault identified the notion of *milieu* in his analysis of the genealogy of modern governmentality, to which these considerations of government are oriented as the unit that is conceived as "the target of intervention for power" (Foucault 2007a, 22).[17] Initially – until the late Middle Ages – the perspective on law was related to the problem of the sovereignty of the monarch, but in the following, this perspective changes toward considerations about how law could restrict the royal power and guarantee the liberty of individuals, who started to conceive themselves as civilians. Law became a critical (discursive) resource against an unlimited claim of the "*raison d'État*".

> Legal theory and judicial institutions no longer serve as the multiplier, but rather as the subtractor of royal power. Thus, from the sixteenth century and throughout the seventeenth century we see the development of a series of problems, polemics, and battles around, for example, fundamental laws of the realm that jurists argue, against *raison d'État*, cannot be called into question by governmental practice or *raison d'État*. These fundamental laws exist, as it were, before the state, since they are constitutive of the state, and so, some jurists say, the king, however absolute his power, must not tamper with them. The law constituted by these fundamental laws thus appeared to be outside *raison d'État* and a principle of its limitation. (Foucault 2008, 8; emphasis in original)

For EC, there are several important positions offered by or shared with Foucault's arguments. As Foucault does, EC refuses the idea of law as a "state-centered" social reality. Foucault refuses to develop a "theory of the state", because for him, there is no such thing as "a state" although there are processes of statehood, and state can only be grasped by the analysis of statist effects.

---

[16] Examples are the analysis of the prison (Foucault 1995), the asylum (Foucault 1965), or the clinic (Foucault 1973).

[17] The notion of milieu was also developed as an analytical concept by Georges Canguilhem, who was a precursor and teacher of Foucault, see for this influence Laval (2018).

> The state is not a universal nor in itself an autonomous source of power. The state is nothing else but the effect, the profile, the mobile shape of a perpetual statification (*étatisation*) or statifications, in the sense of incessant transactions which modify, or move, or drastically change, or insidiously shift sources of finance, modes of investment, decision-making centers, forms and types of control, relationships between local powers, the central authority, and so on. […] The state is nothing else but the mobile effect of a regime of multiple governmentalities. (Foucault 2008, 77)

Here, the different conventions of the state, as proposed by Storper and Salais (1997, 207-8) bring in a very similar perspective on "state". Because for EC, state is not a given institutional arrangement or the last guarantee for the enforcement and unity of law, but a way of thinking how to anticipate possible interventions of national legal or administrative dispositives to intervene, and how to be present in situations of economic coordination. Storper and Salais emphasize an existing plurality of conventions of the state: the convention of the absent state, the convention of the external state and the convention of the situated state (Storper and Salais 1997, 210). As with state, Foucault and EC both emphasize also the co-existence of *different* legal practices, rule-enforcing practices and dispositives and therefore a *plurality* of legal reasoning (Didry 2002; Favereau 2010; Bessy 2015).[18] Law is only one social realm, in which justifications are mobilized but also requested (Thévenot 1992), and law is only one resource for critique and justification (Boltanski and Thévenot 2006), but of course not specific for this (Foucault 2007b).[19] As EC has done (Didry 2002), Foucault (2007a) regarded the social conflicts and discourses *about* law – its adequacy, its nature, and its legitimacy – as an important object under study. The meaning of the institution of law and its usages are not guaranteed or fully specified by the law as text alone – a position EC shares with Foucault's perspective on law and which EC has presented clearly in its analysis of contracts and rules as incomplete in terms of meaning (Favereau 1997, 2004; Diaz-Bone 2018). The notion of milieu corresponds methodologically to EC's concept of the (socio-historical) situation. This correspondence could also be regarded as a link between Foucault's identification of this notion and EC's methodological approach. Instead of analyzing the effect of law on individual behavior (as economic analysis of law does, because of its methodological individualism), EC focuses on the effects of law on situations (Foucault's "milieus") and on law as a dispositive for economic coordination in situations. But

---

[18] See also the contributions in Diaz-Bone, Didry and Salais (2015). All contributions available at: <https://www.gesis.org/en/hsr/full-text-archive/2015/401-law-and-conventions/>.

[19] Foucault's notion of critique is more general "I would therefore propose, as a very first definition of critique, this general characterization: the art of not being governed quite so much" (Foucault 2007, 45). See for a conventionalist perspective on social critique Boltanski and Thévenot (2006). See for a comparison of convention theory's and Foucault's notion of critique Diaz-Bone (2017b).

Foucault did not choose this unit for methodological reasons. Instead, he identified this unit as an element in political economic discourses. Another methodological aspect, which is important when relating EC to Foucault's work, is the reluctance to regard the internal structure of law as rationally organized and to consider law possibilities to perform as an efficient external constraint for economic coordination. Methodologically, convention theorists approach law in real situations, when enacted by coordinating individuals, adopting the actors' point of view as mobilized in empirical situations. As Foucault did, EC focuses on the practices, how law is enacted, engaged and applied in (socio-historical) situations.

For Foucault, the importance of law as a dispositive of the modern form of direct governance of the individual has been decreasing since the advent of neoliberal economist thinking (Foucault 2008). Instead, law has developed as a dispositive to limit the power of the sovereign (government) and as a dispositive for the cost calculation of deviant behavior (Foucault 2008, lecture 10). And its importance has increased in terms of establishing and controlling markets, thereby establishing competition as new penetrating principle to organize the whole society.[20] In this regard, law has transformed its role in neoliberal theory (Foucault 2008).[21] Foucault interpreted neoliberal strategy as an indirect strategy to influence individuals replacing the strategies of the disciplines, which accessed individuals directly. Neoliberal government is characterized by implementing competition and markets in everyday situations. Performance on markets becomes the new test of reality and markets are constituted as the new sites of the formation of truth (Foucault 2008, lecture 2). Government is exerted by influencing the milieus of individuals, which have to adapt to competition and markets. To become a subject in neoliberal times, individuals have to conceive themselves and act as entrepreneurs of themselves (Foucault 2008; Miller and Rose 1990; Laval 2018). Since the end of the 1970s, Foucault therefore directed his research to the discourses, problematizations and practices of self-conduct, self-formation and "technologies of the self" and their genealogy (Foucault 1985, 1986, 1988, 2010). Here, another convergence with developments in convention theory occurs.

---

[20] It is more specific to the German version of neoliberalism, ordoliberalism, which offers law an important role in framing and controlling markets, but ordoliberalism refuses law as an instrument to influence economic decisions (Foucault 2008, lecture 6-7).
[21] See for an interpretation of Foucault's different conceptualizations of law Golder and Fitzpatrick (2009).

5.   Regimes of Engagement and Technologies of the Self

The convergence results in the reorientation towards individuals' strategies to cope with situations, which are free of strong prescriptive norms, external disciplinary techniques, or structuring discursive orders. In situations of this kind, individuals have to invent "regimes of engagement" (Thévenot 2006, 2014) or "technologies of the self" (Foucault 1988) as strategies and resources to develop forms of living, which enable and empower individuals in their personal and material environment to coordinate with objects, plans, problems, and concepts in ways so that individuals keep their sovereignty and integrity.

Michel Foucault discovered the specific situation in the classical antique Greek culture, in which young men had had sexual relationships with older men in the Greek elite. Both had to be careful to respect the other's integrity in terms of not dominating or being dominated, because this would have undermined the perspective of the younger men to become possible future leaders. In difference to the cultural system of norms and values, which existed for women and for other (inferior and dominated) social groups, these relationships in the Greek elite were possible, but did not take place in an existing and prescriptive frame of rules (Foucault 1985, 1986, 2010). Foucault has reconstructed the normative problematizations with which individuals started because they had to cope with the possible negative consequences, which could emerge out of individuals' behavior in situations without a pre-given system of norms and values. These problematizations were driving forces for the antique Greco-Roman philosophy. Foucault has called these individual practices "technologies of the self" and related them to other social technologies.

> […] we must understand that there are four major types of these "technologies", each a matrix of practical reason: (1) technologies of production, which permit us to produce, transform, or manipulate things; (2) technologies of sign systems, which permit us to use signs, meanings, symbols, or signification; (3) technologies of power, which determine the conduct of individuals and submit them to certain ends or domination, an objectivizing of the subject; (4) technologies of the self, which permit individuals to effect by their own means or with the help of others a certain number of operations on their own bodies and souls, thoughts, conduct, and way of being, so as to transform themselves in order to attain a certain state of happiness, purity, wisdom, perfection, or immortality. (Foucault 1988, 18)

In modern times, there are many similar new situations coming up, in which (in this regard privileged) individuals have to explore new principles and frames for their way of living, because they have (cultural, normative, material, financial, etc.) degrees of freedom and the need to develop principles and frames as forms of living. Foucault invented the notion of "arts of existence" for this search.

> I am referring to what might be called the "arts of existence". What I mean by the phrase are those intentional and voluntary actions by which men not only set themselves rules of conduct, but also seek to transform themselves, to change themselves in their singular being, and to make their life into an oeuvre that carries certain aesthetic values and meets certain stylistic criteria. (Foucault 1985, 10-11)

Laurent Thévenot has presented a partly similar perspective on individuals acting in their personal environments. He distinguished three "regimes of engagement", which act as ways in which individuals coordinate their way of living in their personal environment. The parallel to the Foucaultian perspectives can be found in the shared property of the studied situations, which are not structured by existing and publicly available systems of norms and values, to which individuals are subjected. In a similar way as Foucault did, Thévenot worked out a sociological approach to situations in which principles and forms of living are to be developed by individuals, because they cannot rely on and are freed from societal and publicly dominant prescriptions as what to do is just and adequate. Thévenot identified the regimes of engagement as "grammar". These regimes reside "below" the level of orders of justification (Boltanski and Thévenot 2006). The latter can be mobilized in public dispute to criticize or to justify worth, quality, justice, or adequacy (of persons, objects, actions, etc.). Regimes of engagement work differently. They are ways of coordinating the individually planed ways, in the immediate intimate environment or in a personal exploratory mood (Thévenot 2006, 2014). Thévenot has characterized different regimes of engagement.

> Regimes of engagement strongly differ from one another in scope, the kind of good they foster and possible mutuality, from the ease obtained by close personal familiarization to qualification for the common good. […]. *Engaging in personal familiarity* reassures through past habituation, this ease being warranted by customized personal belongings and a personalized environment. *Engaging in an individual plan* implies a projection of the individual will into the future, granted by an environment suitable for functional utilization. These two ways of engaging with the environment involve contrasting kinds of self-assurance, and time orientation. They also rely on proper environmental arrangements that differ strikingly. […] Below the level of an individual projecting herself in a plan or a strategy, […] we can usefully identify another regime of engaging, one distinct from familiarizing. Among various contemporary bodily expressions of discontent, some may be aggrandized into inspiration worth and artistic manifestations […], while others may stay at the level of a deeply idiosyncratic and emotional experience of discovering the world, which led us to identify […] the *regime of engaging in exploration*, its dynamics, particular mode of evaluation and relation to the environment. In contrast to the two previous ones, this regime is exclusively present-oriented. Value is placed on surprise and the assurance of an excited self depends on the unflagging rejuvenation of the environment – including one's body – which has to be arranged to produce the shock of newness. (Thévenot 2014, 13/15; emphases in original)

When practices in situations are structured by these regimes, individuals do not have to adapt to pre-given collective social expectations. The following table presents the three introduced regimes.

Table 1: Three Regimes of Engagements

	Engaging in an individual plan	Engaging in familiarity	Engaging in exploration
Evaluative good	accomplished will	ease, comfort, personal convenience	excitement by novelty
Information format	functional	usual, congenial	surprising
Capacity, power	autonomous, willful	attached to	curious, explorer
Mutual engagement	joint project, contract	close friendship, intimacy	play

Source: Thévenot (2014, 13).

Comparing Foucault's contribution with Thévenot's, the importance of the (self-)management and the transformation of the self (soul) in Foucault's approach and the more elaborated role of objects in Thévenot's approach show striking differences. But besides these differences, again, these contributions are parallel developments in convention theory and in Foucault's research, tracking the strategies and practices, which individuals have to develop, when facing situations, which are in a specific way non-societal, because they are more open and offer new spaces that individuals have to approach. Both approaches open the way to analyze practices of self-esteem and self-appreciation in situations and are based on interaction with objects and concepts. However, still a more profound comparison of these works is needed, scrutinizing the perspectives of Foucault's ideas for the research agenda of convention theory. But the argument here is not only about comparisons, it is also about convergences and application in the field of economic analysis.[22] Foucaultian technologies of the self are nowadays part of the economic behavior and self-management of individuals and of governance of the economy. Foucault himself tried to apply this perspective of individuals' technologies of the self to neoliberal governance.

> The individual's life must be lodged, not within a framework of a big enterprise like the firm or, if it comes to it, the state, but within the framework of a multiplicity of diverse enterprises connected up to and entangled with each other, enterprises which are in some-way ready to hand for the individual, sufficiently limited in their scale for the individual's actions, decisions, and choices to have meaningful and perceptible effects, and numerous enough for him not to be dependent on one alone. And finally, the individual's life itself – with his relationships to his private property, for example, with his family,

---

[22] Pierre-Yves Gomez applied the Foucaultian perspective of the technologies of the self to the modern concept of the entrepreneur and worked out different forms of the "aesthetics of the entrepreneur" (Gomez 2005).

household, insurance, and retirement – must make him into a sort of permanent and multiple enterprise. (Foucault 2008, 241)

Peter Miller and Nicolas Rose followed Foucault's perspective and also applied his theory to the analysis of modern economies and forms of governance.

> The self-regulating capacities of individuals are to be aligned with economic objectives through the kinds of loose and indirect mechanisms that we have described earlier: the capacities of language to translate between rationalities, programmes, technologies and self-regulatory techniques, and the particular persuasive role of expertise. Significantly, these programmes do not merely seek to instrumentalize the aspirations of workers, but also seek to act upon the selves of managers. There is no opposition between the modes of self-presentation required of the manager and the ethics of the personal self, indeed becoming a better manager is to become a better self, and innumerable training courses and seminars operate in these terms. The values of self-realization, the skills of self-presentation, self-direction and self-management are both personally seductive and economically desirable. (Miller and Rose 1990, 26-27)

For some years now societies have been inventing technologies of the self as technologies of self-quantification and self-optimizing, which could be studied in more elaborate ways by combining Thévenot's and Foucault's concepts. Also, questions as how to relate these regimes of engagement and technologies of the self to conventions and orders of justification will be important to understand the plurality of ways in which economies include and mobilize individuals as consumers, employees, evaluators, etc.

6.   Discourse and Discourse Analysis

Economy (and also economics) has a discursive reality – in fact it is in important parts "discursive" itself. Without discourses economies would not be possible and would not exist (Diaz-Bone and Krell 2015; Miller and Rose 1990). The approach of convention theory on economic coordination nowadays is known for its analysis of the social construction of quality and worth (Storper and Salais 1997; Boltanski and Thévenot 2006). Critique and justification are core mechanisms, which actors bring in situations in which quality and worth are questioned, needed to be measured, identified, readjusted, or defended. It is evident that the practices of critique and justification are discursive in nature, i.e. they consist of discursive strategies, rely on discourse elements and maneuvers in discursive orders. In some projects, convention theorists have applied conceptual and methodological tools to access the discursive reality of coordination and of the construction of quality and worth. There are conventionalist applications of quantitative linguistic procedures by Marchal and Remillion

(2012) or Bessis and Remillion (2012).[23] Boltanski and Chiapello (2005) used coding software to identify the quantitative distribution of categories that are linked to different orders of justifications.[24] There are some more studies that analyze texts to identify (quality) conventions and orders of justification as discursive structures.[25] However, still the majority of EC's analyses of texts are not based on an elaborated methodology that translates convention theorists' thinking into a coherent way of identifying conventions/orders of justification in discourse.

Although Bessy and Favereau (2003; Bessy 2017) claimed language and discourses to be foundational institutions for economy (as law), EC has been reluctant to integrate discourse analytic concepts and discourse analytic methodologies. One could assume that the pragmatist reorientation within the new French social sciences – to which EC belongs – has caused skepticism against discourse analysis, because in France discourse analysis was closely related to structuralism. A possible reason for EC's reservation could be its critique of structuralism, which is the objection that structuralism reduces economic coordination to language use. Even though some publications of Foucault contributed to the scientific movement of structuralism (Dosse 1998a, 1998b), this categorization can present a wrong picture of Foucault's contributions. From his early books on, Foucault combined the historical analysis of the institutional field, its organization and its related discourses – as in his early analysis of the medical field (Foucault 1975). To separate parts of his work where he studies discourses from other parts where he includes historical change, institutional structures and material dispositives, misrecognizes Foucault's combination of structuralist and pragmatist methodology, integrating the analysis of discursive practices, non-discursive practices, techniques, architecture, and (other) materialities.[26]

Again, some Foucaultian concepts are close to concepts of EC or have influenced EC's theorizing. Foucault's theory offers a notion of deep structure and internal coherence of cultural practices, which is very close to the conviction of convention theorists that convention-based (economic) coordination is patterned by conventions and that the outcomes of convention-based coordination

---

[23] These studies applied the program ALCESTE to group words to clusters, which could be related to orders of justifications/quality conventions.

[24] In their study Boltanski and Chiapello applied the program PROSPERO, a lexicographical and interactive coding software, to relate categories to orders of justification.

[25] See for a sketch of discourse analytic influences in EC and for more references Diaz-Bone (2018, chap. 11.5).

[26] An influential example for this misleading reception of Foucault's body of work is the introduction written by Dreyfus and Rabinow (1983), who divided Foucault's work in two parts, the earlier marked by archaeology as methodological position and the later marked by genealogy. The argument is that Foucault's work in the first period was more structuralist, while his work in the second period integrated the socio-dynamic and historical change.

are patterned in the same way. Therefore, one must be aware that the concept of convention itself can still be regarded as a structuralist concept.

> […] there is nothing more tentative, nothing more empirical (superficially, at least) than the process of establishing an order among things; […] in fact, there is no similitude and no distinction, even for the wholly untrained perception, that is not the result of a precise operation and of the application of a preliminary criterion. A "system of elements" – a definition of the segments by which the resemblances and differences can be shown, the types of variation by which those segments can be affected, and, lastly, the threshold above which there is a difference and below which there is a similitude – is indispensable for the establishment of even the simplest form of order. Order is, at one and the same time, that which is given in things as their inner law, the hidden network that determines the way they confront one another, and also that which has no existence except in the grid created by a glance, an examination, a language; and it is only in the blank spaces of this grid that order manifests itself in depth as though already there, waiting in silence for the moment of its expression. […] The fundamental codes of a culture – those governing its language, its schemas of perception, its exchanges, its techniques, its values, the hierarchy of its practices – establish for every man, from the very first, the empirical orders with which he will be dealing and within which he will be at home. (Foucault 1989, xxi-xxii)

Foucault condensed this perspective with his notion of episteme, which is not to be confused with the idea of (scientific) knowledge, but must be understood as the deeper pattern of collective knowledge and cognition in an epoch, field, or area (see section 3). The consequence is that an episteme also articulates itself as deeper structure of the corresponding discourses. For EC, the analysis of statistical classifications has been one of its foundational moments (Diaz-Bone 2018).[27] Classifications cannot be built out of logical considerations alone, nor can they be built out of empirical data alone (Desrosières and Thévenot 1979). Instead, as Foucault (1989) argued, an episteme as a deeper structure is needed as architectural principle for the classification. Desrosières has called this principle later on the "conventions of equivalence" (Desrosières 1998; Diaz-Bone 2017a). The episteme and the principle of convention are similar in regard to organizing categories and classifications. Categories and classifications are the infrastructure for founding quality and worth as well as the infrastructure for related practices as valorizing. Despite these parallels, Foucaultian discourse analysis could advance convention theory's research in different ways. Foucault's model of discourse is neither a formal grammar, nor a textual structure or a narrative. A discourse is a supra-individual form of practice, generating the meaning of words, the conceptualization of objects, the modes how to participate as speaker and the thinkable strategies. As EC does,

---

[27] See for one of the first explicit references of convention theory to the Foucaultian analysis of episteme Desrosières and Thévenot (1979).

Foucaultian discourse analysis regards meaning not as the intended product of an individual subject's will, but as outcome of a collective social process in situations. Contrary to EC, which starts with capable actors, coordinating in situations, Foucault regarded a discourse as a unity of its own, as a regulated and in this way institutionalized form of supra-individual practice.

> We sought the unity of discourse in the objects themselves, in their distribu-tion, in the interplay of their differences, in their proximity or distance – in short, in what is given to the speaking subject; and, in the end, we are sent back to a setting-up of relations that characterizes discursive practice itself; and what we discover is neither a configuration, nor a form, but a group of *rules* that are immanent in a practice, and define it in its specificity. (Foucault 1989, 51; emphasis in original)

The interesting potential, brought in by the Foucaultian discourse model is the approach to study the rules that form the more detailed strategies (as critique and justification), influential speakers' positions, the mobilization of meanings and the way objects are set in relation to each other (classified and valorized). So far, EC (a) grasps the articulation of conventions as deeper structure apply-ing formal methodologies, whose results are interpreted qualitatively and ex post or (b) applies a kind of ad hoc interpretation of textual data and infers from it to underlying conventions. Instead, Foucaultian discourse analysis reconstructs first the set of discursive practices and then reconstructs conven-tions as principles of the coherence of these rules. Engaging the discourse analytic approach (in comparison to only applying the epistemic concept) bridges the gap of EC, which has a model of deeper structures (orders of justi-fication, quality conventions, conventions of equivalence), but lacks appropri-ate intermediary concepts and a related methodological approach to analyze in detail how these deeper structures interrelate with discursive practices and discourse elements. Foucault intended to extend the analysis of discursive practices to the realm of non-discursive practices. For him, discourse analysis

> […] also reveals relations between discursive formations and non-discursive domains (institutions, political events, economic practices and processes). These rapprochements are not intended to uncover great cultural continuities, nor to isolate mechanisms of causality. […] it tries to determine how the rules of formation that govern it – and which characterize the positivity to which it belongs – may be linked to non-discursive systems: it seeks to define specific forms of articulation. (Foucault 1989, 179-180)[28]

It is this connection to non-discursive domains and non-discursive practices which opens a new way for EC to the analysis of power effects, exerted by discourses and reaching out to other realms. But there are obstacles when com-bining EC with Foucaultian discourse analysis. For Foucault, discourses are

---

[28] In his book, Foucault (1989) has named his methodology "archaeology", but it became famous as (a version of) discourse analysis.

unities and entities on their own (Foucault 1989), while EC sees convention-based coordination processes in situations as realities empirical analysis has to start with and as units of analysis.[29] A conventionalist integration of elements of Foucault's model of discourse has to analyze discourses as embedded in situations and structured by conventions (as deeper structures) and influenced by effects, which overarch situations, as the interventions of intermediaries, and the impact of dispositives and (cognitive) forms. In fact, not only theory (integrating concepts in a coherent way), but also methodology (integrating research practices into a coherent methodology) is another platform for the integration of Foucaultian discourse analysis in empirical approaches of EC. Once again, one can find a similar approach to historical analysis and explanation. In his historical studies of the dynamics of discourses and institutions, Foucault has refused to think in terms of external causes to historical developments. Instead, he proposed to focus on the dynamic interrelation of struggles and strategies, in which different discourses (knowledge) are involved. He called this methodological perspective "genealogy", which avoids the reduction of historical analysis to the analysis of meanings, signifying structure, or discourse alone.

> The problem is at once to distinguish among events, to differentiate the networks and levels to which they belong, and to reconstitute the lines along which they are connected and engender one another. From this follows a refusal of analyses couched in terms of the symbolic field or the domain of signifying structures, and a recourse to analyses in terms of the genealogy of relations of force, strategic developments, and tactics. Here, I believe one's point of reference should not be to the great model of language (langue) and signs, but to that of war and battle. (Foucault 1980c, 114)

Power, critique, and resistance therefore are main driving forces in the explanation applied in Foucaultian historical studies. He avoided enumerating single causes as "motor" of historical dynamics, but examines powers, strategies, events and their relations. Some studies of EC have developed a similar methodology. The historical analysis of the emergence of the category of unemployment and the dynamics of labor institution is exemplary for EC (Salais et al. 1999). In their study, Salais, Baverez and Reynaud investigated how the new statistical category co-emerged together with new institutions and practices of industrial labor organization. The institutionalist explanation does not rely on simple driving forces for this transformation, but reconstructs the historical dynamic as co-construction. Both positions dismiss simple causal models, but also subjectivist, materialist, or culturalist explanations. Although in EC the

---

[29] Linked to this difference is the difference in the explanatory logic. EC is based on a methodological situationalism, while Foucaultian discourse analysis is based on a methodological holism. EC's methodological situationalism results in the rejection of a multi-level model of explanation (with a distinction of micro-level, meso-level and macro-level), see Thévenot (2001, 418).

concept of power is still marginal, the explanatory strategy of Foucaultian studies and EC's analysis have important elements in common, because they explain historical change and the emergence of new phenomena out of interrelations of entities and processes.

7.   Perspectives

EC as part of the new French social sciences (Corcuff 2011) emerged as scientific countermovement against the tradition of French structuralism, which was prevailing in the humanities and the social sciences. Although EC entails structuralist elements (with the concept of convention itself) and presumably structuralist theories, in the same way as the Foucaultian body of work entails pragmatist elements (as the concept of discursive practice), EC has mostly been reluctant to integrate Foucaultian concepts. This contribution argues not simply for a comparison of EC and Foucault's theory, but for an appreciation of some of Foucault's contributions to compensate deficits or to enhance the approach of EC. As shown, EC has already started to inspect and to integrate some Foucaultian perspectives (section 3). Convention theory is not a paradigm or scientific school, it should be conceived as a scientific movement open to conceptual integrations of other approaches (while respecting aspects of theoretical and methodological coherence, as argued in section 6). In France, EC sometimes is combined with positions of regulation theory (Boyer and Saillard 2005). Regulation theory – despite its problems, because of its marxist beginnings – still keeps the state-centered perspective and has kept a solely macro-economic approach, which both EC and Foucault resolved.[30] But the contributions to the socio-historical dynamics of institutional fields presented by Foucault (1965, 1973, 1995) and his lectures on political economy and the history of governmentality, especially with the important genealogy of neoliberalism (Foucault 2007a, 2008), should make convention theorists consider the work of Foucault as a true "ally" and possibly a superior alternative to regulation theory. In Germany, EC is sometimes combined with positions of Bourdieu's sociology, for example to analyze segments of social fields with the concept of quality conventions (Diaz-Bone 2018). Again, the combination of convention theory and Foucaultian discourse analysis offers a perspective for an improvement of the analysis of social fields. Especially Foucaultian discourse analysis should be regarded as a candidate, to be developed and applied in the theoretical frame of convention theory to elaborate EC's capacity to analyze conventions as deeper structures, and to examine the discursive microphysics of critique and justifica-

---

[30] For example, "accumulation regimes" in regulation theory could easily be reinterpreted as modes of governance from a Foucaultian perspective.

tion (in situations of coordination with tensions), but also of the social construction of quality and worth (in ordinary situations of coordination).

References

Bacon, Michael. 2012. *Pragmatism. An introduction*. Cambridge: Polity Press.

Batifoulier, Philippe, Franck Bessis, Ariane Ghirardello, Guillemette de Larquier and Delphine Remillon, eds. 2016. *Dictionnaire des conventions*. Villeneuve d'Ascq: Presses Universitaires du Septentrion.

Berman, Paul Schiff. 2009. The new plural legalism. *Annual Review of Law and Social Sciences* 5: 225-242.

Bessis, Franck, and Delphine Remillon. 2012. Déchiffrer l'économie au parlement. La place des arguments chiffrés dans les débats sur les semaines de 40 et 35 heures. *Mots* 100: 75-89.

Bessy, Christian. 2015. *L'organisation des activités des avocats: entre monopole et marché*. Paris: Lextenso Editions.

Bessy, Christian. 2017. Intermediäre, Konventionen und die Diskurse des Arbeitsmarktes. In *Dispositiv und Ökonomie. Diskurs- und dispositivanalytische Perspektiven auf Märkte und Organisationen*, ed. Rainer Diaz-Bone and Ronald Hartz, 113-132. Wiesbaden: Springer VS.

Bessy, Christian, and Francis Chateauraynaud. 2014. *Experts et faussaires. Pour une sociologie de la perception*, 2nd ed. Paris: Editions Pétra.

Bessy, Christian, and Olivier Favereau. 2003. Institutions et économie des conventions. *Cahiers d'économie politique* 44: 119-164.

Boisard, Pierre. 1991. The future of a tradition. Two ways of making camembert, the foremost cheese of France. *Food and Foodways* 4 (3/4): 173-207.

Boisard, Pierre, and Marie-Thérèse Letablier. 1987. Le camembert: normand ou normé. Deux modèles de production dans l'industrie fromagère. In *Entreprises et produits. Cahiers du Centre d'études de l'emploi* 30, ed. Eymard- François Duvernay, 1-29. Paris: Presses Universitaires de France.

Boltanski, Luc, and Eve Chiapello. 2005. *The new spirit of capitalism*. New York: Verso.

Boltanski, Luc, and Laurent Thévenot. 2006. *On justification. Economies of worth.* Princeton: Princeton University Press.

Boltanski, Luc, and Arnaud Esquerre. 2017. *Enrichissement. Une critique de la merchandise*. Paris: Gallimard.

Boltanski, Luc, and Arnaud Esquerre. 2018. *Bereicherung. Eine Kritik der Ware*. Berlin: Suhrkamp.

Bourdieu, Pierre. 1977. *Outline of a theory of practice*. Cambridge: Cambridge University Press.

Bourdieu, Pierre. 1990. *The logic of practice*. Stanford: Stanford University Press.

Boyer, Robert, and Yves Saillard, eds. 2005. *Regulation theory*. London: Routledge.

Corcuff, Philippe. 2011. *Les nouvelles sociologies. Entre le collectif et l'individuel*. 3rd ed. Paris: Armand Colin.

Desrosières, Alain. 1998. *The politics of large numbers. A history of statistical reasoning*. Cambridge: Harvard University Press.

Desrosières, Alain, and Laurent Thévenot. 1979. Les mots et les chiffres: les nomenclatures socioprofessionnelles. *Economie et statistique* 110: 49-65.

Diaz-Bone, Rainer. 2017a. Classifications, quantifications and quality conventions in markets – Perspectives of the economics of convention. *Historical Social Research* 42 (1): 238-262, doi: 10.12759/hsr.42.2017.1.238-262.

Diaz-Bone, Rainer. 2017b. Discourses, conventions, and critique – Perspectives of the institutionalist approach of the economics of convention. *Historical Social Research* 42 (3): 79-96, doi: 10.12759/hsr.42.2017.3.79-96.

Diaz-Bone, Rainer. 2017c. Dispositive der Ökonomie. Konventionentheoretische Perspektiven auf Institutionen und Instrumentierungen der ökonomischen Koordination. In *Dispositiv und Ökonomie. Diskurs- und dispositivanalytische Perspektiven auf Märkte und Organisationen*, ed. Rainer Diaz-Bone and Ronald Hartz, 83-111. Wiesbaden: Springer VS.

Diaz-Bone, Rainer. 2018. *Die „Economie des conventions". Grundlagen und Entwicklungen der neuen französischen Wirtschaftssoziologie*, 2nd ed. Wiesbaden: Springer VS.

Diaz-Bone, Rainer, and Robert Salais, eds. 2011. Conventions and institutions from a historical perspective (special issue). *Historical Social Research* 36 (4), <http://www.gesis.org/hsr/archiv/2011/364-conventions-institutions>.

Diaz-Bone, Rainer, and Robert Salais, eds. 2012. The Economie des Conventions – Transdisciplinary discussions and perspectives (HSR Focus). *Historical Social Research* 37 (4), <https://www.gesis.org/hsr/archiv/2012/374-the-economie-des-conventions>.

Diaz-Bone, Rainer, Claude Didry, and Robert Salais. 2015. Conventionalist's perspectives on the political economy of law. *Historical Social Research* 40 (1): 7-22, doi: 10.12759/hsr.40.2015.1.7-22.

Diaz-Bone, Rainer, and Gertraude Krell. 2015. Einleitung: Diskursforschung und Ökonomie. In *Diskurs und Ökonomie. Diskursanalytische Perspektiven auf Märkte und Organisationen*, ed. Rainer Diaz-Bone and Gertraude Krell, 2nd ed., 11-45. Wiesbaden: Springer VS.

Diaz-Bone, Rainer, Claude Didry, and Robert Salais, eds. 2015. Law and conventions from a historical perspective (special issue). *Historical Social Research* 40 (1), <https://www.gesis.org/hsr/archiv/2015/401-law-and-conventions>.

Diaz-Bone, Rainer, and Emmanuel Didier, eds. 2016. Conventions and quantification – Transdisciplinary perspectives on statistics and classifications (special issue). *Historical Social Research* 41 (2), <https://www.gesis.org/hsr/archiv/2016/412-conventions-and-quantification>.

Didry, Claude. 2002. *Naissance de la convention collective. Débats juridiques et luttes sociales en France au début du XXe siècle*. Paris: EHESS.

Dosse, François. 1998a. *History of structuralism. Vol. 1: The rising sign, 1945-1966.* Minneapolis: University of Minnesota Press.

Dosse, François. 1998b. *History of structuralism. Vol. 2: The sign sets, 1966-present*. Minneapolis: University of Minnesota Press.

Dosse, François. 1998c. *The empire of meaning. The Humanization of the Social Sciences*. Minneapolis: University of Minnesota Press.

Dreyfus, Hubert L., and Paul Rabinow. 1983. *Michel Foucault. Beyond structuralism and hermeneutics*, 2nd ed. Chicago: Chicago University Press.

Duve, Thomas. 2017. Was ist "Multinormativität"? – Einführende Bemerkungen. *Rechtsgeschichte – Legal History* 25: 88-101.

Eribon, Didier. 1991. *Michel Foucault*. Cambridge: Harvard University Press.

Eymard-Duvernay, François. 2012. Du chômage keynésien au chômage d'exclusion. In *Epreuves d'évaluation et chômage*, ed. François Eymard-Duvernay, 9-46. Toulouse: Octarès Editions.

Eymard-Duvernay, François, ed. 2006a. *L'économie des conventions. Méthodes et résultats. Vol. 1: Débats*. Paris: La Découverte.

Eymard-Duvernay, François, ed. 2006b. *L'économie des conventions. Méthodes et résultats. Vol. 2: Développements*. Paris: La Découverte.

Eymard-Duvernay, François, ed. 2012. *Epreuves d'évaluation et chômage*. Toulouse: Octarès Editions.

Favereau, Olivier. 1989. Marchés internes, marchés externes. *Revue économique* 40 (2): 273-328.

Favereau, Olivier. 1997. L'incomplétude n'est pas le problème, c'est la solution. In *Les limites de la rationalité. vol. 2: Les figures du collectif*, ed. Bénédicte Reynaud, 219-233. Paris: La Découverte.

Favereau, Olivier. 2014. *Entreprises. La grande déformation*. Paris: Collège des Bernardins.

Favereau, Olivier, and Emmanuel Lazega, eds. 2002. *Conventions and structures in economic organization. Markets, networks, hierarchies*. Cheltenham: Edward Elgar.

Favereau, Olivier, ed. 2010. *Les avocats, entre ordre professionnel et ordre marchand*. Paris: Lextenso Editions/Gazette du Paris.

Fornel, Michel de, and Albert Ogien, eds. 2011. *Bourdieu, théoricien de la pratique*. (Raisons pratiques 21). Paris: Editions de l'EHESS.

Foucault, Michel. 1973. *The birth of the clinic. An archaeology of medical perception*. London: Tavistock.

Foucault, Michel. 1965. *Madness and civilization. History of insanity in the age of reason*. New York: Random House.

Foucault, Michel. 1980a. Power and strategies. In *Power/knowledge. Selected interviews and other writings 1972-1977*, ed. Collin Gordon, 134-145. New York: Pantheon Books.

Foucault, Michel. 1980b. Two lectures. In *Power/knowledge. Selected interviews and other writings 1972-1977,* ed. Collin Gordon, 78-108. New York: Pantheon Books.

Foucault, Michel. 1980c. Truth and power. In *Power/knowledge. Selected interviews and other writings 1972-1977*, ed. Collin Gordon, 109-133. New York: Pantheon Books.

Foucault, Michel. 1985. *The history of sexuality. Vol. II: The use of pleasure*. New York: Random House.

Foucault, Michel. 1986. *The history of sexuality. Vol. III: The care of the self*. New York: Random House.

Foucault, Michel. 1988. Technologies of the self. In *Technologies of the self*, ed. Luther Martin, Huck Gutman and Patrick Hutton, 16-49. London: Tavistock.

Foucault, Michel. 1989. *The order of things. An archaeology of the human sciences.* London: Routledge.

Foucault, Michel. 1995. *Discipline and punish. The birth of the prison*. New York: Vintage Books.

Foucault, Michel. 2000. Truth and juridical forms. In *Michel Foucault – Power*, ed. James D. Faubion, 1-89. London: Penguin Books.

Foucault, Michel. 2006. *History of madness*. London: Routledge.

Foucault, Michel. 2007a. *Security, Territory, Population. Lectures at the Collège de France, 1977-1978*. Basingstoke: Palgrave Macmillan.

Foucault, Michel. 2007b. What is critique? In *The politics of truth*, ed. Sylvère Lothringer, 41-81. Los Angeles: Semiotext(e).

Foucault, Michel. 2008. *The birth of biopolitics. Lectures at the Collège de France, 1978-1979*. Basingstoke: Palgrave Macmillan.

Foucault, Michel. 2010. *The government of the self and others. Lectures at the Collège de France, 1982-1983*. Basingstoke: Palgrave Macmillan.

Golder, Ben, ed. 2013. *Re-reading Foucault: on law, power and rights*. Abingdon: Routledge.

Golder, Ben, and Peter Fitzpatrick. 2009. *Foucault's law*. Abingdon: Routledge.

Golder, Ben, and Peter Fitzpatrick, eds. 2010. *Foucault and law*. Farnham: Ashgate.

Gomez, Pierre-Yves. 1994. *Qualité et théorie des conventions*. Paris: Economica.

Gomez, Pierre-Yves. 1996. *Le gouvernement de l'entreprise. Modèles économiques de l'entreprise et pratiques de gestion*. Paris: InterEditions.

Gomez, Pierre-Yves. 2005. Une esthétique de l'entrepreneur. In *Gouvernement, organization et gestion. L'héritage de Michel Foucault*, ed. Armand Hatchuel, Eric Pezet, Ken Starkey and Olivier Lenay, 253-272. Saint-Nicolas (Quebec): Les Presses de l'Université de Laval.

Gomez, Pierre-Yves, and Brittany C. Jones. 2000. Conventions: An interpretation of deep structure in organizations. *Organization Science* 11 (6): 696-708.

Hatchuel, Armand, Eric Pezet, Ken Starkey, and Olivier Lenay, eds. 2005. *Gouvernement, organization et gestion. L'héritage de Michel Foucault*. Saint-Nicolas (Quebec): Les Presses de l'Université de Laval.

Hunt, Alan, and Gary Wickham. 1994. *Foucault and law. Towards a sociology of law as governance*. London: Pluto Press.

Keynes, John M. 1936. *The general theory of employment, interest and money*. London: Macmillan.

Lahire, Bernard. 2011. *The plural actor*. London: Polity Press.

Laval, Christian. 2018. *Foucault, Bourdieu et la question néolibérale*. Paris: La Découverte.

Lewis, David. 1969. *Convention. A philosophical study*. Cambridge: Harvard University Press.

Marchal, Emmanuelle, and Delphine Remillon. 2012. La recherche d'emploi façonnée par la pluralité des modes de valorisation du travail. In *Epreuves d'évaluation et chômage*, ed. Eymard- François Duvernay, 79-105. Toulouse: Octarès Editions.

Merry, Sally Engle. 1988. Legal pluralism. *Law and Society Review* 22 (5): 869-896.

Miller, Peter, and Nicolas Rose. 1990. Governing economic life. *Economy and Society* 19 (1):1-31.

Nachi, Mohamed. 2006. *Introduction à la sociologie pragmatique*. Paris: Armand Colin.

Orléan, André, ed. 2004. *Analyse économique des conventions,* 2nd ed. Paris: Presses Universitaires de France.

Raffnsøe, Sverre, Marius Gudmund-Hoyer, and Morten S. Thaning. 2016. Foucault's dispositive. The perspicacity of dispositive analytics in organizational research. *Organization* 23 (2): 272-298.

Salais, Robert, Nicolas Baverez, and Bénédicte Reynaud. 1999. *L'invention du chômage. Histoire et transformations d'une catégorie en France des années 1890 aux années 1980*, 2nd ed. Paris: Presses Universitaires de France.

Salais, Robert, and Laurent Thévenot, eds. 1986. *Le travail. Marchés, règles, conventions*. Paris: Economica.

Storper, Michael, and Robert Salais. 1997. *Worlds of production. The action frameworks of the economy*. Cambridge: Harvard University Press.

Thévenot, Laurent. 1992. Jugements ordinaires et jugement du droit. *Annales* 47 (6): 1279-1299.

Thévenot, Laurent. 2001. Organized complexity. Conventions of coordination and the composition of economic arrangement. *European Journal of Social Theory* 4 (4): 405-425.

Thévenot, Laurent. 2006. *L'action au pluriel. Sociologie des régimes d'engagement.* Paris: La Découverte.

Thévenot, Laurent. 2014. Voicing concern and difference: From public spaces to commonplaces. *European Journal of Cultural and Political Sociology* 1 (1): 7-34.

Thévenot, Laurent. 2016. Pouvoir. Le pouvoir des conventions. In *Dictionnaire des conventions*, ed. Philippe Batifoulier, Franck Bessis, Ariane Ghirardello, Guillemette de Larquier and Delphine Remillon, 203-207. Villeneuve d'Ascq: Presses Universitaires du Septentrion.

Turkel, Gerald. 1990. Michel Foucault: Law, Power, and Knowledge. *Journal of Law and Society* 17 (2): 170-193.

Vallois, Nicolas. 2015. Michel Foucault and the history of economic thought. *Oeconomica* 5 (4): 461-490.

Weber, Max. 1978. *Economy and society,* 2 vols. Berkeley: University of California Press.