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'the State' within Edinburgh's Sheriff and Justice of
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'Thus, we normally infer the existence of power in a wide variety of situations in which some men appear to obey, willingly or unwillingly, the wishes of others'

(Anderson, 1990: 21).

Postponing the excursion until the last possible opportunity, the day loomed to embark upon the short journey towards Edinburgh's Sheriff Court, just a moments' walk away. Edging closer to the entrance of the Court on that particularly blustery autumnal morning, a sense of separation from my everyday reality gradually amplified, as I opened the ominous steel doors which separated me from this unknown world. As my assigned ethnographic fieldsite for the day, I nervously reached for my dishevelled notebook with 'ethnography' scribbled on the front. This pink leather notebook held vast amounts of perceivably random information, taking the form of messy scribbles, diagrams and thought-provoking quotes. Now entering my fourth and final year at University, this particular notebook had seen a lot of action, whilst the prospect of undertaking ethnography had become somewhat less daunting and more accustomed. However, as I walked through the exaggerated archway of Edinburgh's Sheriff Court, the rigidity and unfamiliarity of the space immediately washed over me. With no option but to persevere and carry on with the assigned ethnographic task, I shuffled forward into the enormity of Edinburgh's Sheriff Court.

My assigned task was to produce an ethnographically informed short essay, focused on how the power of the state is performed in society. After doing some brief anthropological research, it became clear how the concepts of 'power' and 'the state' remained relatively vague. As explored in the work of anthropologists such as; Radcliffe-Brown, Fortes and Evans-Pritchard in predominately the 1940s, debates have continued into the foundational origins and visibility of power in society. As questions surrounding the power of 'the state' have succumbed to anthropological and philosophical scrutiny, anthropologists have propositioned whether we can truly pinpoint 'the state' in a contemporary society.

Furthermore, as Radcliffe-Brown (1940) denotes; 'the State, in this sense, does not exist in the phenomenal world; it is a fiction of the philosophers' (Radcliffe-Brown, 1940 in Fortes et al., 1940: 23). Furthermore, as anthropology of the state remains underpinned by vast ethnographical

complexities of location, scale, variability and access, conceptualising 'the state' and 'power' remains contested within contemporary anthropology.

Through an original ethnographic analysis into how the state may perform power in society, this short essay will revolve around observations from Edinburgh's Sheriff Court, as an environment of state presence and intrinsically-curated spectacles of power. Therefore, this short piece will seek to delve deeper into anthropological understandings of power in society. Arising from my field notes of entering the grand Court building, to observing a trial in a courtroom, this ethnographic excerpt will begin to collate first-hand perceptions towards existing anthropological understandings of power, the state and society and perhaps, ourselves. Therefore, through ethnographic observations of The Sheriff and Justice of the Peace Court of Edinburgh, questions arise into how we may truly comprehend power in our society, and whether the argued ubiquity of power may be enriched, or contested, in the anthropological imagination.

Standing nervously behind the heavy doors of the Court, a member of staff quickly caught my muddled gaze as he steered me forwards towards the hum of the reception desk. Immediately, I began to declare what I was in fact doing there;

"Hi, ummm... So, I'm a student from the University of Edinburgh wondering if I can observe a case today and make some notes for an assignment I'm doing? If that's ok?" I muttered.

The woman at the reception desk nodded at me with a brief reply; "Yep, security is just on your right there".

Instantly, a member of staff ushered me through security, as the overwhelming scale and superiority of the building directly struck me, echoed within the high majestic ceilings and tall pillars of the building's structure. Directed by another member of staff, I proceeded to pass down the marble stairs towards the smaller individual courtrooms, taking a last glimpse of the familiar bustle of the street outside. As a theoretical theme of contextualising the power of the state in society, anthropologists such as Rock (1991) have proposed an evident spatial separation of the Court and the everyday, as he illustrates; 'the doors mark a frontier between a private, sober inside and a wilder outside, between the orderliness of the trial and the disorderliness of the lobbies, between the sphere of the civilian and that of the professional' (Rock, 1991: 274). As an ethnographer, this sense of separation reflected by Rock (1991) became immediately ostensible, as I reached the downstairs foyer adjacent to the row of courtrooms.

Arriving at my designated waiting area of courtroom three, I noticed other members of the public, dressed in a similar 'smart-casual' fashion, as lawyers and official members of staff walked by in their freshly-pressed dresses, suits and uniforms. We sat in a silent row in anticipation for the trial to commence, the jurors next to me appeared confident and accustomed to the Court setting, and I continued to scribble down some brief drawings and paraphrases into my notebook. Having only made the purpose of my excursion known to the security and reception staff at the entrance, the jurors greeted me with more of a puzzled and suspicious stare towards me and my notebook. As we sat there silently and stern for the next ten minutes or so, I felt an overwhelming urge to actively 'blend-in' with the jurors' controlled and poised body language. As the phrase of 'ubiquitous power' and the works of Foucault filled my thoughts from a lecture earlier that morning, I began to consider how the apparent power of the state may have already become interwoven and performed throughout Edinburgh's Sheriff Court.

Theoretically, as a fundamental contribution to the anthropological exploration of power and society, Michel Foucault (1977) offers a wealth of insight into how the state may perform and enforce power. Principally concerned within prisons, 'Discipline and Punish' (1977), focuses upon a theory of 'disciplines', as a 'political economy of detail' (Foucault, 1977: 139), in which 'the human body was entering a machinery of power that explores it, breaks it down and rearranges it' (Foucault, 1977: 137). Accordingly, Foucault (1977) primarily argues the importance of the ubiquitous nature of power, in that it is not individual, nor instrumental, as power surrounds and produces reality, as he states; 'power is everywhere: not because it embraces everything, but because it comes from everywhere.... Power is not an institution, nor a structure, nor a possession. It is the name we give to a complex strategic situation in a particular society' (Foucault, 1977: 93).

With the arguable ubiquity of power and Foucault (1977) ringing in my ears, it was time to enter the courtroom. In an attempt to appear more presentable and feasibly respectful, I found myself uncurling my clothing and flattening my windswept hair, as I hurriedly found a seat amongst the rest of the jurors. It was the first time I had found myself inside a courtroom, and naturally thoughts and doubts quickly raced through my imagination; "is this the right courtroom? Am I definitely allowed to be in here? Am I allowed to take these notes? Is that police-officer looking at me strangely, or is that just me?"

Conceitedly holding the door, a smartly dressed member of staff announced "All rise", as the judge slowly entered the room and took to his chair, overlooking the spatial entirety of the room. In front of the public seating area where I sat, a bulky circular wooden structure separated the room, connected above by large glass panes, permitting the legal activities of the centre of the room to be

excessively framed towards the jurors. Fixated and silenced beside me, other members of the public and a uniformed police officer gazed into the movement beyond the glass, as security personnel manned the border between us and the territory of lawyers, the accused and the judge. Almost immediately, the unavoidability of a spatial and symbolic divide between the public and legal process in the room became clear, a theme in which anthropologist Mitchell (1991) emphasises; 'one characteristic of the modern state, for example is the frontier, by establishing a territorial boundary and exercising absolute control over the movement across it, state practices define and help constitute a national entity' (Mitchell, 1991: 94). Furthermore, anthropologists such as Mitchell (1991) have repeatedly described the use of boundaries within a Court setting as the 'mastermetaphor', as 'the distinction between persuading and coercing' (Mitchell, 1991: 545).

Therefore, for Mitchell (1991), this physical and psychological distinction of power introduces 'the notion of internal autonomy of consciousness' (1991: 545), which begins to translate the ways individuals may conceptualise power and cohesion. Ethnographically, the Courtroom acted as a spectacle of opposing frontiers - between lawyers versus the jurors, the state versus the public and following Mitchell's (1990) narrative; the materiality of power versus the psychological. However, as Mitchell's (1990) work seeks to convey the spatial performance of power in the Court, questions circulate back to whether we may define power as truly ubiquitous. As the trial continued, the spatiality and layout of the courtroom continued to provide evidence into how the state may enforce and perform power, as 'the symbolic, moral, and functional divisions of the court are there mirrored perfectly by its material structure' (Rock, 1991: 275).

As I observed the trial unfolding, the communication between the lawyer and the accused, to the right of the room, remained in a precise, repetitive and formal tone. The lawyers examined the woman about the proceedings of a specific drunken evening, in which she had been accused of assault. The woman - who had opened her responses in a self-assured and clear tone, gradually became less reactive and inert - as the lawyers depicted every detail of the evening in question. Consequently, I began to question whether the court's performance of power had begun to dominate the individual, characterised within the accused woman.

Through these routinized methods of language, metaphorical barriers, security and spatiality of the Courtroom, ritualised performances of power had become an ethnographic spectacle, as Wedeen (2003) analyses; 'if spectacles operate to teach or signal the reality of the regime's domination, they are also strikingly visible instances of that domination and of its precariousness. Spectacles provide the occasions for regimes to mobilize citizens to enact the conditions of their membership and to exaggerate the existence of their state-like qualities' (Wedeen, 2003: 708). Furthermore, Rock (1991)

elaborates that a binary opposite is conceivably shaped within this moment of accusation and interaction between the state and the individual, as he suggests; 'emotionality is built into the very construction, indeed, it is demanded by the professionals who have dealings with them' (Rock, 1991: 267-8).

As the accused woman proceeded to become more erratic and unsettled in her responses, the team of lawyers in the centre of the room appeared more self-righteous as they continued with their questioning. Furthermore, as the performance and spatiality of power within the courtroom had dominated my ethnographic fieldnotes, it was at this moment I began to consider resistance and individuality in the force of the power of the state. In conversation of the subjectivity of power, anthropologists such as Ortner (1995) have effectively begun to illustrate our human consciousness to power, as she states; 'the question of the relationship of the individual person or subject to domination carries the resistance problematic to the level of consciousness, subjectivity, intentionality and identity' (Ortner, 1995: 183).

As the trial came to an end for the day, the accused woman was hand-cuffed and taken through a small door by an entourage of security personnel, as the lawyers bundled up their documents and chatted in a more informal tone. The other jurors and I began to exit the room shortly after and followed the grand staircase back to the entrance foyer. Immediately, I felt an overall sense of relief to leave the formalities and rigidity of the trial, yet a sense of contemplation and anticipation of making some sort of analytical sense of my afternoon remained. As I took the short walk back to the University Library, I began to question; how could I bring together these unique ethnographic observations towards an anthropological outlook of the power of the state? Was the power of the state as "ubiquitous" as Foucault (1977) had famously declared? Was 'power' a production of reality? Or, rather could power reside in more material spectacle of the Court? As I took to my usual seat overlooking the Meadows on the Library's Second Floor, I began to untangle my observational notes from my experience of Edinburgh's Sheriff Court.

To conclude, this piece from my experience at Edinburgh's Sheriff Court has sought to address how the power of the state is enforced and performed in an anthropological analysis. Through entering the enormity of the building to the spatial barriers of the courtroom, my ethnography has sought to highlight how Edinburgh's Sheriff Court may recreate a frontier of power both spatially and metaphorically. Fundamentally, the power of the state is therefore portrayed and enforced through these intricate performances of distinction and physical barriers within the courtroom, allowing 'the state' to present itself as an external force, yet intrinsically part of, individualised behaviours which permeate society. However, it is within this contextual analysis of power which divides the

anthropological imagination, as Mitchell (1990) remains to clarify 'power' as; 'an external process that can coerce the behaviour of the body without necessarily penetrating and controlling the mind' (Mitchell, 545: 1990). As this exploration began with a title questioning the ubiquity of power in Edinburgh's Sheriff Court, Foucault's (1977) pursuit of understanding power becomes an intrinsically vital piece of this anthropological puzzle. Centrally, as my ethnography explored how the environment of the Court may coerce behaviours and symbolic distinctions towards a certain narrative of power as Mitchell (1990) argued, the work of Foucault (1977) emphasises a more pervasive and consuming understanding of power. Whilst an anthropological analysis of Edinburgh's Sheriff Court allows us to question the hidden forces which permeate our society, in Foucault's (1977) perspective, a more nuanced analysis of the power of the state begins to illuminate how power trickles through our society, ultimately reaching the individual, constructing our own everyday realities.

'Power produces; it produces reality; it produces domains of objects and rituals of truths' (Foucault, 1977: 194).

Bibliography

Anderson, B (1990) 'The Idea of Power in Javanese Culture'. Chp 1 in B. Anderson Language and Power: Exploring Political Cultures in Indonesia. Ithaca: Cornell University Press, pp. 17-77.

Evans-Pritchard, E.E. (1940) [2002] 'Nuer Politics: Structure and System' In Vincent, J. The Anthropology of Politics: a reader in ethnography, theory and critique. Oxford: WileyBlackwell. Pp. 34-38.

Fortes, Meyer & Evans-Pritchard, E.E. (1940) 'African Political Systems' London: Humphrey Milford.

Foucault, Michel, (1977) 'Discipline and Punish: The Birth of the Prison' Harmondsworth: Penguin.

Mitchell, T. (1990). 'Everyday Metaphors of Power.' Theory and Society 19(5): 545-77.

Mitchell, T. (1991) 'The Limits of the State: Beyond Statist Approaches and their Critics' American Political Science Review. 85(1): 77-96.

Ortner, S. (1995). 'Resistance and the Problem of Ethnographic Refusal' Comparative Studies in Society and History 37(1): 173-93.

Rock, P. (1991). 'Witnesses and Space in a Crown Court.' British Journal of Criminology. 31(3): 266-279.

Wedeen, L. (2003). 'Seeing like a Citizen, Acting like a State: Exemplary Events in Unified Yemen.' Comparative Studies in Society and History 45(4): 680-713.