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FOUCAULT

A Very Short Introduction

Chapter 8
Crime and punishment

The power to punish is not essentially different from that of curing or educating.

On 5 January 1757, Robert Damiens, 42 years old and a former soldier in the French army, rushed up to Louis XV with a knife and inflicted a light wound. He surrendered without a struggle and claimed that he had only intended to frighten, not kill, the king. Nonetheless, he was found guilty of regicide (indeed, parricide, since the king was the father of his people) and executed less than two months later. The execution was public, with a large crowd attending, and spectacularly brutal. Foucault opens *Discipline and Punish* with excruciating details, taken from eyewitness accounts, of how Damiens was drawn and quartered. Without stopping to comment on the horrifying text, he abruptly switches to another document, from 1837, just 80 years later, which states the rules for a detention centre for young offenders in Paris: 'The prisoner's day will begin at six in the morning in winter and five in the summer. They will work for nine hours a day throughout the year. Two hours a day will be devoted to instruction. Work and the day will end at nine o'clock in winter and at eight in the summer' (cited in DP, 6). After citing this and 11 similar rules, Foucault finally ventures a comment: 'We have, then, a public execution and a time-table' (DP, 7).

Two exemplary modes of punishment: the first occurred late enough in the Enlightenment to attract considerable criticism, but it typified the punishment of criminals in Europe until about the middle of the 18th century; the second represented the new, 'gentler' way of punishment, the product, it would seem, of a more civilized, more humane approach to punishment. On Foucault's account, this second stage eventually led to the full-blown modern system of what he calls 'discipline'.

Is the new idea – roughly, to imprison rather than to torture – the enlightened, progressive development it thinks it is? Foucault has his doubts, suggesting that the point was 'not to punish less, but to punish better' (DP, 82).

He begins by outlining the contrasts between modern and premodern approaches. There are four major transitions:

(1) punishment is no longer a public display, a spectacular demonstration to all of the sovereign's irresistible *force majeure*, but rather a discrete, almost embarrassed application of constraints needed to preserve public order.

(2) What is punished is no longer the crime but the criminal, the concern of the law being not so much what criminals have done as what (environment, heredity, parental actions) has led them to do it.

(3) Those who determine the precise nature and duration of the punishment are no longer the judges who impose penalties in conformity with the law, but the 'experts' (psychiatrists, social workers, parole boards) who decide how to implement indeterminate judicial sentences.

(4) The avowed purpose of punishment is no longer retribution (either to deter others or for the sake of pure justice) but the reform and rehabilitation of the criminal.

Foucault does not deny that no longer ripping criminals apart is an advance. But the darker converse of the 'gentler' way is its penchant

for total control. On one level, this is signalled by a switch from brutal, but unfocused, physical punishment to less painful but more intrusive psychological control. Premodern punishment violently assaults the criminal body, but is satisfied with retribution through pain; modern punishment demands an inner transformation, a conversion of the heart to a new way of life. But this modern control of the soul is itself a means to a more subtle and pervasive control of the body, since the point of changing psychological attitudes and tendencies is to control bodily behaviour. As Foucault puts it, for the modern age, 'the soul is the prison of the body' (DP, 30).

The most striking thesis of *Discipline and Punish* is that the disciplinary techniques introduced for criminals become the model for other modern sites of control (schools, hospitals, factories, etc.), so that prison discipline pervades all of modern society. We live, Foucault says, in a 'carceral archipelago' (DP, 298).

So, for example, the distinctive features of modern disciplinary control are apparent in the new approach to military training, the training designed to make ordinary people willing and able to kill the enemy. Premodern training centred on finding good material to begin with: men who had strength, good bearing, natural courage, etc. and then motivating them in a general way through pride and fear. But modern soldiers are produced through intense and specialized training, even if they are not initially especially fit. Boot camp 'makes' you a soldier. It's not a matter of the natural attractiveness of a model or an actor; the point is not to look like a soldier but to actually be a soldier – something that requires systematic training.

Disciplinary training is distinctive first because it operates not by direct control of the body as a whole but by detailed control of specific parts of the body. To teach soldiers to care for and shoot a rifle, we break the process down into an ordered succession of precise steps. It's not just a matter of showing them the entire operation and saying 'Do it like this.' The focus is not merely on the results to be

achieved, of seeing that, one way or another, the soldier does what we desire. The point is rather to achieve the results through a specific set of procedures. We don't just want you to shoot the gun at the enemy; we want you to hold it just this way, raise it to your shoulder this way, sight down the barrel this way, pull the trigger this way. In short, it's a matter of micro-management. Foucault sums up the modern approach to discipline by saying that it aims at producing 'docile bodies': bodies that not only do what we want but do it precisely in the way that we want (DP, 138).

Docile bodies are produced through three distinctively modern means. *Hierarchical observation* is based on the obvious fact that we can control what people do merely by observing them. The watchtowers along city walls are a classic example. But modern power has raised the technique to a new level. Previously, architecture was an expression of the privileged status of those in power, either to display their magnificence ('the ostentation of palaces') or to give them a vantage point to overlook their subjects or enemies ('the geometry of fortresses') (DP, 172). But modern architecture builds structures that fulfill the functional needs of ordinary people and at the same time 'render visible those who are inside'. So, for example, the tiered rows of seats in a lecture hall, or well-lit classrooms with large windows and wide aisles, not only facilitate learning; they also make it extremely easy for teachers to see what everyone is doing . Similar techniques are at work in hospital rooms, military barracks, and factory work floors, all examples of 'an architecture that would operate to transform individuals: to act on those it shelters, to provide a hold on their conduct, . . . to make it possible to know them, to alter them' (DP, 172).

For Foucault, the ideal architectural form of modern disciplinary power is Jeremy Bentham's Panopticon, a proposal for maximizing control of prisoners with a minimal staff. Although prisons approximating the Panopticon were not built until the 20th century, its principle has come to pervade modern society. In the

11. Panoptic prison design, Illinois State Penitentiary, 1954

Panopticon each inmate is in a separate cell, separated from and invisible to all the others. Further, the cells are distributed in a circle around a central tower from which a monitor can look into any cell at any given time. The principle of control is not the fact but the possibility of observation. The monitor will actually look into a given cell only occasionally. But the inmates have no way of knowing when these occasions will arise and so must always assume that they are being observed. The result is that we 'induce in the inmate a state of consciousness and permanent visibility that assures the automatic functioning of power' (DP, 201).

A second distinctive feature of modern disciplinary control is its concern with *normalizing judgment*. Individuals are judged not by the intrinsic rightness or wrongness of their acts but by where their actions place them on a ranked scale that compares them to everyone else. Children must not simply learn to read but must be in the 50th percentile of their reading group. A restaurant must not merely provide good food but be one of the top ten establishments in the city. This idea of normalization is pervasive in our society. On the official level, we set national standards for educational programmes, for medical practice, for industrial processes and products; less formally, we have an obsession with lists that rank-order everything from tourists sites, to our body weights, to levels of sexual activity.

Normalizing judgment is a peculiarly pervasive means of control. There is no escaping it because, for virtually any level of achievement, the scale shows that there is an even higher level possible. Further, norms define certain modes of behaviour as 'abnormal', which puts them beyond the pale of what is socially (or even humanly) acceptable, even if they are far from the blatant transgressions that called for the excessive violence of premodern power. The threat of being judged abnormal constrains us moderns at every turn.

Finally, the *examination* combines hierarchical observation with

normative judgment. It is, Foucault says, 'a normalizing gaze [that] establishes over individuals a visibility through which one differentiates them and judges them'. The examination is a prime locus of modern power/knowledge, since it combines into a unified whole 'the deployment of force and the establishment of truth' (DP, 184). It both elicits the truth about those (patients, students, job candidates) who undergo the examination and, through the norms it sets, controls their behaviour.

The examination also reveals the new position of the individual in the modern nexus of power/knowledge. It situates individuals in a 'network of writing' (DP, 189). The results of examinations are recorded in documents that provide detailed information about the individuals examined and allow power systems to control them (for example absentee records for schools, patients' charts in hospitals). On the basis of these records, those in control can formulate categories, averages, and norms that are in turn a basis for knowledge. The examination turns the individual into a 'case' – in both senses of the term: a scientific example and an object of care (and, of course, for Foucault, caring implies controlling). This process also reverses the polarity of visibility. In the premodern period, the exercise of power was itself typically highly visible (military presence in towns, public executions), while those who were the objects of knowledge remained obscure. But in the modern age the exercise of power is typically invisible, but it controls its objects by making them highly visible. And the highest visibility now belongs to those (criminals, the mad), whose thick dossiers are maintained and scrutinized by armies of anonymous and invisible functionaries.

On one level, *Discipline and Punish* does for prisoners what *The History of Madness* did for the mad. It analyses our allegedly humanitarian treatment of a marginalized group and shows how that treatment involves its own form of domination. In contrast to the book on madness, the analysis focuses more on the causal origins of institutional structures and less on systems of thought; it

is, that is to say, more genealogical than archaeological. But this is a difference in emphasis only, since, as we have seen, the genealogy of *Discipline and Punish* is based on an archaeology of thought about the prison, and *The History of Madness* has a central concern with the institutional consequences of our perceptions of madness.

What most sets *Discipline and Punish* apart from its predecessor is the idea that the prison-model has metastasized throughout modern society. As a result, the book is not, like *The History of Madness*, centred on a specific Other against which 'we' (normal society) define ourselves. Society itself appears as a multitude of dominated others: not only criminals but also students, patients, factory workers, soldiers, shoppers. . . . Each of us is – and in a variety of ways – the subject of modern power. Correspondingly, there is no single centre of power, no privileged 'us' against which a marginalized 'them' is defined. Power is dispersed throughout society, in a multitude of micro-centres. This dispersion corresponds to the fact that there is no teleology (no dominating class or world-historical process) behind the development. Modern power is the chance outcome, in the manner of genealogy, of numerous small, uncoordinated causes.

Foucault's picture of modern power challenges the premises of most revolutionary movements, in particular, Marxism. These movements identify specific groups and institutions (for example, the bourgeoisie, the central bank, the military high command, the government press) as sources of domination, the destruction or appropriation of which will lead to liberation. In the premodern world, when power was effectively centralized in the royal court and a few related institutions, such a revolution could be successful. The Marxists are like military strategists who plan to fight the previous war; taking the French Revolution as their model, they are trying to cut off the head of the king in a world where there is no king. Even after the government offices, the military bases, and the official newspapers are taken over, there remain countless other centres of power that resist the revolution. Foucault himself cited the Soviet

Union as an 'example of a State apparatus which has changed hands, yet leaves social hierarchies, family life, sexuality and the body more or less as they were in capitalist society' (P/K, 'Questions on Geography', 73). The fundamental transformation the revolutionaries seek requires central control down to finest details of a nation's life. Here, perhaps, we have a Foucaultian explanation of the totalitarian thrust of modern revolutions.

This analysis suggests the reactionary conclusion that meaningful revolution, hence genuine liberation, is impossible: the only alternative to the modern net of micro-centres of power is totalitarian domination. Foucault would, I think, agree that these are the only global alternatives. But his conclusion would not be reactionary despair but a denial of the assumption that revolutionary liberation requires global transformation. For Foucault, politics – even revolutionary politics – is always local.

But locality itself is frequently a refuge of reaction. Particularly given Foucault's democratization of oppression – depending on the local context, we are all victims – how can he avoid dissipating effective revolution in an endless series of trivial protests? The bankers, the lawyers, the full professors will all have complaints of exploitation (as, for example, employees or consumers) that would seem to be as legitimate as any others. Here, however, Foucault can appeal to his notion of the *marginal*, his replacement, from the 1970s on, for the romantic idea of the mad as the radically Other. Marginalized individuals and groups are, unlike the mad, genuinely part of modern society; they speak its language (even if with an accent), share many of its values, play essential social and economic roles. At the same time, they are, in contrast to most of us, perpetually on the borders of society. This is for either or both of two reasons: their lives my be significantly defined by values that are counter to those of the social mainstream (think of homosexuals, members of non-standard religions, immigrants from non-Western cultures) or they may belong to a group whose welfare is systematically subordinated to that of mainstream groups (think

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of migrant workers, children in ghetto schools, street-walking prostitutes, inmates of penitentiaries).

In contrast to the mad, the marginalized have values that can meaningfully challenge our own and needs that could be plausibly satisfied within our society. Their concerns can, therefore, be the focus of programmes for effective political action. Further, such programmes can be genuinely revolutionary without Utopian global ambitions. For us to authentically say 'we' with the mad would require demolishing our core values and institutions, but the claims of the marginal are based on critiques of specific features of our society that can be modified without total overthrow.

It might seem that a politics of the marginal is itself just another instrument of marginalization, since it consists of 'our' claiming the right to speak for 'them'. Foucault was well aware of this danger and insisted on political actions designed simply to provide opportunities for marginalized groups to speak and be heard. So, for example, the Groupe d'Information sur les Prisons (GIP), which he, along with his companion, Daniel Defert, founded in the early 1970s, used Foucault's status as an intellectual celebrity to attract media attention to prisoners who spoke directly on their own behalf.

Marginality is the political counterpart of what we encountered earlier, in an epistemological context, as error. Politically, of course, error must be understood not only as the falsity of a proposition but also, non-linguistically, as inappropriate behaviour or misguided values. Foucaultian politics, as I am understanding it, is the effort to allow the 'errors' that marginalize a group to interact creatively with the 'truths' of the mainstream society. To the extent that if the effort succeeds, the marginal group will no longer be a specific object of domination, and society as a whole will be transformed and enriched by what it had previously rejected as errors.

It may seem that what I am calling 'creative interaction' is just a

cover for assimilating marginal groups into the social mainstream, and so destroying their most distinctive values. But interaction need not involve a leveling assimilation, particularly if it is achieved by giving the marginal group a serious voice in the terms of the interaction. On the other hand, there is the converse question of whether, or to what extent, a given marginal group is worth interacting with. We may, quite legitimately, decide that the needs and values of certain marginal groups (for example, neo-Nazis or apocalyptic religious cults) are simply incompatible with our basic values and that we can, at most, tolerate them.

A final difficulty: why should our political practice be so focused on marginal groups? Why not, for example, a neo-conservative politics of deepening our commitment to mainstream values or extending them to other societies? This is a crucial question for those who, like Foucault, share the liberal assumption that self-critique and appreciation of the Other should be at the heart of our political agenda. Unfortunately, unlike liberals such as John Rawls, Foucault has little to offer in response. His own political stance seems to derive simply from his own individual commitment to constant self-transformation. His focus on marginal groups follows from his horror of being stuck in an identity. Here, for Foucault, the political is at root personal. To those who not share his horror, he can only reply – in words he once deployed in a similar context – 'We are not from the same planet' (UP, 7).