

**Foucault, DP, Part 2 Chpt 2**  
PHIL 449, Spring 2014

**What factors led to moving away from “torture” and “spectacle” in punishment?**

*Some of this is from Part 2 Chpt 1 (optional reading)*

1. ambiguity of public reactions (61-68)
2. shift in response to “popular illegalities”
  - a. those at lower social strata had been allowed to get away with breaking rules, to collect wood or pasture animals on lands not owned by them, to collect iron or rope around ships, etc. (82-86)
  - b. gradually a greater focus on importance of property so begin to define more clearly and punish property offenses, including theft from manufacturing (85-86)
3. Those calling for penal reform in late 18<sup>th</sup> century were worried about: inconsistency and irregularity in judicial and penal processes under old form of punishment
  - different rules, courts for different people, different offenses; didn't cover the whole field of possible crime and rulings inconsistent (78)
  - royal power could use pardon or pressure on judges to change or commute sentences (79)
  - judges' offices were sold or hereditary; they were often self-interested (78,80)
  - lower courts could ignore appeal procedures and carry out arbitrary sentences without supervision (79)

“The true objective of the reform movement... was not so much to establish a new right to punish based on more equitable principles, as to set up a new ‘economy’ of the power to punish, to assure its better distribution, so that it should be neither too concentrated at certain privileged points, nor too divided between opposing authorities; so that it should be distributed in homogenous circuits capable of operating everywhere, in a continuous way, down to the finest grain of the social body” (80)

— the point was “not to punish less, but to punish better; to punish with an attenuated severity perhaps, but in order to punish with more universality and necessity; to insert the power to punish more deeply into the social body” (82).
4. change in the view of the relationship between the individual and political authority, with the Enlightenment & establishment of French Republic
  - a. crime not just attack on sovereign, but on whole social body (90)
  - b. concern is now with the effects of crime & punishment on social body
    - worries about disorder, others repeating the crime
  - c. focus on punishing just enough so that the disincentive of pain from punishment just greater than incentive of benefit from crime (93-94)

d. need clear and unbroken link between crime and punishment: no pardons intervening, no crime left unpunished (96)

-- this theme picked up again in the next chapter

e. start to see concern for the “soul” of the criminal: what led to the crime, is there something in him that suggests he is likely to do it again? (99-100)

## **Part 2, Chapter 2: The Gentle Way in Punishment**

*What the reformers suggested; what happened instead*

1. punishing should rest on “technology of representation” (104)

a. punishment should give an idea of disadvantage greater than idea of advantage from crime (104)

-- need to have “obstacle-signs” (104): signs that serve as obstacles to crime, to deter the criminal and others

b. so punishment must “fit” the crime; link of “resemblance, analogy, proximity” between the crime and punishment (104)

c. punishment must also fit the person: determine what interests, desires led to the crime and work to reform those: “Against a bad passion, a good habit” (106)

d. punishments lesson as time goes on, if the reforms in the person are working (107-108)

e. punishments must be publicly visible, so connection between idea of crime and idea of punishment is made for many members of social body

-- punishment as a “school,” a “book” (111): “In the penalty, rather than seeing the presence of the sovereign, one will read the laws themselves” (110)

2. There was an idea of a “punitive city,” with “hundreds of tiny theatres of punishment” (113)

-- not just the public punishments themselves, but also discussions in the media, in the family (112)

3. But this is not what actually happened; instead, imprisonment became the norm for punishment

a. reformers didn’t call for this:

-- imprisonment didn’t fit idea of having punishments that fit crimes

-- “it is costly, in maintains convicts in idleness, it multiplies their vices” (114); it deprives the criminal and family of means of subsistence (120)

-- it takes place behind closed doors rather than publicly

4. the prison model of punishment (some similarities from the various institutions he discusses pp. 120-126)

- a. work was obligatory; prisoners often received wages
  - partly to instill good habits of work, a liking for work (121-122)
- b. strict time-table, continual supervision, religious readings to try to reform the interests, desires, habits, character of prisoners
- c. isolation practices: in part, to “enable [the prisoner] to go into himself and rediscover in the depths of his conscience the voice of good” (122)
- d. development of bodies of knowledge of individuals, through continual supervision and recording of their behaviour, in part to determine if, when, how to change sentence or let him go
  - “A whole corpus of individualizing knowledge was being organized that took as its field of reference not so much the crime committed (at least in isolation), but the potentiality of danger that lies hidden in an individual and which is manifested in his observed everyday conduct” (126).

#### 5. differences between prison model and “punitive city”

- a. both focused on reforming criminal, but the prison worked more on the body, on training its habits and its movements, “everyday gestures and activities” through “exercises ... time-tables, compulsory movements, regular activities, solitary meditation ... respect, good habits” (128)
  - punitive city worked more on ideas, representations: connecting idea of crime with idea of punishment to achieve deterrent effect
- b. prison punishment operates in secret, not in public
  - works in isolation from “the social body and from the judicial power in the strict sense” (130)
  - it “fix[es] its own norms, decide[s] its own results” (129)
  - it exercises “a total power”: “the individual to be corrected must be entirely enveloped in the power that is being exercised over him” (129)
- c. power in the prison is coercive and potentially arbitrary
  - prison uses “forms of coercion, schemata of constraint, applied and repeated” (128)
  - prison is a “coercive institution” (120)
  - power exercised in the prison could be “as arbitrary, as despotic,” as the old sovereign power was in the spectacles of torture (129)

*What to do with the normative language here (“coercion”)? Is he just saying things are “dangerous” but not “bad” (Koopman)?*

**We are left at the end of the chapter with the question:** why did imprisonment become the dominant form of punishment, especially since the European reformers didn't call for it at the end of the 18<sup>th</sup> century?