

Presentation on *Discipline and Punish Part One*, chpts One & Two
PHIL 449, Spring 2014

What is F's goal?

- Analyze the history of punishment
- Argue for why torture was abandoned in favour of prisons
- first two chapters deal with torture: what it was, its purpose, and reasons for its decline

the changes

- Prior to 1800, torture commonly used as punishment for crimes; type and severity of torture depended on type/severity of crime
- After ~1800, governments moved away from this torture model and began using a prison system—why?

What was torture?

- Three principal criteria (33-34)
 - certain degree of pain: amount depends on gravity of crime, status of criminal and victim
 - mark the victim: leave a permanent scar on the body, though there weren't that many crimes that didn't receive the death penalty
 - brand the victim with infamy: torture must be public and fantastic; even after death, body displayed as part of spectacle

Two types of torture

- Judicial: to gain more information about the crime
 - not possible to be suspected of crime w/o having some guilt attached (47)
 - done in secret (35)
 - based on degree of proof (36)
 - eventual goal was to gain confession (41); if accused did not confess under torture the charges were dropped
- torture in punishment
 - could ask for reprieve to give more information
 - truth of the crime broadcast publicly by the accused himself
 - punishment reproduced the truth of the crime; often reproduced the crime itself (sometimes occurred at the place of the crime, sometimes do to the person what they did to others)
 - purposes: reconstitution of the injured sovereign (48); reestablish power over individual; policy of terror (49)—instill fear of sovereign; displays of power through showing military might; sovereign could also demonstrate mercy (53)—fairly common for criminals to be publicly pardoned at last second, or pardoned if execution fails

Truth, punishment and power (55)

- power of sovereign requires participation of people; but ambiguous: sometimes helped prisoner, sometimes tried to kill him; protested if face of convict covered or punishment took place in private
- punishment 'revealed' the truth: the existence of the crime and the guilt of the accused
- crime becomes glorified in literature, gallows speeches

What led to change in using torture for punishment?

- Rooted in the great transformation of 1860-1840

- change of objective (16)
- executions could lead to social disturbances (61)
- differences in penalties according to social class angered the populace (61)
- created solidarity rather than fear of sovereign's strength (63)
- redistribution of blame (53): don't blame the criminal, but instead the executioner and the state

What were the results of the change?

Change occurred not because people thought punishment should be more humane, but that spectacles weren't achieving the goals desired by the sovereign

- disappearance of spectacle
- elimination of pain (11)
- slackening of gov't's hold on the body (10); controlling the body for the sake of controlling the soul
- judge the soul of the criminal instead of just the crime (19)
- punish for the sake of a cure, not for the sake of punishment (22)

Questions

1. Foucault makes reference to the humanitarian ideals of the 19th century which were against torture as a punishment (7, 57). Yet his argument is that humanitarian ideals were not the reason for the change in punishment. Do you think he made a sufficient argument for this claim?

- doesn't go into why the problems with public torture occurred—were people always acting in this way in response to public executions, and if so, why take so long to get rid of them? But if not, what change came about to make them act differently?
- so there may be another layer for him to examine that he didn't go into.
- of course, we don't have that much historical information ourselves to go on, but does it make sense to think that people changed over time in their views of punishment?
- might the idea of wanting something more humane have more of a role than he suggests?

Discussion

- This occurred during the period of Enlightenment, with the focus on reason; rise of human sciences like psychology, medicine, social work, which is a new source of power, a new way to gain control of crime
- Pretty remarkable how recent this change is, because had centuries of public spectacles; what has changed is not that people start to think the previous method of punishment was bad or wrong, but that it had become a "problem" (in the sense of "problematization")—it no longer was serving the purpose it was designed for.
- The role of the scientists is really important in all this; researchers would get cadavers from penal processes, and instruments used in torture would also be used in scientific research as well. So the rise of human sciences (medicine, psychiatry, psychology, and more) plays a role in this change. [Christina: see, e.g., bottom of p. 23]
 - with the emergence of social sciences, we can see that these will be better than a single figurehead that one can disagree with. Now we have experts that decide what is normal and what is not; harder to argue against this "truth."

- Foucault is talking about how the body is an object of power; Foucault gives a different kind of view of power than Marxist, psychoanalytic, and others. What matters is not humanitarianism but whether or not the punishment allowed the sovereign to communicate a certain form of power through the body of the criminal.
- Both the sovereign and the people had found the former form of punishment problematic, though in different ways, due to their different perspectives on it. Then a solution is posited, a new form of punishment, a new study of the soul of the criminal, etc. Foucault is saying that what may now seem to be a solution, a more humanitarian way of doing punishment is itself just a new form of power, a new way of controlling people.
- But what about the fact that certain theorists and policymakers would have said directly that they had humanitarian concerns in mind? What Foucault is saying is a technology of power, controlling how we talk about the history of punishment. His view may not focus on all the elements that went into the change if he ignores the humanitarian aspect.
- Foucault's account of the change of punishment seems similar to Nietzsche's view of the internalization of humans, creating a soul; Foucault says the soul is the prison of the body, which is similar. Maybe the internalization, bad conscience has been developing over the course of centuries, and only now is it possible to have this new way of punishment, focused on the soul.
- It seems that Foucault is saying there will always be power, but it just gets organized differently over time. Is power a finite resource that just gets organized and reorganized?