INTRODUCTION

The question of punishment raises centrally for socialist movements their stance toward the bourgeois state and the forms of power exercised through it. The classic struggles between reformism and revolutionary Marxism have revolved around this question of the form in which bourgeois domination is imposed: is it sufficient merely to seize state power and use it to new ends, or is it also necessary to smash the existing state apparatus and replace it with new forms of domination? 

In other words, was the revolution to consist merely in the transfer of power from one class to another, or was it also to mark a passage from one form of power to another? This same fundamental question applies equally—though in microcosm—in the case of bourgeois punishment and to its characteristic mode of operation, the prison: is the task of the working class merely to take over the existing penal mechanisms and employ them for new purposes (against the bourgeoisie, for example) or is it to smash them and institute alternative forms of control?

This is not merely a distant problem affecting the transition to socialism; rather, the nature of its resolution invades all aspects of the struggle against the power of prisons and of the kind of critique aimed at the prisons. It is this latter issue which I shall take up here. In the eyes of reformers, the actual organization of existing punishment appears as a neutral device, above the antagonisms of class; it seems to provide a necessary condition of democratic rule and of the inhibition of power (whether that of capital or of the working class). Reformers reserve their criticism only for the intrusion of class interests into the penal apparatus, as for instance in the incarceration of political prisoners or in the shortcomings of rehabilitation programs. In brief, they seek only to raise the actual practice of punishment to its democratic ideal. Punishment itself appears as the imposition of the collective will of society against those who, driven by the egoism, competitiveness and inequalities of civil society, put their particular interests first; and further, it appears as a force aimed at re-forming those individuals into social beings. Reformers have, therefore, traditionally supported the extension and deepening of the penal mechanisms of the state, as a confirmation of democratic power against particular class and individual interests.

This reformist stance has generally been based on a purely dogmatic analysis. The form of power embodied in bourgeois punishment and the prison has been excluded by theoretical fiat from historical criticism. This form of power has been idealized as a democratic and natural necessity (in the manner of normative sociology) without consideration of the content of social relations that lies behind the appearances of "protection of society," "rehabilitation," "equality before the law" and so forth, and without investigation of the historical character of these relations. Alternatively, the question of form has been entirely neglected by assimilating the specific character of bourgeois punishment to general categories like control, repression, power, domination, authority and so on. From this viewpoint, no question is asked concerning why power should take the form of bourgeois punishment. Instead, attention is focused exclusively on the content of punishment: either on what functions it performs for class domination, economic reproduction, etc., or on what interests it serves as an instrument of the dominant class. For instance, it is one thing to ask what interests and functions are served by the repression of vagrancy; it is a further question, however, to investigate why and with what consequence repression of vagrancy should take the form of penal repression, mediated by the courts, a legal system and the prison. The consequence of this neglect is that forms of punishment are treated as "given" and therefore as natural as the use of control itself. If bourgeois punishment is not examined critically as a historical modality of power, expressing a definite set of social relations, then the way is left open for dogmatic assertions that this is a "normal" way of controlling people, that it is inescapable, that it has no specific class character and so on. When we do investigate bourgeois penology as a form of control, the substance of which consists

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in particular, historical relations, then the hollowness of the claims of those who see bourgeois punishment as a limit beyond which one cannot go, soon becomes apparent.

In the last decade or so, this reformist position has been subjected to intense criticism within the left from anti-authoritarian currents. On the other hand, they (we?) have presented the penal form as if it were a purely ideological fiction, denouncing its democratic pretensions to represent the general interest, to protect society, to distinguish rationally between crime and conformity, to reform criminals, and so forth as a mask, hiding the brute realities of arbitrary power. On the other hand, they have subsumed the critique of bourgeois punishment to one directed against authority in general. In the first case, they have failed to see that the form of punishment is not only an ideology, but also embodies a definite organization of power (materialized in prisons, prison guards, state finance and so on). In the second case, they have failed no less than the reformers to grasp the historical nature of a power that takes the form of bourgeois punishment. They have simply reversed the reformist coin by substituting a denunciation of control in general for a celebration of its necessity. These theoretical weaknesses, based on declaring the form of punishment as a fiction or on ignoring it, resulted either in utopian projections of a society without control or in a social fatalism coupled with a search for avenues of individual escape or revolt. Its adherents have been left in a blind alley by the march of events in a capitalist crisis, when state controls are being stripped even of the restricted democratic safeguards they once possessed. In these circumstances, anti-authoritarianism has tended to slip either into a simple-minded democratic defense of rights, or into a cynical and passive welcome for a process that demystifies the “iron fist” lurking behind every “velvet glove.”

At the other end of the spectrum, the Stalinist tradition has reproduced bourgeois forms of punishment, exemplified perhaps in the grotesque shape of the “Gulag.” This failure to revolutionize punishment in practice has had as its counterpart a theory which has presented these penal mechanisms alternately as a democratic force in the manner of the Western reformers (as in the 1936 Constitution formulated at the peak of the terror trials), or as the necessary concomitant of any class dictatorship, including that of the proletariat. We find here another version either of the idealization of penal forms or of their neglect, as the harsh “necessities” of class rule are nihilistically isolated from the forms in which that rule is implemented.

The Stalinists found it necessary to ignore (or distort) Marx’s own writings on punishment, and to liquidate those Marxists who in the 1920’s had subjected the penal apparatus to a rich theoretical and practical critique as a bourgeois form of power. (Evgeny Pashukanis is the best known). The relative weakness of revolutionary Marxism since that period is only now being overcome, but it has resulted in a kind of “social amnesia” concerning the class character of punishment. However, when we examine the organization of social relations embodied in the prison, we discover, I wish to argue, that the Marxist specification of these relations as specifically bourgeois is absolutely correct, and that the repressiveness of prisons must be linked to the particular characteristics of capitalist domination. I shall illustrate this through a reassessment of Jeremy Bentham’s model for the perfect “total institution,” the Panopticon, for we find in it no more than an ideal representation of a specifically bourgeois form of power. An understanding of these class relations at the level of penal control is a necessary step in the development of a politics aimed at revolutionizing them.

The lesson I shall draw, by the way, is one quite opposed to that recently taken by Michel Foucault (1977), who presents the panopticon as a “rational” mode of control, thus mistakes its surface appearance for the inner mechanisms, which lie concealed beneath it and which in turn give rise to such appearances; further, he analyzes the panopticon as the effect and condition of any society based on large-scale cooperation and on a rational organization of production, thus confusing cooperation and the development of the forces of production in general with their specifically capitalist form. Foucault’s empiricism, which prevents him from going beyond the immediate appearances of capitalist relations, reflects a belief that socialism and socialist movements can do no more than reproduce these “despotic” forms of power; in the light of which the “Gulag” appears not as a distortion, but as the epitome of revolutionary socialism. For Foucault, it is with industrial society and not capital that the prison should be associated. I shall suggest that the reverse is true.3

At first glance, what is striking about the prisons that were instituted at the beginning of the nineteenth century is their diversity. For instance, Henry Mayhew (1862), in his account of the prisons of London, speaks of three different systems of prison organization. First, there was the “classification” system, which sought to prevent “the further demoralization of criminals” by their separation into classes and thereby stop the mutual instruction of inmates in “the mysteries of vice and crime.” Various forms of classification were instituted: men from women, young from old, felons from those who had committed a misdemeanor, those sentenced to hard labor from debtors, those committed to trial and so on. In accord with this organization, an architecture was developed on a radiating principle; four to six blocks would radiate from a central tower in spoke-like fashion, each block containing a class of criminals.

Secondly, there was the “silent-association” system, in which all discourse among prisoners, whether by voice or by sign, was prohibited. In 1834 this became the rule in Coldbath Prison. Thirdly, there was the separate system, in which prisoners would be kept in separate confinement without any intercourse with other inmates. Pentonville Prison was arranged in this way. On the occasions when some form of congregation was necessary, for instance, in

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the chapel, then measures were taken to prevent any discourse; for example, the prisoners would be partitioned off from one another and subjected to the constant inspection of guards placed high above them.

Mayhew himself was critical of all these arrangements, and suggested that it was not necessary or desirable to cut off all discourse among inmates; rather, there had to be control over the forms of dialogue that took place and the repression only of “vicious discourse.” What we are presented with in nineteenth century penal organization is, apparently, diversity: among the institutions that were established, among the proposals for ideal institutions, among the criticisms that were made of these institutions. However, beneath the multiplicity of forms that penal practice and theory took, we shall begin to see a unified structure: the principles of inspection, self-reflection, non-reciprocity, the abolition of dialogue, the suppression of any discourse that does not affirm the guilt of the prisoner. These remain stable while the forms of their implementation vary.

Jeremy Bentham’s panopticon provides a particularly clear expression of the power relations that were developing with industrial capitalism. The panopticon was and remained a scheme; it was rejected as a model prison by parliament for reasons that go beyond the scope of this paper. I make no claim that the panopticon was especially influential; the roots of nineteenth century power relations go far beyond the influence of any one subject and lie in the structure of capitalist social relations. Rather, to use a term borrowed from Michel Foucault (1969), the panopticon is a monument to a form of power of which it, as a theoretical proposal, is only one instance.

THE PANOPTICON

Jeremy Bentham intended his design of the panopticon to serve as a model for the organization of prisons, asylums, hospitals, schools, workhouses and factories. Bentham described it as a “mill for grinding rogues honest,” the aim of which was to establish “a new mode of power of mind over mind, in a quantity hitherto without example, secured by whoever chooses to have it so against abuse.” Its goal was the realization of the desire “to find a method of becoming master of everything which might happen . . . to men.”

The organization of the panopticon was centered around a number of principles: constant observation of prisoners and their awareness of being observed; a one-way gaze from inspector to prisoner while the inspector remained invisible; suppression of reciprocity between inspector and prisoner and among the prisoners themselves; suppression of any discourse which did not affirm the guilt of the criminal.

Through an architecture, observation of convicts would be maximized. The prison was to be circular or polygonal, the cells placed around the inside of the circumference, and in the center of the circle, the inspection-house. From there, all cells would be visible, their front secured by an iron grid which would allow total transparency. We witness the establishment of an “inspective force”:

It is the only form that affords a perfect view and the same view of an indefinite number of apartments of the same dimensions: that affords a spot from which without change of situation, a man may survey in the same perfection, the whole (Bentham, 1972:44, hereafter cited by page number only).

Inspective force signified not just the actualization of observation, but of the experience of being observed. The question that Bentham faced was this: how to devise a physical space which would produce a constant awareness of the inspector’s gaze? The method offered was to deny prisoners knowledge of whether or not, at any given instant, they were under observation. Knowledge of their general observability, but ignorance of its occasions—this goal could be made possible by securing the invisibility of the inspector:

The essence of the plan . . . consists in the centrality of the inspector’s situation, combined with the well-known and most effectual contrivances for seeing without being seen (p. 44).

There were technical problems in realizing this in the age before video, for example:

If the inspector has enough light to do any business, he will be seen, whatever I can do, from the cells; if there is not enough light for him to be seen from the cells, there will not be enough light for the inspector to do his business (p. 41).

Bentham attempts, methodically and at length, to overcome these problems. Through a technology of lights and blinds, peepholes and barred gates, the two-headed imperative of observation and invisibility could be secured:

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Cells, communications, outlets and approaches, there ought not anywhere to be a single foot square, on which man or boy shall be able to plant himself—no, not for a moment—under any assurance of not being observed. Leave but a single spot unguarded, that spot will be sure to be a lurking place for the most reprobate of the prisoners and the scene of all sorts of forbidden practices (p. 94).

Observed, but not observing, the prisoner was to live in a perpetual consciousness of this fact:

I hope no critic of more learning than candour will do an inspection house so much injustice as to compare it to Dionysius' ear. The object of that contrivance was to know what prisoners said without their suspecting any such thing. The object of the inspection-principle is directly the opposite; it is to make them not only suspect, but be assured that whatever they do is known, even though that should not be the case (p. 66).

In his original plan, Bentham proposes a system of total isolation. Solitary confinement was to be the means by which dialogue among prisoners would be abolished. For the convict, his only company was to be the inspector's look. In Bentham's later design, the goal of solitary confinement was abandoned. Why? The purpose of isolation was to maximize the prisoners' awareness of one relation only—their relation to the look of the inspector. But isolation proved ineffective. On one side, Bentham saw it as a "form of torture productive of gloomy despondency and sullen insensibility." The pressures of solitude, the madness it engendered, would interfere with awareness of the look. On the other side, the solution, practiced in some prisons, of alternating solitude with occasional association would undo the power of the gaze in another direction. It would create the "Sunday indulgence":

May not the same person who opens a school of corruption as soon as the keeper's back is turned, be orderly and decent during his presence? May there not be eye-prisoners as well as eye-servants? Cannot the arts of housebreaking be taught as well on Sundays as on weekdays? Cannot they be taught quietly and in a low voice? (p. 73).

The alternative lay in the distribution of prisoners into small "companies" of two, three or four persons each; small enough not to impede the efficacy and consciousness of the inspector's gaze:

The composition of these groups dependent on the ruling in the first instance and capable of being varied at any moment, upon the slightest intuition which experience or even suspicion can afford: every group and every individual in it exposed more or less to the scrutiny of an inspecting eye during every moment of their continuance there (p. 72).

The advantage of such companies lay in the reinforcement they offered to the relation between inspector and inspected. Knowledge that transgression would lead to certain detection and punishment, of the offender for his offense, and of others of his company for their complicity, would induce each prisoner, on the basis of rational calculation of self-interest, to become inspector of and informer on his companions. Failure to inform would brand him an accomplice:

Here if anywhere is the place for the law of mutual responsibility to show itself to advantage. Confined within the boundary of each cell, it can never transgress the limits of the strictest justice. Either inform or suffer as an accomplice. What artifice can elude, what conspiracy withstand so just yet inexorable a law? The reproach, which in every other abode of guilt, attaches itself with so much virulence to the character of the informer, would find nothing here to fasten upon; the very mouth of complaint would be stopped by self-preservation:—"I, a betrayer? I unkind? Yours is the unkindness who call upon me to smart for your offence and suffer for your pleasure." Nowhere else could any such plea support itself—nowhere else is connivance so perfectly exposed to observation. This one stone was wanting to complete the fortress reared by the inspection principle: so many comrades, so many inspectors; the very persons to be guarded against are added to the number of the guards (p. 164).

"Here shines justice in unclouded purity," enthused Bentham: the prisoner not merely subjugated to inspection, but reproducing it; in place of dialogue, an unbroken network of non-reciprocal observations.

Under the banner of non-reciprocity, Bentham sought the suppression of any capacity of the inspected to influence or move the inspector's gaze. The possibility of deflecting the guard from his task by seduction, threat, assault or even contamination was to be annulled.

Take, for example, the problem of seduction. Could not a female prisoner seduce a male guard from his duties by means of a display of "lewdness"? There was a danger, in Bentham's eyes, of a restoration of reciprocity through these "voluntary trespasses against decency." But the danger could be overcome: first, by a physical segregation of male and female; secondly, the constant inspection of male and female guards over each other:

Female rulers might want firmness: in male ones probity and impartiality might be warped by the attraction of female eyes. The panopticon principle dispels this difficulty...the weakness of the matron would find support in the masculine firmness of the governor and his subordinates; a weakness of a different kind on the male side of the establishment would find its proper check and corrective in the vigilance of matronly severity (p. 136).
Thirdly, the danger would be overcome by the observation of female convicts by female keepers, who would commit the attempted seducer to instant punishment. Sexuality would lose its potency.

Violence and threat would lose their capacity to deflect inspection by fear. In the old prison, where prisoners could attain a field of secrecy and invisibility, guards were never safe:

Even supposing every prisoner separate, what turnkey or master could be sure of being a match for each of them, and not only an overmatch at the long run, but secure against assault in the first instance? ... Any man who has no regard for his own life is master of another's. In this state of desperation, which unhappily is not without example, a few prisoners might be enough to clear a common prison of its rulers (p. 139).

In the panopticon, by contrast, there would be no threat, no possibility of violence; inspection would undermine the very conditions of its emergence:

From four—no nor from four hundred, were they all loose together and all Hercules, could such an establishment have anything to fear; entrenched behind the surrounding wall—armed and invisible against the defenceless and the exposed, a single female might bid defiance against the whole throng .... As to obedience, it follows in the most perfect degree from the inability to hurt, the exposure to chastisement, and the absolute dependence in respect of the means of subsistence (p. 139).

The ideal lay in the total introversion of violence against the prisoner's own self:

Indulged with perfect liberty within the space allotted to him, in what worse way could the convict vent his rage than by beating his head against the wall? (p. 47).

The other great fear and threat in the old prison lay in the inmates' power of contagion. The plague carried by prisoners reached out to those who guarded them, to the judges who visited them and finally to the public outside. The advantage of the panopticon lay in the elimination of this plague and source of contaminative response. Cleanliness, order, isolation—these would clean away this last act of defiance.

The final nail in the coffin of reciprocity lay in the inspection that even the inspectors were subjected to. The inspectors were observed by each other and by the head keeper; the head keeper in his turn was observed by visiting magistrates and visiting magistrates by the public, "the great open tribunal of the world":

Under keepers or inspectors, the servants and subordinates of every kind will be under the same

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*Tread-wheel and oakum-shed at the city prison, Holloway (with a detachment of prisoners at work on the wheel, and those who have been relieved employed picking oakum) 1862*

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irresistible control with respect to the head keeper or inspectors, as the prisoners or other persons to be governed are with respect to them . . . . In no instance could his subordinates either perform or depart from their duty, but he must know the time and degree and manner of their doing so (p. 45).

The inspection principle was to cover every corner of the institution, to define every relation: whether that of guard and prisoner, prisoner and prisoner, or guard and guard. There was to be no escape. Even escape through time, through the completion of a sentence and discharge from prison, Bentham planned to thwart by means of a compulsory after-care, which would place the prisoner in an environment essentially akin to that of the panopticon itself. The final goal was to model the factory on this self-same principle and thus secure a smooth transition from factory to prison and from prison to factory. But this Benthamite utopia takes us beyond the immediate question of the treatment of the criminal and his objectification.

The inspection principle contained a double movement: a negative one that sought the suppression of dialogue and reciprocity and a positive one that sought the establishment of the one-way gaze. What was the function of this double movement? Behind the suppression of dialogue lay the negation of any discourse that affirmed that there could be advantage, pleasure, pride or reason in the violation of law. Behind the affirmation of the one-way gaze, lay the positing of the prisoner’s guilt and of a realm of perpetual judgment. These are the reasons, for example, behind the ban on “crowds.” The excitement and agitation of the crowd would fortify men against reflection on the judgment contained within the inspector’s look; and, most important, in the sanctuaries of secrecy that crowds permitted, uncontrolled dialogue would breed naturally a discourse of justification and revolt, one that found reason in criminality:

Shame is the fear of disapprobation of those with whom we live. But how should disapprobation of criminality display itself among a throng of criminals? Who is forward to condemn himself? . . . The only public men care about is that in which they live. Men thus sequestered form a public of their own: their language and their manners assimilate; a lex loci is formed by tacit consent, which has the most abandoned for its authors . . . . The public thus composed sits in judgement over the public without doors and repeals its laws (p. 138).

The contradiction which Bentham and other social reformers faced was severe: how to gather together in one confined space the representatives of lawlessness, as a symbol of exclusion and guilt; and at the same time to forestall the natural effect of this association, its self-transformation into a collectivity with an autonomous discourse, ethic and politic? The solution: to construct a space in which the very articulation of a discourse that posited reason in crime would be rendered impossible:

What shall the corrupter insinuate? That there is no danger in guilt? But the assertion is anticipated and disproved by the very fact of their being there. That there is pleasure in guilt? But the pleasure is dead and gone: the punishment that has sprung out of its ashes is present in every tense—in memory, in sufferance and in prospect. That shame does not flow from guilt? They are steeped in it to their very lips: they have a scornful world to look at them and each but one, two or at most three companions to keep him in countenance (p. 140).

Danger lay in the possibility that the prison would effect exactly what it set out to abolish: a community of reason around the violation of law. Only by a total reorganization of power—one that suppressed dialogue and substituted a non-reciprocal judgment in isolation—could this dilemma be resolved, and the primacy of guilt secured.

The circle completes itself when we see that the very conditions that secured the hegemony of a discourse of guilt also secured the appearance of the truth of this discourse. The prisoners’ anxiety, shame and self-reproach are responses to a power situation in which, respectively, knowledge of outcomes is in principle impossible, in which total dependence is enforced, and in which failure to condemn oneself is treated as a cause for punishment. But anxiety, shame and self-reproach appear as responses to the prisoners’ own guilt, as natural outcomes of their criminality; and, therefore, as signs of the truth of the discourse which must envelop the institution. Attempted here was both the imposition of a language of guilt and of the signs which would testify to the validity of this language.

In this bourgeois ideal of organized power lay the historical reality behind objectification: a world of disunited individuals, each one alternately observing and being observed, judging and being judged; each living in a perpetual anxiety over the possibility of entrapment within the gaze of another and of being caught in a moment of guilt; each searching to entrap the other to save himself or herself from entrapment by the other. The position of inspectors is paradigmatic: located in the center of the prison, they have no choice but to look, judge and punish at the very moment at which they themselves are looked upon, assessed and punished, if found at fault.

BOURGEOIS-DEMOCRATIC POWER

Bentham was right in seeing his proposal as the expression of a new mode of power, and as such that it constituted a step in the historical transformation of power relations. But he conceived of this history in a purely technocratic fashion. He saw himself as providing a technique based upon rational analysis, which any enlightened ruler could use to secure absolute mastery over other people:

If it were possible to find a method of becoming master of everything which might happen to a certain number of men, to dispose of everything around them so as to produce on them the desired

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impression, to make certain of their actions, of their connections, and of all the circumstances of their lives, so that nothing could escape, could not oppose the desired effect, it cannot be doubted that a method of this kind would be a very powerful and very useful instrument which governments might apply to various objects of the utmost importance (p. 141).

In Bentham’s eyes, the institution of the panopticon would constitute a triumph of reason and analysis, quite abstracted from any determinate form of society. Once the idea had been generated, the only condition of its practical implementation was the enlightenment of the ruler. The social basis of this species of power remains totally obscure in Bentham’s work.

Bentham conceived of the development of the modern prison in a purely utilitarian fashion: it was, he said, the most effective means yet devised, and therefore the most rational, for the prevention and deterrence of crime. This concentration on the rationality of the prison has dominated penal ideology ever since. When critics of the prison system attacked it on the grounds that it failed in its task of deterrence and reform (this remains the dominant mode of liberal criticism), a revamped bourgeois ideology came into existence in the beginning of the nineteenth century, which posited a new base for its rationality: not that it rationally prevented crime, but that it rationally reaffirmed the bourgeois normative order, by creating a symbolic boundary between the outcast and the rest of the community. This remains the central theme of contemporary sociology. This ideology of rationality has penetrated deep into some versions of Marxist criticism, when a functional account of the prison as a state apparatus is offered; the prison, it is said, functions rationally for capitalism, either in preventing crime under capitalism, or in more sophisticated versions that take off from sociological functionalism, in splitting and individualizing the working class. Without at this stage examining in any detail such formulations within Marxism, we can assert that it is necessary to break from bourgeois ideological conception of the prison, in terms of its inherent or historical rationality, in order to see its social character.

The contemporary prison is the expression of bourgeois-democratic power. The prison in its very structure provided the appearance of democratic power, on a basis of an absolute suppression. First, the appearance: the case of the panopticon shows clearly that the prisoner is posited as one who, however hardened in criminal ways, possesses a reason, in common with all other human beings—that is, commitment to the bourgeois normative order. Through the power of the look, reason permits prisoners to recognize the truth of the judgments and indictments heaped upon them. On the basis of this recognition, prisoners are to reflect, consult their own consciences and torment themselves into repentance. The prison thus presents the criminal as sharing, fundamentally, a commitment to a common moral order, embracing all people; it posits reason, in the form of a commitment to a common morality, in the heart or mind of each individual criminal; it was this reason that was the mark of the prisoner’s humanity.

The corollary of this appearance of common humanity, posited by such institutions as the panopticon, was the democratic character of the power that is organized. The source of power appeared as the “general public,” locus of that common morality and utility which even criminals shared. Criminals appeared as violators of a code which they, alongside all others, were fundamentally committed to, and therefore as participants in the infliction of the punishment they were subjected to. There appeared to be no real opposition between criminal and guard: both shared the same commitments; both recognized the truth of violation and the requirement for punishment. The function of the inspector was to serve as a mirror, through whose reflection the criminal could, all the more clearly, see his or her own true self and humanity, and the falling away from his or her own real self that violation of the law represented. Power was no longer to appear as the subjection of one will by another, as a conflict between warring subjects; but as the unfolding of a humanity, which criminals possessed, had deviated from, and were now being restored to. In this context, violation of the law could only appear as guilt, that is, as a violation against one’s own true self. The criminal is a human being, first and foremost; but his or her criminality represents a deviation from that humanity, and punishment represents the means by which the criminal could be restored to his or her humanity. For the first time, power was exercised fully in the name of the humanity of its victims. In the words of one reformer, the task “is to organize the world in such a way that man develops an experience of and assumes the habit of that which is truly human.”

But the social relations which posited this democratic humanism were founded on contradiction. First, there was the contradiction between the positing of a common humanity and the isolation and the mutual antagonism of the individual subjects. This was expressed vividly in the physical isolation of solitary confinement, in the suppression of all reciprocity and dialogue. The entire organization of the prison was devoted to the elimination and prevention of any form of collectivity among prisoners or inspectors or between the two groups. The requirement to inform, inspect, judge was to dominate all social relations. Secondly, there was the contradiction between the positing again of common humanity and the separation of this society into two parts: the inspectors and inspected, judges and judged. The organization of the panopticon was directed to absolutizing the domination of the inspector over the inspected through the suppression of any form or manifestation of opposition. Thirdly, there was the contradiction between the positing of common humanity again, in the form of a reason shared by all, and the suppression of all concrete manifestations of reasoning except those that reproduce the abstract reason of common humanity. The panopticon was organized to suppress any discourse that did not affirm the priority of guilt or which posited, as Bentham put it, pleasure, pride or profit as the predicates of illegality.

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The emergence of the prison represented the emergence of a specific and mystifying form of political domination. It might be useful to conceive of this form of domination in terms of repression, in the technical sense given that concept by Freud. Repression is not simply the suppression of one will by another, of the proletariat by the bourgeoisie, but also the suppression of any discourse of opposition. Just as in the Freudian case, rebellion against the father is suppressed; but also suppressed is any discourse that speaks of rebellion against the father—and it is only this which constitutes repression. So, too, the prison not only subdues its victims, but suppresses or attempts to suppress any discourse of possible opposition. All such opposition can only appear as further manifestations of guilt.

Here lies the contradiction of the prison. It is at one and the same time the arena of the most naked coercion; but by reason of that very coercion, it appears also as the arena of democratic right. The more stringent the coercion, the more suppressed will any discourse of opposition be and the more viable the myth of the community of interests, including the criminal’s own interest, represented by the prison. It hegemonizes, in a practical way, the link between rebellion and guilt, political domination and punishment.

CONCLUSIONS

The prison represents a form of power that is distinctive and totally differentiated from the forms of power that existed in pre-capitalist societies. The nub of this difference lies in its fetishized character. All previous forms of domination appeared as what they are: direct forms of domination between master and slave, lord and serf, sovereign and subject. But under capitalism, power appears for the first time to represent the general interest, and opposition to represent opposition to the general interest. The criminal and his or her punisher appear to share the same goal: the eradication of the criminal’s guilt. And all this on the basis of an absolute mastery that supersedes the voice of rebellion. Repression and ideology are the two inextricable sides of the bourgeois coin. The question remains: why is it necessary to see this form of domination as specifically bourgeois? The reason for this is that its form is directly determined by the capitalist mode of production. Bourgeois punishment is predicated on the abstraction of a legal subject; in the prison this abstraction takes the form of positing a humanity inherent in each individual, consisting in a commitment to the bourgeois order. Out of the individual’s real, practical commitments is abstracted this “human quality,” only by means of suppressing the articulation of alternative commitments. This abstract individual necessarily sought the enforcement of bourgeois norms. But where does this abstraction come from? It is not a genius idea of state functionaries attempting to dissipate any germs of working class resistance, a good idea that only developed with the bourgeoisie but could be applied in all forms of society. Rather the abstraction of the legal subject is a direct reflection of the abstracted individual of commodity production. Just as in the relation between people and commodities, the concrete multiplicity of the relationships comes out as the abstract will of the owner; just as the concrete multiplicity of use-values in things comes out as an abstract value; so too the specific peculiarities that distinguish one person from another are dissolved into the abstraction of man in general as a juridic subject. As Pashukanis somewhere notes, “man becomes merely the incarnation of an abstract impersonal subject of rights.” So, too, in the prison, the guard appears only as the incarnation of right, the prisoner as one who needs restoring to his or her abstract humanity, i.e., to being no more than a subject of rights. This is why the prison is “ignorant of everything about the criminal’s actions except the guilty category into which they are forced to fit” (Barthes, 1973:45).

The task of this kind of work, as I see it, is to contribute to the demystification of the form of power that fetishizes criminality and guilt, a process which has its center in the political struggles against bourgeois domination. It is guided by the belief that struggle at the level of power relations is as crucial as struggle at the level of exploitation, and that these two forms of struggle are directed to what are nothing more than the two fetishized sides of the same production relations.

FOOTNOTES

1. This formulation is taken from Marx’s Civil War in France and Lenin’s State and Revolution.
2. His work has been translated in part under the title Law and Marxism (1978).
3. For an extended critique of Foucault, see Dews (1979) and Fine (1979).
4. These quotations are from Bentham (1972).
5. This quotation from Helvétius I found in Rancière (1974).

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