The Prison Beyond Its Theory Between Michel Foucault's Militancy and Thought

Stefano Catucci

Among the founders of Gip (Groupe d'Informations sur les Prisons), Michel Foucault was the only one who had researched internment practices during his academic career, and he would also be the only one to develop his militancy in a new field of research concerning prisons. In 1971, when the Gip was created, Foucault's the *History of Madness* had already been published (1961). Then, in 1973, he held a course entitled *The Punitive Society* (*La société punitive*) at the Collège de France and in 1975 released *Discipline and Punish*, with the subtitle *The Birth of the Prison*. Despite his will to separate his activities as a militant and his activities as a researcher, Foucault had to accept that a relationship not only existed, but made him especially sensitive to the reality of prisons and "uncomfortable" towards this research object. So he wrote in the opening chapter of *Discipline and Punish* : "That punishment in general and the prison in particular belong to a political technology of the body is a lesson that I have learnt not so much from history as from the present". In his view, in modern times prison has been the main technology by which our societies manage marginality. Therefore, we should not abolish prison, or design the best possible prison, but we have to understand prisoners' needs and to criticize, through historical means, the way in which we handle the problem of marginalized people, our primary social gesture of exclusion.

All the social oppositions described by Foucault in his work — normal/abnormal, healthy/pathological, mad/reasonable … — were built on the contrast between inclusion and exclusion. To change prison and to make it more livable we need not wait for solutions suggested by jurists, historians, or philosophers, but, according to Foucault, we only have to listen to the prisoners and give them the political role in our institutions they are denied. Those who study societies, at all levels, have a different task to achieve and a specific duty to perform: "to delineate a critique of power explaining the processes by which contemporary society marginalizes an important part of the population".

The Birth of the Gip

Less than fifty years ago a series of struggles and uprisings shook French prisons: hunger strikes, mutinies, hostage-taking. In 1970 a great wave of arrests began affecting youth movements in France, aimed especially at the Maoist faction from May 1968, and the staff of the magazine "La Cause du Peuple".

After the so-called *Loi-anticasseurs* was approved (June 1, 1970) to control the disorders in Paris and in other cities, more than 200 militants of the leftist movements were arrested. The presence of a high number of political prisoners was certainly one of the triggers of the riots in French prisons, and also the reason why these protests were organized and involved public opinion. Outside the prisons several organizations were formed to support the young people undergoing these massive arrests. Famous organizations such as "Secours Rouge" and the "Organisation des Prisonniers Politiques" were born precisely in 1970. However the Gip, "Groupe d'informations sur les prisons", whose founding was announced by a public *Manifesto* dated February 8, 1971, was different, because it shifted attention to the general conditions of life in prison instead of focusing on the problem of political imprisonment.

The original Gip *Manifesto* was signed by: Jean-Marie Domenach, a Catholic intellectual who during WWII had energized the resistance of university students in Lyon and who later took anti-colonial positions, particularly during the Algerian riots; by Pierre Vidal-Naquet, historian of the ancient world who also had anti-colonial positions during the war in Algeria and had been among the first, in 1967, to speak for the creation of a Palestinian state alongside Israel; and finally by Michel Foucault, whose Parisian address

at No. 285, Rue de Vaugirard, also provided the headquarters of the organization.

The text was direct and concise: one page only, denouncing the lack of information about prisons and the right to know how they worked, the living conditions, the state of the buildings, the situation concerning hygiene, food, medical care, laboratories and so on. The authors stated that they wanted to know why people go to prison and how people can get out of prison. In short, their aim was to unearth a reality that was "one of the hidden regions of our social system, one of the black boxes of our lives".

A Militant and a Theorist

Other prominent French intellectuals joined the Gip: such as Daniel Defert, Gilles Deleuze and Jean-Paul Sartre. Nevertheless, most of its activists were relatives of common prisoners and, as Daniel Defert recalled, within a few years the organization was able to promote 35 prison uprisings.

Inside the Gip, Michel Foucault was the only one who had researched internment practices during his academic career — *History of Madness* was published for the first time in 1961 — and he would also be the only one to develop the political experience of those years into a new field of research concerning prisons: The course he held at the Collège de France in 1973 was entitled *The Punitive Society* (*La société punitive*) and outlined, in broad terms, some contents of *Discipline and Punish*, the book released in 1975 with the subtitle *The Birth of the Prison*.

Hence it was unavoildable that he should be pressured more than any other member of the Gip to take a public stance concerning prisons not only as a militant, but also as a theorist. In an interview given in 1972 to a Swiss magazine he said that he had been asked "a thousand times" to write an article concerning the best possible prison, and that a thousand times he had replied it was completely beyond his goals and interests (Foucault, 1972, 81). Foucault tried as much as possible to separate his activities as a militant and his activities as a researcher, following his idea that there is no analytical inclusion, and no consequential connection between political theory and political behavior, or between political thought and political action. There is no good theory that can save you from politically unacceptable decisions and actions, as had been demonstrated by the involvement of Martin Heidegger with Nazism. In the

same interview quoted above, Foucault reiterated his conviction: "I would like no relationship to be identified between my theoretical work and my work in the Gip . It's important to me" (Foucault, 1972, 296).

Yet that relationship not only existed, as he himself recognized soon after in the same interview, but it was also something that made him "uncomfortable" towards his research object. His militancy was reflected in the theoretical work which, on the other hand, responded to some extent to a feeling of unease in the face of those processes of discrimination and massive imprisonment that emerged in police reactions to May 1968: ghosts of a past artificially and surprisingly reactivated in the present.

This problematic link between Foucault's militant activity and theory has left a significant trace in the opening chapter of *Discipline and Punish* : "That punishment in general and the prison in particular belong to a political technology of the body is a lesson that I have learnt not so much from history as from the present" (Foucault 1975, 30). It wasn't possible for him to be silent on his link to political activity that had absorbed so much of his energy at the time, and had also required him to take a position in public debate. So let us read the entire page of *Discipline and Punish* which claims this connection:

> In recent years, prison revolts have occurred throughout the world. There was certainly something paradoxical about their aims, their slogans and the way they took place. They were revolts against an entire state of physical misery that is over a century old: against cold, suffocation and overcrowding, against decrepit walls, hunger, physical maltreatment. But they were also revolts against model prisons, tranquillizers, isolation, the medical or educational services. Were they revolts whose aims were merely material? Or contradictory revolts: against the obsolete, but also against comfort; against the warders, but also against the psychiatrists? In fact, all these movements — and the innumerable discourses that the prison has given rise to since the early nineteenth century — have been about the body and material things. What has sustained these discourses, these memories and invectives are indeed those minute material details. One may, if one is so disposed, see them as no more than blind demands or suspect the existence behind them of alien strategies. In fact, they were revolts, at the level of the body, against the very body of the prison. What was at issue was not whether the prison environment was too harsh or too aseptic, too primitive or too efficient, but its very materiality as an instrument and vector of power; it is this whole technology of power over the body that the technology of

the 'soul' — that of the educators, psychologists and psychiatrists — fails either to conceal or to compensate, for the simple reason that it is one of its tools. I would like to write the history of this prison, with all the political investments of the body that it gathers together in its closed architecture. Why? Simply because I am interested in the past? No, if one means by that writing a history of the past in terms of the present. Yes, if one means writing the history of the present. (Foucault 1975, 30-31)

Those who are interested in Foucault's thought could find enough cues in this passage to outline his philosophical research: First, the program of a history of the present time; then, the emphasis given to the body's technology and the idea of the body itself as a point of intersection between power and individuals; moreover the belief that all institutions, no matter how refined and evolved, reflect a multiplicity of contingent power relationships; and finally, the consequent fragility of every institution, always vulnerable to criticism able to reconstruct its historicity and to recognize its weaknesses.

Those who prefer to escape these boundaries and to recognize Foucault's contribution to understanding prisons can focus however on expressions that define some areas of forces and conflicts. First, there is the tension between the energy of riots and the physical materiality from which they are born; then, the contrast between the body of prison and the body of prisoners. Furthermore, we find the rebellion against punishments and against medical treatments, i. e. against degradation and against comfort. Finally, there is the gap between the technology of the body and the technology of the soul.

These conflicts outline the horizon of what Foucault considered crucial to the history of what he called "the carceral". Only if we deny the contingency of our penal institutions, can we think that detention belongs to the nature of our social ties. Only without questioning the historical sense of imprisonment as such, can we conceive of prison as a constant phenomenon undergoing updates or improvements over time. The real point of juncture between Foucault's theoretical work and his militant activity in the Gip lies where the prisoner revolts illuminate the historicity of our penal institutions. The prisoners fight against the "intolerable", a word often repeated in the documents of the Gip. And intolerable, according to Foucault, is exactly what magnifies the contrast between the historical contingency of an institution and its actual power in the present moment. To deal with crime, contemporary societies have not yet come up with anything different than detention. But the prison itself becomes

intolerable when internment turns into a tool to split our society into groups and to control them, submitting the bodies of the marginalized to harsh constraints. Prison, therefore, is not intolerable when dirty or drooping and tolerable when healthy. Since prison conveys a form of power, its impact always concerns the way in which this power is conceived and exercised.

A Science of Prisons and a Science of Criminals

In the transition between the eighteenth and nineteenth century, a set of different factors radically transformed the system of punishment and the practice of internment: the emergence of a series of control mechanisms required the establishment of a central system of management which, in turn, required the creation of a network of peripheral systems not necessarily prison-like. "A general system of surveillance and imprisonment penetrates the entire thickness of society, going from large prisons built according to the Panopticon model to little patronage companies, and finds its point of application not only among delinquents but also among abandoned children, orphans, apprentices, high school students, workers, and so on" (Foucault, 1973, 466). What ties together all these different practices is a new consideration of the human body, no longer submitted to a power that can freely, arbitrarily dispose of it even up to its destruction. That was still the situation during the *Ancien Régime*: the tortures described by Foucault at the beginning of *Discipline and Punish* are eloquent witnesses of this kind of disruptive attitude towards the body of the condemned. With the rise of the Industrial Revolution, the transformation of subjects into workers, and the development of new disciplines to control individuals, bodies became useful – a sort of capital onto which no kind of destructive punishment could be applied. Modern imprisonment, seen as a system of repentance and rehabilitation, of job placement and reintegration into society, is the result of historical processes that have defined prison even before any theory of law. A control mechanism emerged and imposed itself, reflecting a more general change in the social sensibility towards what was perceived as a threat. In a range of less than fitfy years Europe moved from public executions to timetables (Foucault 1975, 7).

All the scandals arising in the transition between the eighteenth and nineteenth century relating to the economy of punishment, all the new justifications of the right to punish established from a moral or from a political point of

view, were simply consequences of this shift in our consideration of the human body: to become useful, it had to be protected from the injuries of the former penal system, and even educated and trained for new kinds of work, which required some skill and a lot of physcal resistance. Foucault describes the birth of the concept of "workforce" in terms which are very close to Hannah Arendt's book *The Human Condition* (1957), even if he was not really focused on classical political economy. The prison is, according to Foucault, a mirror of our society and its history can also be seen as a chronicle of the hidden changes which touched our societies in a crucial passage towards modernity.

In the first decades of the nineteenth century it was already clear that the execution of a prison sentence was not strictly regulated by law. "The carceral" was a sort of independent power which ruled inside prisons establishing, with no recourse to any decision of a court, the daily life of each prisoner: their right to excercise, their contacts with other prisoners or with visitors coming from the external world, their mail exchanges, their food. Hardness or softness of punishment was decided in the prison itself, where authorities ruled as local kings. In 1818 French politician Élie Decazes said that the law did not enter prisons and at that time the whole system of imprisonment was perceived as an enigmatic danger. Mixing prisoners condemned for different crimes, the prison was supposed to produce a homogeneous community and an organized group of enemies, all united against external society. Moreover, giving the prisoners food, clothes and a salary for the work they did, the prison offered a better life than that of the workers in factories. The prison therefore was seen as an institution that far from discouraging, encouraged crime and made it stronger. The circle of "the carceral" was sometimes denounced in order to look for alternative punishments. The practice of deportation, also associated with colonization and with the composition of colonial armies following the model of the Foreign Legion, was an attempt to avoid the inconveniences that arose from imprisonment. But also internal reform of prisons was implemented, even if the most successful change was the transformation of the "carceral circle" into an anthropological category. The first project was to establish a "science of prisons", supported for instance in France by Julius and Charles Lucas around 1836, but the final outcome was a new "science of criminals", a scientific discipline built on elements from physiology, physiognomy, psychiatry, psychopathological analysis and sociology (Foucault, 1973, 460). A science of prisons had to define the guidelines of an institution oriented towards the

correction of the criminal: architecture, hygiene, administration, use of time, pedagogy. The science of criminals defines delinquency as a deviation, and imprisonment as an unhappy but necessary reaction. In Foucault's words :

> What was criticized about the prison at the beginning of the nineteenth century (to create a population of outcasts and offenders) is now taken as inevitable. Not only it is accepted as a fact, but it is also established as a foundational factor. The "delinquency" effect produced by the prison becomes the problem of delinquency to which the prison must give an appropriate answer. This is the criminological turning of the carceral circle. (Foucault, 1973, 460)

The affirmation of this new science of criminals belongs to the same period in which public debate about problems of imprisonment stopped. With his typical pleasure for well chosen historical dates, Foucault places this period around 1848. At that point, prison became one of the most important tools to redefine the relationship between power and body, now considered as the vector of the workforce. Therefore prison is not only an institution that can be changed or improved depending on different historical periods. It is rather a technology of anthropological and social change and, at the same time, the measurement of how a society treats its marginal phenomena, expanding its own borders to include them or simply rejecting them.

The Treatment of Marginal People

Let us consider, for instance, the chronicles of Spring 2016 and the reports on migrant resettlements in the Mediterranean Sea. At the end of May, discussions surged about the establishment of floating hotspots proposed by the Italian government to deal with the expected rise of migration in the coming months: the use of ships to contain and accommodate people coming from the Middle East and Africa during their identification. After this selection, which would occur outside the physical territory of the country, migrants would be brought to shore, or expelled if they were not allowed to stay. The European Commission was favorable to this solution, very similar to an old proposal of the Italian right party called the Northern League, who advocated the use of platforms abandonded at sea by petrol and gas companies as temporary identification camps. Humanitarian agencies, however, were against this decision, and so was the catholic Church: Bishop Nunzio Galantino, chairman of the Italian

Episcopal Conference, declared in an interview that hotspots are detention places, prisons that cannot be an answer for migrants who always have the right to apply for asylum. The use of ships makes it impossible to follow procedures according to the laws of international protection: "It is unthinkable to use ships stationed in the Mediterranean to hold thousands of people waiting for an unspecified destination. Unless you want to bring them back to the ports of Libya and Egypt, condemning them to new forms of exploitation" (Galantino, 2016).

Ships as floating prisons would not have been conceivable prior to these forms of migration, and especially before the walls suggested by governments in Austria and in Hungary, before the European policy of abandonment of migrants to the countries bordering the Mediterranean, in short before clear or implied new political decisions about the treatment of marginal people. One can imagine that in future these floating hotspots can become more or less comfortable, that they may be improved with single cabins and air conditioning, or that the ships can become similar to luxury cruiseships with pools, dancing halls and high quality restaurants. The fact of detention, however, cannot be removed from this reality, and we must simply understand the kind of reaction it implies, the kind of political decision, the kind of physical treatment of marginalized people escaping from their homes.

The same is true for prison. You can change or improve it, but the relationship between illegality and imprisonment overshadows each reform project and each discussion about the limits or the tasks of prisons. Foucault shows that reform acts are always part of the prison considered as an historical phenomenon: They follow the evolution of the prison from the very beginning. Of course any society has the need to defend itself against illegality and crime, and of course those who live in prisons a shorter or larger part of their lives are interested — and competent — in their own improvement. A fundamental idea of the Gip's work was not to develop new theories about the optimal prison, but to ask prisoners what they wanted and needed.

Why do we think that prison is the best possibile reaction to illegality? Do we still need prisons or could we imagine another way to face and to limit crimes? In the age of discipline, i.e. a general system of control and punishment, the production of delinquency created by prison was not an inconvenience, but precisely its task, because defining and categorizing marginal people was an important piece of that system of government. Imprisonment, according to

Foucault, was one of the physical elements which sparked the psychology of the subject and connected the exercise of power to the education and the use of body. But today? Do we still live in a disciplinary society? Did we not pass through the age of "biopolitics" and through a significant reduction of what we expect from prisons? Is the prison basically an anachronism? Is its outdated existence what the Gip claimed intolerable? Or do we still work towards the production of delinquency, as is suggested by the example of the floating hot-spots for migrants?

Logic of Exclusion

Discontinuity is one of the leading concepts of Foucault's philosophy. Rejecting the traditional tendency to read history straightforwardly as a chain of facts and consequences, refusing to adopt evolution and progress as main categories of historical movement, Foucault translated in his own terms the idea of "rupture" introduced by Gaston Bachelard in the field of epistemology. Even the "long periods" emphasized by the new history (*nouvelle histoire*) of "Les Annales" in France, were for Foucault a sort of deflection "to reveal the stable, almost indestructible system of checks and balances, the irreversible processes, the constant readjustments, the underlying tendencies that gather force, and are then suddenly reversed after centuries of continuity" (Foucault, 1969, 139). Historians do not have to trace lines, but must identify divisions, they do not have to piece together long durations, but must highlight a multiplicity of ruptures. Any period can reveal "several pasts" behind itself, several possible ruptures, and the task of historians is to find the points of discontinuity between different networks of links for what we usually consider one and the same phenomenon.

In Foucault's perspective prison is not a constant reality, it is not a historical entity with some variation over time, the hardness of which depends on changes in the severity of punishments. Prison is rather the physical expression of a social gesture, imprisonment, which has been applied in different ways from time to time, actualizing differences in the logic of exclusion in our societies.

Since the Middle Ages, imprisonment has gone from a medical and religious treatment of disease and diversity to a technology to punish crime. But in the historical turning point of the eighteenth century, prison was shaped as an instrument of knowledge, a method by which power defined and captured

individuals. It was not a corollary of penal theory, but the expression of the bright rationality and ethics of a new social system determined through a broad control mechanism. Inside this system, prison was an institution of respect people could be proud of. A "more gentle way of punishment" has established itself speaking the language of human dignity. In fact, it was functional to a form of power which had no more interest in destroying bodies. The old spectacle of the law glaringly torturing criminals was replaced by a timetable in prisons and at work, by a meticulous system of surveillance, widespread and rarely visible.

History, however, did not end with the advent of this system — discipline does not represent the last stage in our power relations. During the second half of the seventies, Michel Foucault devoted a large part of his research to what he called "biopolitics", a kind of power system in which punishment does not play a central role. The age of discipline needed a strong social order provided by institutions that looked very similar to each other: schools, factories, hospitals and of course prisons. Biopower acts in another way: not forcing or guiding processes but simply regulating them.

Has the prison, during the time of biopolitics, the same role as before? Is it not outdated or, at least, uneconomic? What really justifies the massive recourse to prison that occurred in Western countries after 1968? Do we still need all these prisons?

Listening to Prisoners, Criticizing the Present

Michel Foucault never advocated the abolition of prisons nor focused his thoughts on the best possible method to punish crime. He left open the theoretical question of our contemporary need for prisons, meanwhile he devoted his attention to particular cases, concrete problems, specific uprisings in French prisons. "If I take care of the Gip," he said during the already quoted 1972 interview, "It is because I prefer actual work to academic discussions and to the compilation of books". Again Foucault sought to draw a clear line between his research and his commitment as an activist: "Only concrete political action on behalf of prisoners makes sense to me" (Foucault, 1972, 301).

But this emphasis on the distance between theory, historical research and action is, after all, a theoretical option that Foucault would have evolved over the years and that his militancy has, in a certain way, anticipated. According to

him, power consists of relationships and is not a substance, but something that circulates. Hence, power cannot be changed by a single act, no matter how striking or spectacular, but only by a series of little actions, as if only a positive microphysics of political action would be the right counterpart to the microphysics of power itself.

Political action has to be local, punctual, oriented towards single aims that people can achieve, not towards utopic horizons. The Gip wanted to give a voice back to the prisoners. This, said Foucault, is always "the first thing to do": to hear their voices, their requests, their protests, because "when prisoners talk, we are immediately at the heart of the problem". However, people are so unaccostumed to listening to what prisoners have to say, that they often prefer to deal with an abstract representation of reality akin to common ideas about prisons: uprisings, rebellions, protests on roofs and so on (Foucault, 1972, 302).

In June 1971 the Gip published the first *Inquiry About Prisons* (*Enquête sur les prisons*): question sheets anonymously filled out by prisoners in approximately 20 different jails, and delivered to members of the Gip following various routes. Daniel Defert declared that people inside the Gip had "very few instruments to verify the information" and almost no chance to "identify the sources" (Defert, 2003, 28). Someone from the prison of Toul, a small town in northeastern France, reported practices of isolation and restraint so monstrous that they were hard to believe. A prison chaplain, they later found out, had brought this story to the Gip and an uprising in Toul, at the end of the same year, gave public prominence to a scandal about which even the militants had doubts at first: "Information is a fight", commented Defert (Defert, 29).

In Foucault's words, when prisoners speak about details — whether they have a television in their cells or not, whether they are allowed to play football or not — they are not really questioning simple trifles, but "the condition of the marginal commoner in a capitalist world", the condition of "people who have lost themselves", and for whom there is no need to find theories, but spaces in which they could be listened to and have opportunities to talk (Foucault, 1972, 84).

The carceral circle has to be detected and understood to be transcended. At the beginning of the nineteenth century, prison was considered responsible for the creation of delinquency, and to fight delinquency Western societes

required more and more prisons. The real problem, according to Foucault, is not to imagine the perfect prison, or to abolish prisons, but to criticize the way in which we perceive and treat marginal people. Answering a specific question asked by his interviewer ("Do you know a good prison?"), it was easy for Foucault to say that much better prisons than in France existed: "for instance in Sweden". But also with better prisons, or by abolishing prisons, marginalization doesn't go away and our societies will simply find other ways, other technology, other means to isolate a part of the population and to define it as a residue in relationship to the good part of the community. All the social oppositions described by Foucault in his work — normal/abnormal, healthy/pathological, mad/reasonable … — were built according to the same pattern.

Prison has been the main technology with which our societies produce and manage marginality for less than three centuries. Therefore, it can be considered a recent invention and, as such, still relatively young. To change prison and to make it more livable we don't have to wait for solutions suggested by jurists, historians or philosophers. We only have to listen to the prisoners themselves and give them the political role that they are denied in our institutions. Those who study societies, on all levels, have a different task to achieve and a specific duty to perform: "To delineate a critique of power explaining the processes by which contemporary society marginalizes an important part of the population". (Foucault, 1972, 85).

References

Boullant, F. (2003), *Michel Foucault et les prisons*, PUF, Paris.

Eribon, D. (1991), *Michel Foucault*, Flammarion, Paris.

Defert, D. (2003), *L'emergence d'un nouveau front: les prisons*, in P. Artières, ed., *Le Groue d'information sur les prisons. Archive d'une lutte 1970-1972*, Éd. de l'Imec, Paris; Italian trans. *L'emergenza di un nuovo fronte: le prigioni*, in M. Foucault, *L'emergenza delle prigioni. Interventi su carcere, diritto, controllo*, a cura di D. Melossi, La Casa Usher, Firenze 2011, pp. 21-30.

Foucault, M. (1969), *L'Archéologie du savoir*, Gallimard, Paris; English trans. *Archaeology of Knowledge*, Routledge, London 2002.

Foucault, M. (1972), *Die grosse Einsperrung*, interview with N. Meienberg in "Tages Anzeiger Magazin", n. 12, 3.2.1972; French trans. *Le grand enfermement*, in Id., *Dits et Écrits*, Gallimard, Paris 1994, vol. II, pp. 296-306.

Foucault, M. (1973), *La société punitive*, Résumé du Cours au Collège de France, in Id., *Dits et Écrits*, Gallimard, Paris 1994, vol. II, pp. 456-470.

Foucault, M. (1975), *Surveiller et punir. Naissance de la prison*, Paris, Gallimard; English trans. *Discipline and Punish. The Birth of the Prison*, Vintage Books, New York 1977.

Galantino, N. (2016), "*Migranti, accogliere tutti*", interview with P. Rodari published in "La Repubblica", 6.1.2016, p. 4.

Lefeuvre Déotte, M. (2010), *Foucault: le corps, le pouvoir, la prison*, in "Appareil", 4, 2010.

Vaccaro, S. ed. (2010), *La società disciplinare*, Mimesis, Milano.