REVIEW ARTICLE

Surveiller et Punir

Michel Foucault's latest book, Surveiller et Punir, (Gallimard, NRF, Bibliotheque des Histoires, Paris, 1975), is remarkably difficult to pigeonhole. Penologists will see in it a contribution to penology; French historians will read it as a contribution to French history, and it is, besides, a work of sociological theory, and a work of theory in the History of Ideas. Four books in one? More than that, because the theoretical stance is ambiguous: sometimes Foucault seems to be working from an historicist point of view, while at other times he seems to be working from a "structuralist" point of view. And how do we square Foucault's claim to be "un positiviste heureux" with the fact that he has declared himself to be a committed writer? Readers of S & P, especially those who like their discussions of theory to be cut and dried, are likely to be baffled as well as excited by what they read. Has Foucault reached the point at which versatility becomes inconsistency? The subject of the book is an important one: it concerns the semantics and social functions of punishment. The importance of the subject, as well as the idiosyncrasies of Foucault's treatment of it, makes the book worthy, I think, of extended discussion.

The book opens with a contrast. After a detailed account of the truly appalling punishment inflicted on Damiens for attempted regicide in 1757, there follows an account of the internal regulations of a model prison of the 1830s. The contrast is between two techniques, or "modalities", of punishment; as Foucault puts it, 'Punishment changes from an art of intolerable sensations to an economy of suspended rights' (p. 16). Under the Ancien Regime, punishment was an act of ritual atrocity, a drama of corporal violence, impregnated with an obvious political symbolism; but after the Revolution, the normal form of punishment rapidly became the prison, with its timetable of (supposedly) spiritual re-education, and from this drama the public was carefully excluded. The period of the change-over from one modality of punishment to the other was comparatively short in France (from the 1780s to the 1830s). Similar transformations in penal law took place in most European states at about the same time, although elsewhere they may have been less clear-cut.

Foucault claims that the penal system which emerged in the first half of the nineteenth century is still very much our own. Subsequent developments were already implicit in the original conception of imprisonment. But we have now reached the stage where it is no longer the crime which is judged, but the criminal, and where doctors, psychiatrists, and "experts" of all sorts intervene in the very process of trial. Foucault asks how and why these changes came about, and says that the solution will lie in

> 'trying to study the metamorphosis of punitive methods from the basis of a political technology of the body, wherein might be read a common history of power-relationships and object-relations'
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> (p. 28) [note 1]

It is essential to concentrate on the details of bodily control, because

> 'if, like Durkheim, we only study the general social forms, there is a risk of seeing the principle of the softening of punishment as lying in processes of individualisation which are, rather, one of the effects of the new tactics of power, among which are the new penal mechanisms.'
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> (p. 28)

Such, then, is Foucault's statement of his subject. But why does Foucault choose this subject, and why does he treat it from this particular angle? The historical puzzle which he sets himself is, in fact, a condensation of a number of problems which are all traditional in sociological theory. The time at which the modern penal system first emerged is also, broadly speaking, the time at which our own modern, society emerged. Foucault will base his analysis on the supposition that the mode of punishment is symptomatic of the mode of social relationships within a particular society, so that a change in punitive techniques has to be explained by reference to a change in social texture: thus far, at least, Foucault follows Durkheim fairly closely. But a punishment is not merely a question of social relationships, it also acts directly on a natural object, the body, and is, therefore, a hinge between the socio-conceptual and the material world. Archaic and Modern, Nature and Society, symptom and formant: here are three traditional problem-forms straightaway, but there is more. Almost from the first, Foucault insinuates a note of grave disenchantment with the contemporary, liberal ideology of punishment into his text. As it happens, Foucault has been an active campaigner for penal reform (or revolution?) for some years now. He is also a radical critic of modern French society as a whole. One sees why he takes punishment as the exemplary social relation: he is trying to mobilise simultaneously our guilty conscience as punishers and our indignation at being captives. 'Man is born free and is everywhere in chains', but here Rousseau's image is transposed into the terms of historical research. If Foucault sets out to explode a few current myths, he is not motivated only by his own political commitments: it can be argued that the objective history of an idea, especially of a still-current idea, must demythify, because if it does not demythify, it is merely the restatement of that which has to be explained. By the force of this argument, radicalism and positivism each make the other possible - a standpoint which goes back to the ideologues of the late eighteenth century, and, beyond them, to the social criticism of the Enlightenment.

After all these generalities, back to the historical part of the book. Foucault claims that, by the end of the eighteenth century, there were three incompatible and competing formulae of punishment:

> '... in monarchic law, punishment is a ceremonial of sovereignty; it uses the ritual marks of vengeance, which it applies to the body of the convict; and it unfolds to the eyes of the spectators an effect of terror which is all the more intense for the physical presence of the sovereign and his power being discontinuous, irregular and always above his own laws. In the project of the reforming jurists, punishment is a procedure for requalifying individuals as subjects, in law; it uses, not marks, but signs, /134/ coded sets of representations, for which the scene of punishment must ensure the fastest circulation and the most universal acceptance possible; Finally, in the developing project of the carceral institution, punishment is a technique for coercing individuals; it deploys body-training procedures, not signs, with the traces that [the training] leaves in behaviour in the form of habit; and [this form of punishment] assumes the establishment of a specific power to manage punishment'
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> (pp. 133-4)

A comparison of these three "technologies of power" term by term reveals their incompatibility: sovereign/social body/ administrative apparatus; mark/sign/trace; ceremony/theatre/ exercise; vanquished enemy/legal subject/individual under constraint; a body tortured and mutilated/a soul manipulated/ a body re-educated. Foucault places a good deal of stress on the total incompatibility of one system with another, as well he might, because he needs to establish this point firmly in order to account for the rapidity and completeness of the historical change-over. But are the differences so well-defined as Foucault claims them to be? Apart from anything else, one wonders if Foucault has not been led to assume an unduly naturalistic definition of the human body by his own lack of assumptions about the human being.

Foucault's exposition falls into two main sections. Leading up to the passage I have just quoted is an account of the internal logic of the first modality of punishment, the Prince's justice, and of the reasons for its disappearance, while the second section, from the quoted passage on, is an attempt to explain why the third modality, the correctional, was chosen instead of the second.

Foucault's discussion of the complexities of legal and penal procedure in the late Middle Ages and in the classical period is clear and often illuminating. For example, Foucault comments on the game-like formality of the rules for administering the question, and compares trial-by-torture with the

earlier trial-by-ordeal. Also, the Question is linked to the complex arithmetic of half- and quarter-proofs, because as well as a means of instruction it is a partial punishment applied to those whose guilt is partially proved. The picture that is built up of the Prince's justice as a whole is the picture of a closely-structured set of "strategies". Presumably, once one part of this structure collapses, it involves the crumbling of the whole; but Foucault does not lay so much stress on this point as one might expect. In some ways, Foucault's explanation of the crumbling of the monarchic system of justice is rather conventional: he ties it in, for example, with the growth of intensive agriculture and industry and with the rise of bourgeois capitalism, all of which weakened the political and economic bases of the monarchy because they moved the ownership of land, goods and labour into the hands of private individuals. However, Foucault points out that the object of the proposed penal reforms was to promote a new "economy" of punishment, in which a more complete distribution of punishment would have to be paid for by a drop in the level of intensity of each single punishment. In the old system, the very elaborateness of penal procedure meant that punishment could be applied only sporadically, and, in practice, this meant that certain forms of illegalism were countenanced, almost becoming tacit concessions. If the bourgeoisie were to ensure the greater repression of popular illegalisms (minor "thefts" of goods and labour), it had to plead, first of all, for the abolition of the arbitrary excesses of the old system of punishment.

'One must conceive of a penal system as an apparatus for "managing" illegalisms differentially, and not for suppressing them all', says Foucault (p. 91). In context, the remark applies to the reforms of the late 18th and early 19th centuries, but clearly it must apply equally well to the penal system of the classical period, and beyond that to the "differential" penology of earlier, feudal times. But, if every penal system is a new economy of old illegalisms, where is the original legality, except in a conditional time which is doomed to vanish as soon as it emerges into history? Rousseau's problems once more.

Granted that the King's justice was destined to be replaced by another, more extensive and homogeneous system of justice, why, in the event, was the Prison chosen rather than some system of theatrical representation? In explaining this, Foucault embarks on more original and more debatable theses. The second half of his book seems all the more important because Foucault claims that the reasons that lie behind the establishment of Prison also lie behind the emergence of the Human Sciences in the mid-nineteenth century.

According to Foucault, during the second half of the seventeenth century, a new technology of the body was discovered. This technology was novel in three respects: first, for the minute <u>scale</u>, the detailed character of its procedures; second, in its <u>aim</u>, which centred on the economy and efficacity

of movement; and lastly, in its modality, operating as an uninterrupted coercion. This technology, which Foucault calls, quite simply, "discipline", is not, of course without historical antecedents, in the various forms of slavery, vassalage, the exercises of the monastery, the theatre, and initiatic ceremonies. However, what is comparatively new is the linear organisation of these forms of control and exercise. This exhaustive linear programming operates both in time and in space (v. pp. 143-156).

The demands of a constant supervision brought with them a new geometry of functional spaces, and this geometry quickly passed from the barracks to the public hospital, the school, the workshop and the town-plan. Eventually, the structure of supervision comes to be the organising principle of society at large. On the relation between "supervision" and "discipline", Foucault has this to say:

> 'Hierarchic, continuous, functional supervision is, no doubt, not one of the great technical "inventions" of the eighteenth century, but its insidious extension owes its importance to the new mechanisms of power that it brings with it. Thanks to /supervision/, disciplinary power becomes an "integrated" system, linked from the outside to the economy and to the ends of the device in which it operates. Also, it is organised as a power which is multiple, automatic and anonymous; for, although it is true that supervision bears on individuals, its functioning is that of a network of relations from top to bottom, but also up to a certain point, from bottom to top and laterally; this network "holds together" the whole and criss-crosses it integrally with effects of power which take purchase on each other: supervisors perpetually supervised. Power in the hierarchy of supervision in disciplines is not held like a thing, nor is it transferred like a property; it functions like a piece of machinery. And although it is true that the pyramidal organisation gives it a "chief", it is the apparatus as a whole which produces "power" and distributes individuals inside this permanent and continuous field.'
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> (p. 179).

This passage offers scope for interminable comment, because it embodies so many important assumptions. Take the last sentence, for instance. If Foucault were saying that, in general, "power" were produced by the system as a whole, this would be unobjectionable; but what he is in fact saying is that this way of producing power, "totally" as it were, is peculiar to discipline, and this seems to me to be rather questionable. One appreciates that Foucault is trying to elucidate the anonymity of the new power system, for it is true that after the eighteenth century relations of power become increasingly "faceless" (or impersonal, bureaucratic, etc., - call it what you will). But it seems to me that Foucault has hit on the wrong explanation. Ideology, or express

symbolism, is one thing and structural realities another: no doubt, in the legal and political ideologies of the Ancien Regime, all power was held to emanate from the person of the king, whereas in the political ideology of post-Revolutionary France power was held to emanate, mediately, from the constituted general will: but, in spite of this obvious difference of ideologies (which, in any case, involves a good deal of over-simplification) it remains true that both before and after the revolution, power was produced by the whole network rather than by a particular element of the network, and this is not because of the 'insidious extension' of 'supervision' and 'discipline' during the eighteenth century, but because power is always produced by 'the apparatus as a whole'.

When Foucault turns to the invention of the Norm in the Classical age, he is onto a more promising trail. The norm presupposes a continuous scale of differentiation, and it does therefore make possible a greater degree of individualisation at the same time as it promotes a greater homogeneity in society. In a normative regime, the most strongly individualised are those who are lowest on the scale - children, delinquents, the diseased etc. All of this contrasts with the feudal scale of differentiation, which is based on status: the most individualised are those at the top of the hierarchy (king and great nobles), and the system as a whole tends to accentuate the heterogeneity of society. For these reasons, it can be claimed that 'discipline', with its continuous scales of comparison, creates the individual as an object of knowledge:

> 'The individual is, no doubt, the fictional atom of an "ideological" representation of society; but he is also a reality manufactured /196/ by this specific technology of power that is called "discipline". One must stop always describing the effects of power in negative terms ... In fact, power produces; it produces something real; it produces domains of objects and rituals of truth. The individual and the knowledge that can be had thereof depend on this production.'
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> (pp. 195-6).

For Foucault, human nature is moulded by the social and historical conditions in which human beings find themselves - moulded, not absolutely perhaps, but sufficiently profoundly for particular human "natures" to be counted as real as any other sort of reality. The force of this position lies, I think, in the fact that Foucault is not led by the constation of human variability into relativism: what is real can be known objectively. It follows from this that the sciences of the individual, such as psychiatry, criminology, pedagogy and so on, are indeed "objective" sciences; but it also follows that the historian can bracket out all the ontological questions when he writes the history of these, or of any other, sciences, because he will be reconstructing the "Referent" from a different angle.

The techniques of discipline are mostly quite old, as Foucault stresses, but they assume a fundamental importance during the eighteenth century, because they reach a 'technological threshold', beyond which savoir and pouvoir reinforce each other. The aims of the various disciplines were three: to make the exercise of power as cheap as possible, to extend the effects of power as far as possible, and to increase docility and productivity both at the same time. The generalisation of discipline throughout society corresponds to a well-known historical conjuncture - on the one hand, demographic expansion, with an increase in the size of the floating population and a change in the relative sizes of different social groups; on the other hand, a rapid development in the apparatus of production. Discipline emerges as a response to the need for correlating these two sides of the historical conjuncture. The concentration of capital and the concentration of men each requires the other, and, besides, an overall principle of organisation (pp. 220-5). This, then, is the background against which the sciences of the individual become possible, a particular form of social evolution, which when once started, is irreversible, because each of the forces is solidary with the others.

What of penology in all this? The prison, with its stress on the reforming power of isolation, the educative power of work, and the casuistics of individual treatment, clearly owes much to the techniques of the hospital, the factory and the school, and is, in fact, according to Foucault, a replication of the disciplinary structures of the society outside. But it is more too. For the prison failed to be a true correctional from the very first. The effect of prison is to transform the mere law-breaker into a delinquent, to encourage recidivism, to maintain and organise a specific criminal milieu. So why has prison lasted so long?

> 'One should then suppose that prison, and in a general way punishment, no doubt, are not intended to suppress infractions; but rather to distinguish them, to distribute them, to use them; ... Punishment may, then, be a way of managing illegalisms...'
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> (p. 277)

In similar vein, Foucault points out that the relationship between the police and the criminal class is a symbolic one, and he claims that the concentration of crime into a small, specific class is a way of containing, or short-circuiting, other, more dangerous and radical illegalisms. A subversive message this, and, perhaps a not unseasonable one at a time when the view seems to be spreading that society consists exclusively of cops versus robbers.

There remains a problem, not peculiar to carceral punishment, no doubt, but crucial in such a system because it depends so heavily on the passivity of those who are punished: how is it that punishment is accepted?

> 'The theory of contract can only reply by the fiction of a jural subject ceding to others the power to exercise on him the right which he himself holds on them. It is quite probable that the great carceral continuum which makes the power of discipline communicate with that of the law, and stretches without break from the smallest coercions to the great penal detention, constituted the doublet, technical and real, immediately material, of this chimerical surrender of the right to punish.'
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> (p. 310).

This passage is indeed intriguing. Surely, the terms of a doublet show some sort of correspondance, even if only an historical one; but here, to the real and immediately material term there corresponds only an ideological fiction. This seems to run counter to the grain of Foucault's analysis so far, which is largely intended to show that 'Pouvoir et savoir s'impliquent l'un l'autre' (p. 32; I decline to translate). But leaving aside the question of the chimerical nature of legal ideology, there is also the idea that social relations, constantly translated into the material architecture of daily life, eventually become a sort of programme for human experience. (The idea owes as much to Durkheim and Halbwachs as Marx, though I am not sure that Foucault would care to own it). The idea justifies a view of society as structurally repetitive, and large sections of the book put forward just such a view: Bentham's Panopticon becomes the image of the episteme - indeed, at times, Foucault speaks as though the Panopticon is the episteme. Elsewhere, however, Foucault takes an opposite course and speaks as though society were structurally divergent or innovative. (After all, how else is one to explain dramatic changes like the one with which Foucault opens?).

The terms of Foucault's explanation are ambiguous - ambiguous, that is, when one views them from the vantage-point of the traditional dichotomies I spoke of at the beginning. The key words of Foucault's analysis are words like "technique", and "strategy". Now a technique (or strategy) is neither a thing nor an idea: It is a faculty, both pouvoir and savoir; what is more, although it is not a permanent, unlimited capacity of Human Nature, the number of cases in which it may operate is not finite. From this point of view, the concept of a "technique" appears as the analytic counterpart of human being itself; a specificable indetermination; and one can say that Foucault is striving for an explanation of the same scale as individual men. It is inside the idea of a technique too that the contradiction between a constantly unfolding History and a self-repeating history can be resolved; for a strategy is both endless expatiation into act and continuous articulation of one act with another - only, for the historian, history moves through qualitative thresholds, and he can, conceptually, distinguish between different epochs, and between different series within the same epoch.

There is another side to Foucault's ambiguity, besides his quest for the middle road. He crosses sociological categories, speaking of the economy of power, the accountacy of illegalism, the political technology of the body and so on. To a certain extent, these are established metaphors, but they betray as well Foucault's conviction that every social act has a "total" significance. Again, this insistence on the interdependence of all social actions derives from the concept of "strategy": if a strategy is the correlation of one act with another, then no act can, therefore, be without repercussion, it must affect at last the global economy of action. Not so much a standpoint of sociological holism, therefore, as an epistemological account of the tendency to systematicity.

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Note

(1): My translation throughout this review. This passage illustrates well the impossibility of rendering the full extent of Foucault's word play into something like normal English. The original French reads: 'essayer d'etudier la metamorphose des methodes punitives a partir d'une technologie politique du corps ou pourrait se lire une histoire commune des rapports de pouvoir et des relations d'objet'.