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DOI: 10.1177/0090591715589951

La société punitive (hereafter The Punitive Society) is Michel Foucault’s eleventh Collège de France course to appear in print since the publication of his Collège courses began in 1997. The course consists of thirteen lectures delivered between January and March 1973. The presentation of this course is nothing short of masterful. The editor, Columbia University’s Bernard E. Harcourt, bases the text of the course on a typescript of audio recordings of Foucault’s lectures prepared at Foucault’s request by one of his auditors. As these recordings are no longer available, Harcourt was not able to verify that the typescript captured every word that Foucault uttered in his lectures but he mitigates this problem by supplementing the text with footnotes containing dense excerpts from Foucault’s preparatory manuscripts. Harcourt’s addition of lengthy endnotes and an incredibly rich afterword also reveals some altogether surprising details about the intellectual and political backdrop of the course. Among other things, we learn from this material that Foucault was an avid reader of the Marxist historian E.P. Thompson and possessed a thoroughgoing knowledge of his works.

The contents of The Punitive Society concern the birth and generalization of the prison as the form of punishment in Western societies. But they go much further than this object. Foucault’s analysis of the prison drives him to an analysis of the overall power relations underpinning the prison. As he explains the goal of his genealogical undertaking, “it is about finding what power relations rendered possible the historical emergence of something like the prison” (p. 86). Foucault’s qualification here of “something like the prison” (italics mine) reflects his primary interest in the prison less as a free-standing institution than as a form. This prison-form not only extracts the time of the life of individuals in a manner strikingly similar to the wage-form
but also organizes space in a star-like architecture that facilitates the surveillance of individuals. For this reason, Foucault insists that the prison-form is a “social form” (p. 230). It embodies temporal and spatial dimensions that reflect and facilitate the exercise of a power throughout society. Foucault here only begins to call this power disciplinary.

With its focus on the prison-form and its introduction of disciplinary power, *The Punitive Society* clearly anticipates Foucault’s *Discipline and Punish: the Birth of the Prison*, published two years later. However, readers expecting the former to be a mere dress rehearsal for the latter may be quite surprised. *The Punitive Society* contains whole strands of argument that are largely absent from *Discipline and Punish*, such as Foucault’s affirmation of civil war as the matrix for power relations through a critique of Thomas Hobbes’s equation of civil war with the war of all against all. More generally, Foucault in *The Punitive Society* grapples to even find the vocabulary designating the modality of power corresponding to the prison-form, and it is not until the end of the course that he settles on the adjective “disciplinary.” *The Punitive Society* is therefore a genealogy of the prison-form that leads to the very formulation of disciplinary power rather than a genealogy that presupposes this formulation.

Marxism inflects not just the vocabulary of this genealogy but also its contents. Perhaps here more than anywhere else, Foucault exudes a debt to Marxism, even as he implicitly challenges some of its strands of argument, especially those affiliated with Louis Althusser, or situates its concepts within his own nascent problematic of disciplinary power. This debt is fully apparent not only in all kinds of intricate details but also in the general contours of Foucault’s argument. Stated in the broadest possible strokes, his core historical argument is that popular threats to capitalist production at the end of the eighteenth century spurred a moralization of the working class that established a continuum between the punitive as penitence (or moral correction) and the penal as sanction with the overall effect of generalizing the prison-form beyond its birthplace in a Quaker milieu in the United States.

Foucault delves into the imposing details of his argument only after breaking some conceptual ground that not only puts power at the center of his analysis but also frames it in terms of civil war. He opens the course by briefly elaborating a critique of the notion of exclusion propounded by Claude Lévi-Strauss. Foucault suggests that this notion is analytically dangerous because its overriding focus on society as a wellspring of representation and consensus dilutes the “specific [struggles], relations, operations of power” (brackets in the original, p. 5) that produce the very effect of exclusion.

As a corrective to this dilution, Foucault foregrounds the political struggles in power relations through a bold affirmation of civil war as the matrix
of these relations. He posits this matrix through a criticism of the equation of civil war with the war of all against all, which he detects even among seventeenth- and eighteenth-century critics of Hobbes. Foucault suggests that this equation reduces struggles to individual dynamics and puts them outside of the time and space of political power. He insists not only that civil war is about conflicts between groups rather than individuals but also that it constitutes these groups within political power rather than before its founding or after its demise.

Keeping with this matrix of civil war as a collective conflict immanent to political power, Foucault dwells at length on the constitution of the criminal as a social enemy rather than as a mere law-breaker in the eighteenth-century penal theories elaborated by Cesare Beccaria, Jacques Pierre Brissot de Warville, and Louis-Michel Le Peletier de Saint Fargeau. These theories identified crime as an act of war against society based on the violation of the social contract. Foucault finds manifestations of this understanding of crime in political economy and literature. Indeed, he devotes nearly a whole lecture to an obscure Physiocrat, Guillaume-François Le Trosne, who identified vagabonds as social enemies and prescribed enslavement, branding, and other extremely violent measures to fix them in space and put them back to work.

But we soon discover that Foucault dwells on manifestations of the theme of the criminal as a social enemy only to insist that the prison-form did not derive from this theme (or from judicial practices and even monastic life). Foucault argues that late eighteenth-century penal theories sought to defend society through punishments based on social utility, such as dishonor, retaliation, and slavery, rather than through imprisonment.

His answer to the question of the birthplace of the prison-form is surprisingly straightforward. This form, Foucault tells us, derived from late eighteenth-century Quakerism in the United States. From 1780 to 1790, Pennsylvanian Quakers established the prison as the means not only of punishing crime understood in moral terms as an evil but also of facilitating a process of penitence for wrongdoers. Isolation through cellular confinement provided criminals with the solitude requisite to access their inner light and embark on the road to penitence.

The historical question for Foucault then becomes how the prison-form extended well beyond this Quaker milieu. At this juncture, he veers his analysis in the direction of a political economy of morals, placing a forceful emphasis on the tight connection between newly founded bourgeois wealth in the late eighteenth century and the moralization of the working class. Foucault even identifies wealth as the key to the history of morals in general. As he declares, “To understand the moral system of a society, one must pose the question: where is the wealth?” (p. 112).
Foucault answers this question by focusing on the intimate and problematic connection between the production apparatus behind capital accumulation and the bodies of workers in the late eighteenth century. Workers stripped of property were suddenly handling newly founded bourgeois wealth as capital “visibly invested” in the “form of a tangible and accessible materiality” encompassing raw materials, machines, merchandise, and stocks in commercially vital locations, such as the London Docks (p. 176). The accumulation of this capital depended on the constitution of the bodies of these workers as labor-power and their transformation into productive forces.

Foucault submits that workers threatened the capitalist production apparatus through the “popular illegalisms” of plundering and dissipation. They not only pillaged material wealth out of sheer necessity but also refused to treat their own bodies as bearers of labor-power through recourse to idleness, irregularity, partying, and the refusal of family (via cohabitation and debauchery).

Foucault contends that the intolerance of the bourgeoisie toward these attacks accelerated a process started by religious groups, families, and employers in England and France of moralizing the working class and investing the state with morally corrective functions, thereby transforming attacks on wealth into moral faults rather than mere infractions of the law. Subtending this moralization of the penal system was a whole series of perpetual surveillance mechanisms that sought to constitute the bodies of workers as productive forces through a play of minute rewards and punishments. As the accumulation of enough of these “micro-punishments” resulted in delinquency and subjection to the judicial apparatus, Foucault suggests that surveillance mechanisms established a “perfect continuity” between the punitive and the penal “for the first time in the history of Western society” (p. 199).

Notably, as he speaks in greater detail of these surveillance mechanisms, his language begins to change. Foucault refers with greater frequency to the “disciplinary” as a substitute for the “punitive” until he proclaims his preference for the language of the “disciplinary” over the “punitive.” At this point, Foucault identifies disciplinary society with apparatuses that capture individuals to constitute their labor-power through the acquisition of habits. It is also at this point that his answer to the question of the generalization of the prison-form becomes clear. Foucault argues that the prison-form spread well beyond its birthplace owing to the generalization of disciplinary power in response to popular attacks on capital. What is striking about his argument is that resistance to capital in the form of so many working-class depredations and refusals drove the establishment of disciplinary society. Indeed, Foucault’s emphasis on the refusal of labor in particular contains strong echoes of the theme of the refusal of work in Italian Autonomist thought.
Plenty of aspects of Foucault’s argument in *The Punitive Society* warrant critical scrutiny. One problem is that Foucault seems at times to draw from exceedingly dichotomous premises. He opposes the punitive to the penal throughout the bulk of his argument, almost as if legal sanction does *not* entail *any* implications for moral conduct. In the elaboration of his more general postulates about power, Foucault’s implicit jab at Althusser for reducing power to *either* violence *or* ideology seems difficult to reconcile with latter’s insistence that repressive state apparatuses and ideological state apparatuses *each* function by ideology *and* violence, albeit to varying degrees. We could also raise queries about Foucault’s treatment of the equation of civil war with the war of all against all as a “tradition” (p. 26) in political theory, given that prominent critics of Hobbes disputed the war of all against all in the first place.

Yet even these moves take Foucault in immensely productive directions. It is through the distinction between the punitive and the penal that he gets to the concept of disciplinary power. Foucault’s critique of Althusser enables him to articulate power–knowledge relations, and his claim that a tradition in political theory equates civil war with the war of all against all allows him to develop a concept of civil war.

But perhaps some of the most significant innovations in *The Punitive Society* stem from its Marxist inflections. These inflections lead Foucault to take capital accumulation so seriously that he treats popular threats to it as the very basis for the birth of a disciplinary society. Foucault also opens up new ways of thinking about power and capitalism more generally by insisting that labor-power is not given as such but amounts to an effect of disciplinary power on the bodies of workers. These insights reveal that core Marxist concepts configured his articulation of disciplinary power even as he critically adapted these concepts.