Chapter Eight

Social Apparatuses and Hierarchies
Power in the Domain of Materiality
I. Introduction: the Foucauldian Notion of Power in Society

a. An Alternate Method towards Understanding Power

As per the general plan of this dissertation, this chapter is to discuss how Foucault analyses the role of hierarchies in the socio-politico-economic domain of materiality, which, as I have proposed, will be primarily done through a study Foucault's analysis of penalty in Discipline and Punish (1975), his text on the origin of prisons. But, before I start analysing the text, I would look into some of the basic features of Foucault's notion of power as it operates in society, so that the basic themes to be looked for are clear right at the outset.

In a conversation in 1977, Foucault notes how the current bourgeois power is different from feudal power, in its being less definite and more prone to transformations:

Feudal power, operating primarily through exaction and expenditure, ended by undermining itself. The power of the bourgeoisie is self-amplifying, in a mode not of conservation but of successive transformations. Hence the fact that its form isn't given in a definite historical figure as is that of feudalism. Hence both its precariousness and its supple inventiveness.1

This entails that modern power has to be studied in a way different from traditional analysis of power, and in a 1976 lecture, Foucault proposes five methodological precautions towards this alternate method. The first is that instead of studying central and global forms of power, one should study its regional and local forms, or what Foucault calls 'capillary power'. The second precaution is that instead of analysing power as a subjective and conscious intention, one should study its real and effective practices. The third point is that power never operates unidirectionally, but always in an ever-circulating network. Foucault says,

A third methodological precaution relates to the fact that power is not to be taken to be one individual's consolidated and homogeneous domination over the others, or that of one group or class over others... Power must be analysed as something which circulates, or rather as something which only functions in the form of a chain. It is never localised here or there, never in anybody's hands, never appropriated as a commodity or piece of wealth. Power is employed and exercised through a net-like organisation. And not only do individuals circulate between its threads; they are always in the position of simultaneously undergoing and exercising this power. They are not only its inert or consenting target; they are always also the elements of its articulation. In other words, individuals are the vehicles of power, not its points of application.2

The fourth is that instead of studying power deductively from a 'centre', one should conduct an 'ascending' analysis, starting from its 'infinitesimal mechanisms' to how they get adapted into general mechanisms of global domination. About the fifth precaution, Foucault says,

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2 Michel Foucault, 'Lecture Two', in 'Two Lectures' (14 January 1976, trans. Alessandro Fontana and Pasquale Pasquino (Italian), in Michel Foucault, Microfisica del Potere, Turin: 1977), trans. Kate Soper, in Ibid., 98.
As for our fifth methodological precaution: it is quite possible that the major mechanisms of power have been accompanied by ideological productions...but basically I do not believe that what has taken place can be said to be ideological. It is both much more and much less than ideology. It is the production of effective instruments for the formation and accumulation of knowledge—methods of observation, techniques of registration, procedures for investigation and research, apparatuses of control. All this means that power, when it is exercised through these subtle mechanisms, cannot but evolve, organise and put into circulation a knowledge, or rather apparatuses of knowledge, which are not ideological constructs.\(^3\)

This fifth and last precaution thus points to the fact that ideological constructs might not have an overdetermining role in controlling and circulating power structures.

Two main features emerge, from these five principles, as constituting Foucault’s alternate method to power, and Foucault sums them up in an interview given in 1977. The first feature is that power cannot be studied as subjective and intentional; it is instead relational and functional, and is articulated only in practice. Thus, power cannot be read as the means to gratification for a sovereign or a dominant class, but rather the conditions of their functional possibility. Talking about this non-intentional capillary power, Foucault says,

> It seems to me that the problem [of power] is too often reduced—following the model imposed by the juridico-political thinking of the sixteenth and seventeenth centuries—to the problem of sovereignty...I wanted to show the value of an analysis which followed a different course. Between every point of a social body, between a man and a woman, between the members of a family, between a master and his pupil, between everyone who knows and everyone who does not, there exist relations of power which are not purely and simply a projection of the sovereign’s great power over the individual; they are rather the concrete, changing soil in which the sovereign’s power is grounded, the conditions which make it possible for it to function.\(^4\)

The implied non-centrality of the first feature itself provides for the second, which is that one need not invoke, in an analysis of power, the overwhelming role of the ‘State’, or that of dominant ideological apparatuses controlled by it, as the sole dispensers of power. Power is not imposed unilaterally by state apparatuses, and Foucault says,

> The idea that the State must, as the source or point of confluence of power, be invoked to account for all the apparatuses in which power is organised, does not seem to me very fruitful for history, or one might rather say that its fruitfulness has been exhausted.\(^5\)

These two features comprise the backbone of the Foucauldian notion of power, and lead on to the corollary idea that power need not be repressive, and is in fact productive of discourse for its perpetration. Therefore, I would now look into Foucault’s views on the role of state apparatuses in power, his notion of multiplicity of power and his ideas about how power can have a productivity, instead of being merely repressive, one after the other.

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3. Ibid., 102.


5. Ibid., 188.
b. *From the State Apparatus to the 'Dispositif'*

In a conversation in 1977, Foucault shows clearly how power is much more complex than a unitary thing that can be analysed merely in terms of the State and its apparatuses:

One impoverishes the question of power if one poses it solely in terms of legislation and constitution, I terms solely of the state and the state apparatus. Power is quite different from and more complicated, dense and pervasive than a set of laws or a state apparatus.6

Foucault also sets straight, in an interview in 1977, the common misconception of associating Marx with this reductive notion of power, and shows how, even from a Marxian perspective, 'systems' of class domination and the multiple 'circuits' of exploitation are never the same:

...one cannot confine oneself to analysing the State apparatus alone if one wants to grasp the mechanisms of power in their detail and complexity. There is a sort of schematism that needs to be avoided here—and which incidentally is not to be found in Marx—that consists of locating power in the State apparatus, making this into the major, privileged, capital and almost unique instrument of the power of one class over another... The systems of domination and the circuits of exploitation certainly interact, intersect and support each other, but they do not coincide.7

Foucault shows, in the same interview, how power extends beyond the State because not only does the State not have control over all forms of power, but it also derives its operational basis from other power relations, thus being 'superstructural' to these local systems of power:

...what I want to say is that relations of power, and hence the analysis that must be made of them, necessarily extend beyond the limits of the State. In two senses: first of all because the State, for all the omnipotence of its apparatuses, is far from being able to occupy the whole field of actual power relations, and further because the State can only operate on the basis of other, already existing power relations. The State is superstructural in relation to a whole series of power networks that invest the body, sexuality, the family, kinship, knowledge, technology and so forth.8

All this does not mean that Foucault undermines the idea of apparatuses altogether, but, as he says in a 1975 interview, he wants to, for the sake of a truly revolutionary politics, attack this multiple local base of capillary power too, along with global structures like the State:

I don't claim at all that the State apparatus is unimportant, but it seems to me that among all the conditions for... preventing the revolutionary process from running into the ground, one of the first things that has to be understood is that power isn't localised in the State apparatus and that nothing in society will be changed if the mechanisms of power that function outside, below and alongside the State apparatuses, on a much more minute and everyday level, are not also changed.9

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So, Foucault also talks of an ‘apparatus’ ('dispositif' in the French original), which is, however radically different from the traditional notion of a State apparatus. In a 1977 conversation, Foucault defines this apparatus, which analyses of his type are on the lookout for, in terms of the three characteristics of heterogeneity, networking and strategic goals:

What I am trying to pick out with this term [dispositif] is, firstly a thoroughly heterogeneous ensemble consisting of discourses, institutions, architectural forms, regulatory decisions, laws, administrative measures, scientific statements, philosophical, moral and philanthropic propositions—in short, the said as much as the unsaid... Secondly, what I am trying to identify in this apparatus is precisely the nature of the connection that can exist between these heterogeneous elements... Thirdly, I understand by the term 'apparatus' a sort of—shall we say—formation which has as its major function at a given historical moment that of responding to an urgent need. The apparatus thus has a dominant strategic function.

Elaborating on this third function further, Foucault shows how this strategic nature of his type of apparatus of power, or the ‘dispositif’, automatically entails, for the sheer necessity for articulating this strategy, a connection to formations of knowledge. He says,

I said that the apparatus is essentially of a strategic nature, which means assuming that it is a matter of a certain manipulation of relations of forces, either developing them in a particular direction, blocking them, stabilising them, utilising them, etc. The apparatus is thus always inscribed in a play of power, but it is also always linked to certain coordinates of knowledge which issue from it but, to an equal degree, condition it. This is what the apparatus consists in: strategies of relations of forces supporting, and supported by, types of knowledge.

Thus, apparatuses of power cannot exist without a collinear generation and maintenance of knowledge, and this leads on to the next point that power is not only multiple (in it being free from one unitary State apparatus), but is also productive, and not necessarily repressive.

c. The Multiplicity and Productivity of Power

Talking about how power is essentially multiple, Foucault shows, in the conversation that I have quoted from immediately above, how there is nothing like ‘the’ power, and power has to be analysed only in a multiplicity of hierarchic relations. He says,

Power in the substantive sense, ‘le' pouvoir, doesn’t exist. What I mean is this. The idea that there is either located at—or emanating from—a given point something which is a ‘power’ seems to me to be based on misguided analysis, one which at all events fails to account for a considerable number of phenomena. In reality power means relations, a more-or-less organised, hierarchical, co-ordinated cluster of relations.

From this point of view, the idea of a ‘dominant class’ cannot be taken as an a priori, because that would presuppose a ‘centre’ for exercise of power. Instead, what have to be looked into are the multiple strategies through which a class attains a dominant position. For Foucault,

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11 Ibid., 196.
12 Ibid., 198.
A dominant class isn’t a mere abstraction, but neither is it a pre-given entity. For a class to become a dominant class, for it to ensure its domination and for that domination to reproduce itself is certainly the effect of a number of actual premeditated tactics operating within the grand strategies that ensure this domination. But between the strategy which fixes, reproduces, multiplies and accentuates existing relations of forces, and the class which thereby finds itself in a ruling position, there is a reciprocal relation of production. 13

Thus the role of power-play in dominance is not essentially repressive, but one that leads to ‘a reciprocal relation of production’. In a 1979 lecture, Foucault explains how mere physical oppression is ‘force’, while a true exercise of ‘power’ consists in producing discourse:

A man who is chained up and beaten is subject to force being exerted over him. Not power. But if he can be induced to speak, when his ultimate recourse could have been to hold his tongue, preferring death, then he has been caused to behave in a certain way. His freedom has been subjected to power. He has been submitted to government. 14

This leads Foucault to the conclusion, as he articulates in a 1977 discussion, that as opposed to the repressive hypothesis, power, in its multiplicity of relations, is primarily ‘productive’:

In general terms, I would say that the interdiction, the refusal, the prohibition, far from being essential forms of power, are only its limits, power in its frustrated or extreme forms. The relations of power are, above all, productive. 15

Foucault shows, in the same discussion, how there are two approaches to power—one basing itself on the unitary figures of repressive state apparatuses, and the other on the multiple strategic models of productive power—and he makes his inclinations very clear:

One thing seems certain to me; it is that for the moment we have, for analyzing the relations of power, only two models: a) the one proposes by law (power as law, interdiction, institutions) and b) the military or strategic model in terms of power relations. The first one has been much used and its inadequacy has, I believe, been demonstrated: we know very well that law does not describe power… I think that this [the second] analysis of the power relations would have to be tightened up. 16

Accordingly, Foucault frames a fourfold method, which, in spite of not overlooking the economic base or the demands of materialism, looks beyond the global obvious:

Four things: to investigate what might be most hidden in the relations of power; to anchor them in the economic infrastructures; to trace them not only in their governmental forms but also in the infra-governmental or para-governmental ones; to discover them in the material play. 17

Having discussed the main features of Foucault’s approach to power, I will now look into how he analyses the origin of this decentred notion of power in the Western paradigm.

13 Ibid., 203.
16 Ibid., 123.
17 Ibid., 119.
d. 'Pastorship' and the Individualized Supervisory Power

Talking about how decentralized individual power came to have a place in European societies, side by side with the more global and central systems of power like the State, Foucault proposes, in a 1977 lecture, the concept of 'pastorship', or the site of individualizing power, which ensures the domination of individuals much more surely than the State:

Everyone knows that in European societies political power has evolved towards more and more centralized forms... I'd like to suggest in these two lectures the possibility of analyzing another kind of transformation in such power relationships. This transformation is, perhaps, less celebrated. But I think that it is also important, mainly for modern societies. Apparently this evolution seems antagonistic to the evolution towards a centralized state. What I mean in fact is the development of power techniques oriented towards individuals and intended to rule them in a continuous and permanent way. If the state is the political form of a centralized and centralizing power, let us call pastorship the individualizing power.¹⁸

The mainstay of this institution of pastorship is, as Foucault observes, the idea that the deity, or the king, or the leader, is a shepherd followed by a flock of sheep comprising the multitude. He shows how while this concept was not there in Graeco-Roman thought, it was predominant in the ancient Oriental societies of Egypt, Assyria and Judaea so much, so that the Pharaoh ritually received the herdsman's crook on his coronation day, and the Babylonian monarch was called the 'shepherd of men'. For Judaic thought, God was also a shepherd leading men to their grazing ground and ensuring them food, thereby allowing an immediate association between God and king in Oriental thought, with both having the duty of supervising the flock of people and ensuring their upkeep. Foucault shows how the advent of Christianity in Europe added to the Graeco-Roman concept of a central State the notion of individual pastoral power, as evident through the Christian institution of the pastorate.

Foucault notes four grounds on which the Hebrew notion of pastorship changes under European Christianity. First, while in the Hebrew concept, the shepherd was responsible for only the well being of the flock, in Christianity, he is also responsible for all their actions. Secondly, while in the Hebrew conception, obedience to the shepherd was binding as law, under Christianity, it becomes a case of personal submission. Thirdly, Christian pastorship demands that the shepherd procure complete knowledge of each and every member of his flock through confessions and self-examinations. Finally, Christianity insists that the pastor should guide all the knowledge he gathers about the flock, and all the command he has over them to 'mortification' or the renunciation of the world. Summing up on this organ of power, which insists on surveillance, submission, knowledge and sacrifice, Foucault says,

We can say that Christian pastorship has introduced a game that neither the Greeks nor the Hebrews imagined. A strange game whose elements are life, death, truth, obedience, individuals, self-identity; a game which seems to have nothing to do with the game of the city surviving through the sacrifice of the citizens. Our societies proved to be really demonic since they happened to combine those two games—the city-citizen game and the shepherd-flock game—in what we call modern states.\(^1\)

Power structures in contemporary societies thus operate not only on the basis of the Graeco-Roman repressive State apparatus model, but also on the pastoral model, which insists that power is concentrated not in the monolithic State but in numerous individual figures of pastor shepherds, that the main mode of exercise of this power is supervision and commanding voluntary submission rather than repression and coercion, and that in this process power gets exercised only with the collinear act of production of knowledge.

e. **Politics and Reason: the Power of Rationalization**

Having come to the most important role of knowledge as constituting power, I can now turn to how Foucault conceives the role of reason and rationality in shaping political power. In the same lecture that I was discussing above, Foucault shows how while the Enlightenment increased the powers of reason, philosophy after that has tried to reverse this, with formulations after Kant aiming to prevent reason from bearing excessive powers:

One of the Enlightenment’s tasks was to multiply reason’s political powers. But the men of the nineteenth century soon started wondering whether reason weren’t getting too powerful in our societies. They began to worry about a relationship they confusedly suspected between a rationalization-prone society and certain threats to the individual and his liberties, to the species and its survival... since Kant, the role of philosophy has been to prevent reason going beyond the limits of what is given in experience; but from the same moment—that is, from the development of modern states and political management of society—the role of philosophy has also been to keep watch over the excessive powers of political rationality...\(^2\)

Belonging to the latter, and therefore in a position to critique the power of reason, Foucault shows next how ‘the rationality of state power’ formulates itself on two sets of apparatuses constructed with demands of reason—that of the state, and that of the police. He says,

...the rationality of state power...was formulated especially in two sets of doctrine: the *reason of state* and the *theory of police*... The doctrine of reason of state attempted to define how the principles and methods of state government differed, say, from the way God governed the world, the father his family, or a superior his community.

The doctrine of the police defines the nature of the objects of the state’s rational activity; it defines the nature of the aims it pursues the general form of the instruments involved.\(^3\)

Since I will discuss the rationality of the police later on in the chapter, when I take up *Discipline and Punish*, now I would concentrate only on the ‘*reason of state*’, and show how Foucault discusses the different features of this rationality.

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\(^1\) *Ibid.*, 70-71.


\(^3\) *Ibid.*, 73-74.
Foucault analyses four features of the *reason of state*. The first is that the reason of state is an 'art', or a technique, conforming to certain rules, which base themselves not only on customs and traditions, but on rational knowledge. The second feature is that this art of governance draws its rationale from the religious model of God imposing his laws upon creatures of the world. Thirdly, as Foucault observes, the reason of state is opposed to the Machiavellian tradition of defining the link between the prince and the state, and concentrates on the very existence and nature of the state itself. Finally, Foucault shows how the reason of state presupposes the constitution of a certain type of knowledge regarding its own strength and capacity, as also those of other states. This return to knowledge as the basis of power brings one to Foucault’s conclusion that power operates only on the basis of its rationalization and legitimization, and an analysis of social power has to take this into consideration:

As for all relations among men, many factors determine power. Yet rationalization is also constantly working away at it... The government of men by men...involves a certain type of rationality... What has to be questioned is the form of rationality at stake... The question is: how are such relations of power rationalized?

Thus one arrives at the very root of the Foucauldian understanding of power in its relation to production and perpetration of a certain type of rational knowledge, whereby, as Foucault states in a 1976 lecture, power can operate only through 'the global functioning of...a society of normalisation'. Now I would see how these notions of the true and the rational give rise to the notion of the ‘right’ in judicial systems, and thus move on, through a discussion of Foucault’s views on the judicial apparatus, to penality, the main theme of this chapter.

**f. Power, Right and the Judiciary: onward to Penality**

Talking in a 1976 lecture about the Western notion of ‘right’, Foucault shows how the juridical system always views right in terms of the sovereign or a social justification. For him, both these trends cover up systems of multiple domination, and a study of rights and the law should look not into their legitimacy, but rather into their systems of subjugation:

When we say that sovereignty is the central problem of right in Western societies, what we mean basically is that the essential function of the discourse and techniques of right has been to efface the domination intrinsic to power in order to present the latter at the level of appearance under two aspects: on the one hand, as the legitimate rights of sovereignty, and on the other, as the legal obligation to obey it. The system of right is centred entirely upon the King, and it is therefore designed to eliminate the fact of domination and its consequences... The system of right, the domain of the law, are permanent agents of these relations of domination, these polymorphous techniques of subjugation. Right should be viewed, I believe, not in terms of a legitimacy to be established, but in terms of the methods of subjugation that it instigates.

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Analysing the notion of right from this perspective, Foucault observes that the enforcement of this principle of control has operated through a production of discourses of legislation and an operation of multifarious systems of disciplinary supervision. He says,

Modern society, then, from the nineteenth century up to our own day, has been characterized on the one hand, by a legislation, a discourse, an organisation based on public right, whose principle of articulation is the social body and the delegative status of each citizen; and, on the other hand, by a closely linked grid of disciplinary coercions whose purpose is in fact to assure the cohesion of this same social body... The powers of modern society are exercised through, on the basis of, and by virtue of, this very heterogeneity between a public right of sovereignty and a polymorphous disciplinary mechanism.25

While this finding relates, on the one hand, to points about power that we have already noted: that it is multiple, that it produces knowledge, and that it is connected to surveillance, on the other it establishes the judicial mechanism as one of the dispositifs of administering power.

Accordingly, Foucault observes, in a 1972 discussion, that the court has nothing to do with the notion of benevolent ‘justice’ for the people, but acts to curb an exercise of the same:

Now my hypothesis is not so much that the court is the natural expression of popular justice, but rather that its historical function is to ensnare it, to control it and to strangle it, by re-inscribing it within institutions which are typical of a state apparatus.26

To locate in history how this shift, from the judiciary as a means to mete justice to one aimed at domination, occurs, Foucault points towards the Middle Ages, when two processes connected systems of justice to political power. The first was the fiscalisation of the judicial system, or the making judgeship a profession with an income. Foucault says,

... the archaic operation of the judicial system had become inverted: one could say that in earlier times justice was a right for those to whom it was applied (the right to demand justice when the disputants agreed to do so) and a duty for those who made the judgments (the obligation to exercise their prestige, their authority, their wisdom, their politico-religious power). It was to become from this point on a (lucrative) right for those in power, and a (costly) obligation for those who had to submit to it.27

The second process that made judiciary political was the increasing link between the judicial system and armed force in the Middle Ages, to protect its status as private property:

Having become a source of income, judgeships developed in the direction of the division of private property. But supported by the force of arms they developed in the direction of its ever increasing concentration. This dual development led to the ‘classical’ result...the early rudimentary forms of police and a centralised judicial system.28

Having commented on the political nature of the judicial system, Foucault proceeds to analyse in detail how this instrument of disciplining and punishment works in society.

25 Ibid., 106.
27 Ibid., 5.
28 Ibid., 5.
Foucault notes a triple function of the judiciary: first, to legitimize the status of the proletariat; secondly, to confine potentially ‘dangerous’ members of the proletariat and check imminent revolts; and thirdly, to isolate them from the proletarian mind they could influence:

It is a system which has basically a triple role... On the one hand it is a factor in ‘proletarianisation’: its role is to force the people to accept their status as proletarians and the conditions for the exploitation of the proletariat... On the other hand, this penal system was aimed, very specifically, against the most mobile, the most excitable, the ‘violent’ elements among the common people: those who were most prepared to turn to direct, armed action... It was these ‘dangerous’ people who had to be isolated (in prison, in the Hôpital Général, in the galleys, in the colonies) so that they could not act as a spearhead for popular resistance... The third role of the penal system: to make the proletariat see the non-proletarianised people as marginal, dangerous, immoral, a menace to society as a whole, the drags of the population, trash, the ‘mob’. 29

Foucault also observes a fourth function of the judicial and penal apparatus in creating a delinquent class out of convicts, and perfecting the art of surveillance of the proletariat:

Finally, the distance which the penal system creates and sustains between the proletariat and the non-proletarianised people, all the pressures which are put upon the latter, enable the bourgeoisie to make use of certain of these plebeian elements against the proletariat: they mobilise them as soldiers, policemen, racketeers and thugs, and use them for the surveillance and repression of the proletariat... 30

Foucault mentions, in addition to the obvious use of this delinquent class as spies and informers, the recruitment of these non-proletarianized elements in armies and the colonizing machinery, to serve the bourgeois nation, often against their own class interests. For Foucault, racism was an invention in this connection to stop the deported from uniting with the colonized and forge an alliance against the bourgeoisie. This being the historical role of systems of justice, Foucault observes that a truly resistant movement has to overhaul structures like the judiciary or bureaucracy, and evacuate their seats of power.

This justice must therefore be the target of the ideological struggle of the proletariat, and of the non-proletarianised people: thus the forms of this justice must be treated with the very greatest suspicion by the new revolutionary state apparatus. There are two forms which must not under any circumstances be adopted by the revolutionary apparatus: bureaucracy and the judicial apparatus. Just as there must be no bureaucracy in it, so there must be no court in it. The court is the bureaucracy of the law. If you bureaucratise popular justice then you give it the form of a court. 31

In the discussion presented above, I have highlighted four important features of the Foucauldian notion of socio-politico-economic material power: that power is not subjective and monolithic but multiple and capillary; that power is not repressive but productive of discourse and structures of knowledge; that power is connected, to generate the knowledge it needs, to systems of supervision and surveillance; and finally, that power produces a delinquent class to act in its interests against its own class. Armed with these four points, I will now turn to Foucault’s analysis of penality in Discipline and Punish.

29 Ibid., 14-15.
30 Ibid., 15-16.
31 Ibid., 27.
II. From Torture to Confinement: towards the 'Birth of the Prison'


As I have already stated towards the end of the last chapter, Foucault got involved in studying systems of penalty at the beginning of the seventies, because of the massive unrest that started in French prisons at the time. The result of this research was not only the GIP or the course Foucault introduced at the Collège de France (cf. p. 345 above), but also *Surveiller et Punir: Naissance de la prison* (1975, translated into English as *Discipline and Punish: The Birth of the Prison*), Foucault's first book-length work in almost seven years. In a 1978 interview, Foucault states clearly what the purpose of this book was:

For *Surveiller et punir*, my idea was to try to write a book that was directly connected with a concrete activity that was taking place on the matter of the prisons. At the time a whole movement had grown up that challenged the prison system and questioned the practices involved in confining offenders. I found myself caught up in this movement, working, for example, with former prisoners, and that is why I wanted to write a history book about prisons. What I wanted to do was not to tell a story, or even to analyze the contemporary situation, because that would have needed much greater experience than I had and a connection with penitential institutions much deeper than I had. No, what I wanted to write was a history book that would make the present situation comprehensible and, possibly, lead to action. If you like, I tried to write a "treatise of intelligibility" about the penitentiary situation, I wanted to make it intelligible and, therefore, criticizable. 32

It is this 'treatise of intelligibility' on the penal apparatus that I pick up now for a detailed analysis towards understanding how hierarchies work in the domain of materiality.

However, even before starting the text, one would notice how the title in English is not an exact translation of the French title, and anybody would admit that 'surveiller' or the act of surveillance is not exactly represented by the term 'discipline'. However, as Alan Sheridan, the translator, writes in a note at the beginning of the text,

Any closer translation of the French title of this book, *Surveiller et Punir*, has proved unsatisfactory on various counts. To begin with, Foucault uses the infinitive, which, as here, may have the effect of an 'impersonal imperative'. Such a nuance is denied to us in English. More seriously the verb 'surveiller' has no adequate English equivalent. Our noun 'surveillance' has an altogether too restricted and technical use. Jeremy Bentham used the term 'inspect'—which Foucault translates as 'surveiller'—but the range of connotations does not correspond. 'Supervise' is perhaps closest of all, but again the word has different associations. 'Observe' is rather too neutral, though Foucault is aware of any aggression involved in one-sided observation. In the end Foucault himself suggested *Discipline and Punish*, which relates closely to the book's structure. 33

Therefore, one should be content with the translated title, Foucault himself having suggested it, but always bear the French title in mind too, to get the nuances of the text at their fullest.

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To come back to the objective of the text, one can recall what Foucault says about its subject matter in a 1977 interview, and see how the text concerns itself with the local and individualized production of a 'new economy of power' in the Classical period:

In *Discipline and Punish* what I wanted to show was how, from the seventeenth and eighteenth centuries onwards, there was a veritable technological take-off in the productivity of power. Not only did the monarchies of the Classical period develop great state apparatuses (the army, the police and the fiscal administration), but above all there was established at this period what one might call a new 'economy' of power, that is to say procedures which allowed the effects of power to circulate in a manner at once continuous, uninterrupted, adapted and 'individualised' throughout the social body.34

Or, to sum up the scope and objective of the text in the most definitive manner, so that I can begin analysing the text without further delay, one may look into how Foucault states, in the text itself this is a genealogy of the collinear birth of 'the modern soul' and 'a new power':

This book is intended as a correlative history of the modern soul and of a new power to judge; a genealogy of the present scientifico-legal complex from which the power to punish derives its bases, justifications and rules, from which it extends its effects and by which it masks its exorbitant singularity.35

b. *From Spectacular to Corrective Punishment*

Foucault bases his study of penality on the juncture, towards the end of the eighteenth century and the beginning of the nineteenth, when all of a sudden spectacular forms of punishment, comprising torture and public execution, gave way to more discreet, apparently 'humane' ones, aimed at correcting the convict rather than killing him or her. Accordingly, Foucault begins the book with a contrast between the sentence meted out to Damiens, a regicide, on March 2, 1757, which is full of excessive physical torture, and Léon Faucher's rules 'for the House of young prisoners in Paris' just eighty years later, which is just a disciplinary time table without any trace of torture. Explaining how the focus of penalty changes around this time from torture to disciplining, Foucault says,

We have, then, a public execution and a time-table. They do not punish the same crime or the same type of delinquent. But they each define a certain penal style. Less than a century separates them. It was a time when, in Europe and in the United States, the entire economy of punishment was redistributed... It saw a new theory of law and crime, a new moral or political justification of the right to punish; old laws were abolished, old customs died out... Among so many changes, I shall consider one: the disappearance of torture as a public spectacle.36

Thus, at this crucial period, punishment ceases to be a spectacle and becomes instead the most hidden part of the penal process. Moreover, in this sort of punishment, violence in totally avoided, because as Foucault says, 'The public execution is now seen as a hearth in which

violence bursts again into flame.'37 This shift in the methods of penalty has, as Foucault shows, three major consequences. First, punishment belongs no more to the domain of perception but enters the level of an 'abstract consciousness'. Secondly, the effectiveness stems no more from the 'visible intensity' of the spectacle, but from its sheer inevitability. Thirdly, because of all this, punishment takes up, hereafter, a corrective role mixed with notions of guilt and shame. Taking up the persona of judges of the period, Foucault says,

...do not imagine that the sentences that we judges pass are activated by a desire to punish; they are intended to correct, reclaim, 'cure'; a technique of improvement represses, in the penalty, the strict expiation of evil-doing, and relieves the magistrate of the demeaning task of punishing. In modern justice and on the part of those who dispense it there is a shame in punishing, which does not always preclude zeal. This sense of shame is constantly growing: the psychologists and the minor civil servants of moral orthopaedics proliferate on the wound it leaves.38

It is the systems of this 'moral orthopaedics' that Foucault proposes to study in the text.

Foucault lists four major features of this new sort of penalty. First, the corrective role that punishment acquires replaces the executioner with other agents like warders, doctors, chaplains, psychiatrists, psychologists and educationists in the penal network. The second feature was to minimize physical pain, so that even in the case of capital punishment, the new penalty devised means to make death instantaneous. The third feature concerns the principle of 'the same death for all', with execution no longer bearing specific marks of the crime or the social status of the criminal. These two features were combined in the guillotine, first used in March 1792, with which death was reduced to a uniform, instantaneous event. The final feature was the taking away of the spectacular from punishment, so that a mourning veil was introduced in case of penal death, stopping the condemned man from being seen.

Foucault observes that all these innovations tantamount to 'a slackening of the hold on the body', so that unlike earlier modes of punishment, the body is no more the final object of penalty, and the body gets implicated in imprisonment, confinement, forced labour, penal servitude, and deportation—the new forms of punishment—only as an instrument or an intermediary. The basic objective of punishment is to reach, even if it be through the body itself, the soul, and the convicts thoughts and inclinations. Foucault says,

If the penalty in its most severe forms no longer addresses itself to the body, on what does it lay hold? The answer of the theoreticians—those who, about 1760, opened up a new period that is not yet at an end—is simple, almost obvious. It seems to be contained in the question itself: since it is no longer the body, it must be the soul. The expiation that once rained down upon the body must be replaced by a punishment that acts in depth on the heart, the thoughts, the will, the inclinations.39

37 Ibid., 9.
38 Ibid., 10.
39 Ibid., 16.
Thus, judgement is passed not only on the crime, but also on passions, instincts, effects of environment, heredity, etc. of the criminal, with the belief that these are the real causes for criminality. This leads to two innovations in the execution of the new sort of punishment. The first is what Foucault calls the ‘internal economy’ of a penalty, whereby a term may be shortened or extended according to changes in the prisoner’s behaviour. The second is the introduction of certain ‘security measures’ in the penalty, like prohibition from entering certain areas, probation, obligatory medical treatment, etc., intended to supervise the individual and alter his or her criminal tendencies. Summing up, Foucault says,

To sum up, ever since the new penal system—that defined by the great codes of the eighteenth and nineteenth centuries—has been in operation, a general process has led judges to judge something other than crimes; they have been led in their sentences to do something other than judge; and the power of judging has been transferred, in part, to other authorities than the judges of the offence. The whole penal operation has taken on extra-juridical elements and personnel... Today, criminal justice functions and justifies itself only by this perpetual reference to something other than itself, by this unceasing reinscription in non-juridical systems. Its fate is to be redefined by knowledge.

**c. The Body and the ‘Micro-Physics’ of Power**

Having underlined the main features of this new type of corrective penalty, which emerges towards the end of the eighteenth century, Foucault proceeds to connect these changes to systems of power. He begins with a more global economistic analysis of penality, and uses the thesis Rusche and Kirchheimer present in their *Punishment and Social Structures* (1939). According to this view, in slave economy, the purpose of punitive mechanisms is to provide an additional labour force; in feudalism, body being the only property accessible, one finds a sudden increase in corporal punishments; under mercantilism, confinement and deportation become the normative means of punishment; and in capitalism, penality induces forced industrial labour. However, Foucault proposes to go beyond this analysis, into an examination of how more individualized and local forms of power also act in the shaping of penality, and he chooses as his point of departure the changed role of the individual body of the criminal under the new penal system. Commenting on ‘the body and its forces’, he says,

But we can surely accept the general proposition that, in our societies, the systems of punishment are to be situated in a certain ‘political economy’ of the body: even if they do not make use of violent or bloody punishment, even when they use ‘lenient’ methods involving confinement or correction, it is always the body that is at issue—the body and its forces, their utility and their docility, their distribution and their submission.

Foucault shows how the body is involved in a political field, not only through its economic use as a force of production, but also in its being caught up in a system of subjection, in its being part of a ‘political technology’, where diffuse, discontinuous, non-functional capillary elements comprise, what Foucault calls, a ‘micro-physics of power’. He says,

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That is to say, there may be a 'knowledge' of the body that is not exactly the science of its functioning...this knowledge and this mastery constitute what might be called the political technology of the body. Of course, this technology is diffuse, rarely formulated in continuous, systematic discourse; it is often made up of bits and pieces; it implements a disparate set of tools or methods...what the apparatuses and institutions operate is, in a sense, a micro-physics of power, whose field of validity is situated in a sense between these great functionings and the bodies themselves with their materiality and their forces.\(^{42}\)

Foucault adds that it this micro-physics of power has to be studied to construct a history of Western penalty, and mentions how this can only be possible if the body is conceived not as an appropriable property of the dominant class, but as a ground for strategic manoeuvres and tactics, exhibiting a network of relations rather than a global systematic of power.

Foucault connects this thesis of the investment of the body with power with his earlier observation as to how the body gets used in modern penalty to reach the soul, by using the analysis of 'The King's Body' by Kantorowitz in his \textit{The King's Two Bodies} (1959). For Kantorowitz, the juridical theology of the Middle Ages accords the monarch a double body: one, the transitory element that is born and dies; and the other that remains unchanged as the intangible support of the kingdom. For Foucault, just as the surplus power of the monarch causes a duplication of his or her body, the surplus power exercised on the body of the convict gives rise to its duplication into the non-corporal 'soul'. A study of the micro-physics of punitive power thus involves a genealogy of the modern 'soul'. The powers exercised on the body of the convict through methods of punishment, supervision and constraint create a corpus of knowledge, comprising what would be his or her 'soul', and reciprocally the powers to be exercised on the body are determined by this 'soul' itself. Foucault says,

\begin{quote}
The man described for us, who we are invited to free, is already in himself the effect of a subjection much more profound than himself. A 'soul' inhabits him and brings him to existence, which is itself a factor in the mastery that power exercises over the body. The soul is effect and instrument of a political anatomy; the soul is the prison of the body.\(^{43}\)
\end{quote}

Writing a 'history' of the prison involves not a mere looking back to the past, but an analysis of how, at every moment in the present, systems of power produce a body of knowledge about the criminal, and exercises penalty on the basis of this knowledge. Foucault qualifies his attempt at historicizing the penal apparatus as one in 'writing the history of the present':

\begin{quote}
I would like to write the history of this prison, with all the political investments of the body that is 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.\(^{44}\)
\end{quote}

This being the purpose of the book, I study next how Foucault analyses the two phases in this shift—that of torture and that of more 'humane' punishment—one after the other.

\(^{42}\textit{Ibid.}, 26.\)
\(^{43}\textit{Ibid.}, 30.\)
\(^{44}\textit{Ibid.}, 30-31.\)
d. 'Supplice' and the Production of Truth and Power

In discussing the initial phase of penality, where 'supplice' or torture was the means to punishment, Foucault notes how torture was not mere sadism, but a 'technique' with definite objectives, in terms of its exercise of power. Foucault says,

What is a supplice? ... Torture is a technique; it is not an extreme expression of lawless rage. To be torture, punishment must obey three principal criteria: first, it must produce a certain degree of pain, which may be measured exactly, or at least calculated, compared and hierarchized... Torture rests on a whole quantitative art of pain. But there is more to it: this production of pain is regulated. Torture correlates the type of corporal effect, the quality, intensity, duration of pain, with the gravity of the crime, the person of the criminal, the rank of his victims... Furthermore, torture forms part of a ritual. It is an element in the liturgy of punishment and meets two demands. It must mark the victim: it is intended, either by the scar it leaves on the body, or by the spectacle that accompanies it, to brand the victim with infamy... And, from the point of view of the law that imposes it, public torture and execution must be spectacular, it must be seen by all almost as its triumph.45

The final function of torture mentioned above warrants that it also produce a body of knowledge, in terms of the details of the case, and Foucault observes how, in this earlier type of penality, the entire criminal procedure was kept secret and opaque to the public as well as to the accused himself, with knowledge being the absolute privilege of the prosecution. This exclusive knowledge was aimed at producing the truth about a crime, and Foucault shows how, in spite of the total secrecy, the penal system of supplice followed a rigorous 'penal arithmetic' of proofs. There was a hierarchy of different proofs: 'full' proof, provided by witnesses; conjectural, 'semi-full' proof obtained by argument; and 'adminicules', or tertiary circumstantial evidence, warranting decreasing degrees of punishment. The best proof, through which truth was believed to emerge at its full, was, however, the confession, and thus investigative torture was aimed at exacting a confession from the convict. For Foucault,

Written, secret, subjected, in order to construct its proofs, to rigorous rules, the penal investigation was a machine that might produce the truth in the absence of the accused. And by this very fact, though the law strictly speaking did not require it, this procedure was to tend necessarily to the confession. And for two reasons: first, because the confession constituted so strong a proof that there was scarcely any need to add others... Secondly, the only way that this procedure might use all its unequivocal authority, and become a real victory over the accused, the only way the truth might exert all its power, was for the criminal to accept responsibility for his own crime and himself sign what ha been skilfully and obscurely constructed by the preliminary investigation.46

In judicial torture, one finds a direct interface between power and truth, so that it comprises not only an investigation, but also a duel. The inquisitor and the convict duel over power in search of truth, so that if the former triumphs and the latter confesses, a certain type of truth is produced, while if the reverse happens, a truth about the latter's innocence emerges in his or her favour. Foucault comments on this 'strange economy' of judicial torture:

45 Ibid., 33-34.
46 Ibid., 37-38.
In the eighteenth century, judicial torture functioned in that strange economy in which the ritual that produced the truth went side by side with the ritual that produced punishment. The body interrogated in torture constituted the point of application of punishment and locus of extortion of the truth. And just as presumption was inseparably an element in the investigation and a fragment of guilt, the regulated pain involved in judicial torture was a means both of punishment and of investigation.

Apart from this dual power, intended to produce truth about a crime, the *supplice* involves a more direct exercise of political power too. Any crime being considered a direct affront to the sovereign, the excess in torture ensured that not only was the criminal punished his or her due, but the sovereign also got his or her revenge. Foucault says,

> The public execution is to be understood not only as a judicial, but also as a political ritual ... Besides its immediate victim, the crime attacks the sovereign: it attacks him personally, since the law represents the will of the sovereign; it attacks him physically, since the force of the law is the force of the prince ... The intervention of the sovereign is not, therefore, an arbitration between two adversaries; it is much more, even, than an action to enforce respect for the rights of the individual; it is a direct reply to the person who has offended him ... Punishment, therefore, cannot be identified with or even measured by the redress of the injury; in punishment, there must always be a portion that belongs to the prince, and, even when it is combined with the redress laid down, it constitutes the most important element in the penal liquidation of the crime.

Accordingly, the ritual of public executions included a heavy deployment of the military, not only to prevent the convict from escaping or the people showing any sympathy or anger, but also to remind everybody that a crime was a rebellion against the sovereign and the kingdom.

For Foucault, torture could sustain itself as a legal practice because of this dual relationship it enjoyed with power and truth. Torture was not only a means to establish the truth about a crime, or shower a sovereign’s personal vendetta on a convict, but also a means to make public this secret truth and personal exercise of power. The spectacle that torture provided exhibited the truth about the crime and its consequences, as well as the extent of the sovereign’s powers. Operating on the body of the convict, public execution thus played a ‘double role’, where the spectacle established both truth and power, culminating in a final triumph of the sovereign and his or her powers. As Foucault comments on this,

> The atrocity that haunted the public execution played, therefore, a double role: it was the principle of the communication between the crime and the punishment, it was also the exacerbation of the punishment in relation to the crime. It provided the spectacle with both truth and power; it was the culmination of the ritual of the investigation and the ceremony in which the sovereign triumphed. And it joined both together in the tortured body.

The purpose and the absolute importance of the *supplice* being established, questions might arise as to why this efficient producer of truth and power got replaced with an apparently less severe ‘humane’ penalty. I look next into the political explanation that Foucault gives to this.

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41 *Ibid.*, 42.
e. *Political Reasons behind a More 'Humane' Penalty*

For Foucault, the institution of public torture was replaced with more ‘humane’ systems of punishment at the end of the eighteenth century because of three political reasons: three emergent situations of power, which threatened the old penal system. The first reason is an economic one. Following Rusche and Kirchheimer, Foucault shows how for the emergent industrial economy, the human body was of commercial value as labour power in the system of production, and one could not afford to simply destroy the body of the convict. Using the body as forced labour proved much more profitable to the new power structures, and accordingly they evolved ‘humane’ penal methods of detention and labour. Moreover, with the rise of capitalist economy, the imminence of death through hunger and epidemics was much on the wane, and one could not make this alien figure of death an everyday spectacle at marketplaces, in the way the earlier obsession with death could.

The second reason is a more actively political one. Public torture had no value without public participation, whose role as receivers of the exemplary message of the punishment, as well as witnesses to the truth generated, formed the mainstay of this type of penalty. But, this congregation of huge crowds at the scene of an actual exercise of power was potentially dangerous, with there being numerous cases of preventing an execution that was regarded as unjust, and resultant assault on executioners and judges. Moreover, at the time of execution, the convict, who had nothing more to lose, often cursed the judges, the laws, the government and religion, and the public enjoyed these instances of ‘momentary saturnalia’, with the show of the sovereign’s power and the demonstration of truth converted into a carnival, where the authority was mocked and criminals transformed into heroes. Thus, public torture lost its purpose towards the end of the eighteenth century. For Foucault,

> It would seem that certain practices of penal justice were no longer supported in the eighteenth century—and perhaps for longer—by the lower strata of the population. This would explain why executions could easily lead to the beginnings of social disturbances.⁵⁰

To complicate matters further, this carnival of public execution created ‘centres of illegality’ around it, so that on execution days, people shirked work, the taverns were full resulting in drunkenness, fights broke out, and thieves had a field day among the curious people gathered around the scaffold. Thirdly, it was perceived that the very horror of the spectacle made people more sympathetic to the criminals, especially towards the petty offenders. The solidarity that public torture generated from the populace towards criminality had dangerous implications in terms of law and order. All this resulted in a replacement of the *supplice* with a less visible and less gory penalty—the ‘humane’ punishment of penal detention.

The third reason concerns a more ideological domain. The confessions and statements of the tortured convict on the scaffold were recorded, often with exaggerations and interpolations, and published in the form of almanacs and broadsheets. The purpose was to instil in people the example of the crime and the penalty it earned, but more often than not these texts, which comprised the main reading material for the poor, turned into hagiographies and created heroes out of the criminals, thus posing a political threat. Foucault says,

If these accounts were allowed to be printed and circulated, it was because they were expected to have the effect of an ideological control—the printing and the distribution of these almanacs, broadsheets, etc. was in principle subject to strict control. But if these true stories of everyday history were received so avidly, if they formed part of the basic reading of the lower classes, it was because people found in them not only memories, but also precedents; the interest of 'curiosity' is also a political interest. Thus these texts may be read as two-sided discourses, in the facts that they relate, in the effect they give to these facts and in the glory they confer on those 'illustrious' criminals...51

This literature functioned in the same way as the disturbances around the scaffold, where power confronted the populace, as the convict gained its sympathy. This definite breeding ground for revolts resulted in not only a liquidation of the institution of public torture, but also the demand from reformers of the penal system for suppressing of these broadsheets. Foucault observes, however, that while the first was easily achieved in introducing 'humane' penalty, the second was not at all possible, because discursivization of crime caught on popular imagination so, that as soon as the broadsheets disappeared, one saw the birth of a new genre of literature, the crime fiction, running from the Gothic novels to present day detective fiction, leading to what Foucault calls 'a whole aesthetic rewriting of crime'.52 In a 1975 interview, Foucault comments on this new form that criminality acquires and shows how, as opposed to the literature of monarchical atrocities and broadsheets, it is through these that the bourgeoisie defines its new types of illegalities and the new criminal hero. He says,

Until the eighteenth century, crimes were only celebrated in two modes: a literary mode when, and because, they were the crimes of a king, and a popular mode, found in the broadsheets which narrate the exploits...of some great murderers... Then, around 1840, there appears the figure of the criminal hero who is a hero because he is a criminal, and is neither aristocratic nor plebeian. The bourgeoisie begins to produce its own criminal heroes... The bourgeoisie constitutes for itself an aesthetic in which crime no longer belongs to the people, but is one of those fine arts of which the bourgeoisie alone is capable... Thus the new hero is created, displaying all the signs and tokens of the bourgeoisie. That leads us in turn to... the detective story, in which the criminal is always of bourgeois origins. You never find a working class hero in nineteenth-century detective novels.53

This new status of crime as an aesthetic form revises its relation to systems of social power, and a new system of penalty is born, where torture gets replaced with corrective detention.

51 Ibid., 67-68.
52 Ibid., 68.
III. The 'Humane' Reformatory Punishment: an Intermediate Form

a. Political Imperatives and Penal Reforms

It has already been shown how penal reforms towards the end of the eighteenth century were results of protests against public execution by philosophers, theoreticians of law, lawyers and parliamentarians, to check its dangerous subversive potential, and not due to any great humanitarian desire. The need for another form of punishment, which would avoid the physical confrontation between the sovereign and the convict, is itself thus political. Foucault begins his discussion of this new sort of penalty with an account of how these 'reforms' not only did arise from political needs, but were themselves in conformity with the historical conditions and politics of emergent capitalism and the post-Revolution bourgeois state.

Foucault shows how quite contrary to the humanitarianism attributed to 'great reformers', like Beccaria, Servan, Dupaty, Lacretelle, Duport, Patoret, Target, Bergasse, and the whole French Constituent Assembly, there were actually two historical facts that led to the change in penalty. The first is that there was, in the period, a considerable diminution in instances of murders, and a remarkable increase in cases of offence against property, like theft and swindling. The second is that 'the great gangs of malefactors' break up, around this time, into smaller groups. For Foucault the penal reforms occurred because 'A general movement shifted criminality from the attack of bodies to the more or less direct seizure of goods; and from a 'mass criminality' to a 'marginal criminality', partly the preserve of professionals.54

For Foucault, these historical changes accounted for changes in punishment, and changes in forms of illegality required new forms of punitive power. He says,

In fact, the shift from a criminality of blood to a criminality of fraud forms part of a whole complex mechanism, embracing the development of production, the increase of wealth, a higher juridical and moral value placed on property relations, stricter methods of surveillance, a tighter partitioning of the population, more efficient techniques of locating and obtaining information: the shift in illegal practices is correlative with an extension and a refinement of punitive practices.55

Foucault notices how the new penalty was aimed at correcting many of the problems perceived in the old systems of justice. The main problem plaguing the older penal system was a 'multiplicity of courts': there were ecclesiastical jurisdictions; the still powerful nobility, which judged petty offences by itself; and there was the monarch and his representatives, who could alter a sentence at will, and sell off judicial posts to incompetent people. The penal system thus presented a 'bad economy of power' with several conflicting agencies of justice battling over an authoritarian and illegitimate control over judicial power.

55 Ibid., 77.
The penal reforms sought to undo this 'central excess' of feudal power, and reform the economy of penality, both in terms of its economic cost and political cost. Foucault says,

The true objective of the reform movement, even in its most general formulations, was not so much to establish a new right to punish based on more equitable principles, as to set up a new 'economy' of the power to punish, to assure its better distribution, so that it should be neither too concentrated at certain privileged points, nor too divided between opposing authorities; so that it should be distributed in homogeneous circuits capable of operating everywhere, in a continuous way, down to the finest grain of the social body. The reform of criminal law must be read as the strategy for rearrangement of the power to punish, according to modalities that render it more regular, more effective, more constant and more detailed in its effects; in short, which increase its effects while diminishing its economic cost (that is to say, by dissociating it from the system of property, of buying and selling, of corruption in obtaining not only offices, but the decisions themselves) and its political cost (by dissociating it from the arbitrariness of monarchical power).

Therefore, the 'humane' reforms mark the emergence of a new and better strategy for the exercise of penal power, and their purpose was not to lessen the severity of the punishment, but to punish with more universality, certainty and effectiveness.

b. New Illegalities and the New Penality

It has already been stated how new notions about illegality towards the end of the eighteenth century ushered in the new penality, and now I would examine how Foucault analyses these new forms of illegality. In a 1976 interview, Foucault shows how capitalism had a problem with illegalities that were tolerated in the eighteenth century, and its insistence on moralization as a penal form was a bid to check this these illegal forms:

What worried the bourgeoisie was the kind of amiable, tolerated illegality that was known in the eighteenth century...criminal punishments in the eighteenth century were of great ferocity. But it is nonetheless true that criminals, certain of them at least, were perfectly tolerated by the population... But once capitalism had physically entrusted wealth, in the form of raw material and the means of production, to popular hands, it became absolutely essential to protect this wealth... How was this wealth to be protected? By a rigorous morality, of course: hence the formidable layer of moralisation deposited on the nineteenth century population.

As Foucault shows in the Discipline and Punish, the bourgeois regime, with its new forms of capital accumulation and new relations of production, separated the illegality of property from the illegality of rights. This distinction represented a class opposition because, illegality of property, i.e. theft, being more accessible to the lower classes was judged in ordinary courts and accorded ordinary punishment, while for illegality of rights, involving fraud, tax evasion, etc., special courts and tribunals were constituted awarding the bourgeois criminals the possibility of getting round their own regulations and laws, with economic punishments like

56 Ibid., 80-81.
fines. Along with the rejection of centralized monarchical power, this redefinition of tolerated
illegalities was also behind the ‘reforms’ in penal procedures, and Foucault says, ‘In short, penal
reform was born at the point of junction between the struggle against the super-power of the
sovereign and that against the infra-power of acquired and tolerated illegalities.’

As Foucault points out, these two points indicate that the changed socio-economic order took
away from illegality the stigma of being a personal crime against the sovereign and made it one
against the whole society. The new penal strategy, thus, follows the general theory of the
contract, where the criminal having broken the social pact, becomes the enemy of society. This new
definition of illegality makes punishment stronger than earlier:

The right to punish has been shifted from the vengeance of the sovereign to the
defence of society. But it now finds itself recombined with elements so strong that it
becomes almost more to be feared. The malefactor has been saved from a threat that is
by its very nature excessive, but he is exposed to a penalty that seems to be
without bounds. It is a return to a terrible ‘super-power’.

Foucault shows how the reformers’ wish to garb these changes based on political reasons and
changing definitions of illegality, in a ‘lyricism’ of humanity was not really an inability to
rationalize the penal arithmetic. Rather, this ‘sensibility’ is in itself a principle of calculation.
It is a reinforcement of the arithmetic of social contract, where treating the criminal in a
‘humane’ way is to reclaim redefined forms of illegality into the economy of social structures:

If the law must now treat in a ‘humane’ way an individual who is ‘outside nature’
(whereas the old justice treated the ‘outlaw’ inhumanely), it is not on account of
some profound humanity that the criminal conceals within him, but because of a
necessary regulation of the effects of power. It is this ‘economic’ rationality that
must calculate the penalty and prescribe the appropriate techniques. ‘Humanity’ is
the respectable name given to this economy and to its meticulous calculations.

The ‘Semio-Technique’ of the Reformed Penal Power

Having outlined the political rationale behind the new penal system, Foucault
proceeds next to show how, opposed to the old penal system based in resemblance, the new
punishment operates on a representational system of signs, having a semiotics of its own:

There is, then, a shift in the mechanics of example: in a penalty employing public
torture and execution, example was the answer to the crime; it had, by a sort of a
twin manifestation, to show the crime and at the same time to show the sovereign
power that mastered it; in a penalty calculated according to its own effects, example
must refer back to the crime, but in the most discreet way possible and with the
greatest possible economy indicate the intervention of power; ideally, too, it should
prevent any subsequent reappearance of either. The example is no longer a ritual that
manifests; it is a sign that serves as an obstacle.

58 Michel Foucault, Discipliine and Punish: The Birth of the Prison (Surveiller et Punir: Naissance de
59 Ibid., 90.
60 Ibid., 92.
61 Ibid., 93-94.
While I will discuss the features of the 'obstacle-sign' later, I now take up how for Foucault, the 'semio-technique' of this new power is based on six major rules:

1. **The rule of minimum quantity**, or that the penalty should represent an adequate disadvantage to offset the advantage expected of a crime, and thereby deter it.

2. **The rule of sufficient ideality**, or that this penalty need not actually use the body and involve real pain; a representation of the pain and invoking a memory of it is sufficient.

3. **The rule of lateral effects**, or that the penalty must have an intense effect on those who have not committed the crime, and deter any repetition of the offence.

4. **The rule of perfect certainty**, or that the correlation between particular offences and resultant penalties should be defined, requiring, on the one hand, a strict surveillance of criminals, and on the other, a transparent judicial procedure.

5. **The rule of common truth**, or that means employed to bring out the truth of a crime should follow commonly accepted norms of logical judgment, where torture cannot be a means to extract truth, and a convict has to be considered innocent till the guilt is proved.

6. **The rule of optimal specification**, or that for penal semiotics to function properly, all offences must be defined and classified into a 'table' and a 'code'. This requires, parallel to the classification of crimes and punishments, an individualization of sentences, keeping in mind the particular characteristics of each criminal, in terms of his or her psyche, upbringing and economic stature. Foucault shows how this sixth rule was to have lasting effect on modern penology, with its distinction of the 'crime passionel' from ordinary offences.

Thus, Foucault notices how the political economy of power that introduces 'leniency' to penalty, introduces a semiotic play of representations instead of actual corporeal infliction:

Beneath the humanization of the penalties, what one finds are all those rules that authorize, or rather demand, 'leniency', as a calculated economy of the power to punish. But they also provoke a shift in the point of application of this power: it is no longer the body, with the ritual play of excessive pains, spectacular brandings in the ritual of the public execution; it is the mind or rather a play of representations and signs circulating discreetly but necessarily and evidently in the minds of all.

Foucault observes how two lines of objectification of crime and the criminal emerge from this penal semiotics. On the one hand, the criminal is treated as an 'abnormal' and pathological individual and the enemy of the whole of society, requiring scientific objectification and corrective treatment. On the other hand, for the sake of prevention of crimes, there is an absolute necessity of surveillance over all actual or potential criminals, thus objectifying crime and the criminal to an overpowering disciplining gaze.

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d. *Punishment as a System of ‘Obstacle-Signs’*

Foucault shows how this semio-technique of power also made use of the discourse of the *ídólogues*, for which bodies can be controlled through ideas. The primary device that punitive power used for this semiology was of suitable representative punishments, opposing each crime, and thus acting as ‘obstacle-signs’ to deter repetition of offences. Foucault says,

> The art of punishing, then, must rest on a whole technology of representation. The undertaking can succeed only if it forms part of a natural mechanics... To find the suitable punishment for a crime is to find the disadvantage whose idea is such that it robs for ever the idea of a crime of any attraction. It is an art of conflicting energies, an art of images linked by association, the forging of stable connections that defy time: it is a matter of establishing the representation of pairs of opposing values, of establishing quantitative differences between the opposing forces, of setting up a complex of obstacle-signs that may subject the movement of the forces to a power relation... These obstacle-signs must constitute the new arsenal of penalties, just as the old public executions were organized around a system of retaliatory marks.

Having outlined the primacy of obstacle-signs in the new penality, Foucault proceeds next to provide six salient features of these signs.

The first three features deal with the nature of the sign itself, and can be clubbed together. The first feature is that these signs must be as ‘unarbitrary’ as possible, so that they have an immediate analogy and proximity with the offences they oppose themselves to. The second feature is that this complex of signs must involve a ‘mechanics of forces’ aimed at reducing the attractions of crimes and increasing the interest that makes the penalty be feared. The third feature is that the signs must use a ‘temporal modulation’, or that, since the penalty is intended to transform and modify people, it cannot be permanent, but must come to an end and let the society reap the results of the cost it incurred in reclaiming an aberrant convict.

The remaining three features deal with the effects these obstacle-signs produce. The fourth feature is that the guilty person is only one of its targets, and punishment should ideally cover all potentially guilty, that is the whole society. It is useless thus to punish the criminal’s body, and punishment should involve compulsory public work, as a representational example:

> In the old system, the body of the condemned man became the king’s property, on which the sovereign left his mark and brought down the effects of his power. Now he will be rather the property of society, the object of a collective and useful appropriation. This explains why the reformers almost always proposed public works as one of the best possible penalties... Public works meant two things: the collective interest in the punishment of the condemned man and the visible, verifiable character of the punishment. Thus the convict pays twice; by the labour he provides and by the signs that he produces.

The fifth feature is that to achieve this pan-social goal, punishment must follow an ‘economy of publicity’, whereby penalties can become visible lessons in public morality. Foucault says,

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This legible lesson, this ritual recoding, must be repeated as often as possible; the punishments must be a school rather than a festival; an ever-open book rather than a ceremony. The duration that makes the punishment effective for the guilty is also useful for the spectators. They must be able to consult at each moment the permanent lexicon of crime and punishment. A secret punishment is a punishment half wasted. Children should be allowed to come to the places where the penalty is being carried out; there they will attend their classes in civics. And grown men will periodically relearn the laws. Let us conceive of places of punishment as a Garden of the Laws that families would visit on Sundays.65

The final feature is that these signs, through their consequent objectification of the criminal would make it possible to stem the rot of making heroes out of criminals. Under the new penal system, where offenders are mere exhibits in a public morality class, the criminal can only be an object of pity—an enemy who, must be re-educated and re-admitted into social life.

Summing up the findings from these features of the obstacle-sign, Foucault concludes that the ‘reformed’ penal system introduced ‘theatres of punishment’, accessible and visible to all, in which through a representational medium, the public was taught a moral lesson.

This, then, is how one must imagine the punitive city. At the crossroads, in the gardens, at the side of the roads being repaired or the bridges built, in workshops open to all, in the depths of mines that may be visited, will be hundreds of tiny theatres of punishment.66

e. From Exhibition to Detention: Visibility and Penality

Foucault notices, however, that this penalty, with criminals labouring as examples under the public gaze, was not to stay long, and was soon replaced by invisible detention in prisons—the next movement in the history of punishment. He shows how within a mere twenty years the elaborate ‘penal semiotics’ and ‘theatres of punishment’ of the reformers give way to ‘a great prison structure’, which, irrespective of the nature of the crime, detained everybody within its enclosed and hierarchized space, away from public visibility. He says,

In under twenty years, in any case, the principle so clearly formulated in the Constituent Assembly, of specific, appropriate, effective penalties, constituting, in each case, a lesson for all, became the law of detention for every offence of any importance, except those requiring the death penalty. The theatre of punishment of which the eighteenth century dreamed and which would have acted essentially on the minds of the general public was replaced by the great uniform machinery of the prisons, whose network of immense buildings was to extend across France and Europe.65

This new structure, which removed punishment from public visibility for the first time in Western history, introduced a new type of supervisory visibility, restricted to agents within the prison structure itself. Foucault lists the different institutions from which this new structure drew inspiration, in terms of its three major characteristics of obligatory work, isolation and supervision. He shows how the Rasphuis of Amsterdam, opened in 1596 for

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65 Ibid., 111.
66 Ibid., 113.
67 Ibid., 116.
beggars and young malefactors, was one of the primary influences, with its principles of obligatory work and a strict timetable, followed by the maison de force at Ghent, which also organized penal labour strictly around economic imperatives. For Foucault, the English models, exemplified by the penitentiary at Gloucester, added, the principle of isolation to that of work. Foucault mentions Hanway, who proposed this addition of isolation to penalty in 1775, on the lines of cells in Catholic monasteries because of three reasons. The first is to check ‘immoral promiscuity’ in prisons; the second is to stop prisoners from getting together and plotting a revolt or an escape; and the third is to make them Rediscover their conscience in isolation, and thereby get reconverted to good ways of life. The principle of thorough surveillance came with the Philadelphia model, exemplifying the emergent American system of penalty, and carried out first in the Walnut Street Prison, opened in 1790.

It can be noticed how this newer penal system involves many marked differences from its predecessor. The first departure is that though, like the prior system, the sentence and the reasons for it are totally transparent and known to the public, here the penalty is executed in absolute secrecy, with the actual punishment being known only to the prisoner and those who supervise him or her. The second departure is that here, through surveillance, what was generated was a knowledge about the individual criminals, with reports about their crimes as well as their conduct turning the prison into a ‘permanent observatory’ for classifying human vices and devising means to counter them.

Thus, as Foucault points out, three ways of exercising penal power can be seen to exist simultaneously in the late eighteenth century. The first is the one based on the old monarchical law, which believed in torturing the criminal’s body and punishing it terminally. The other two refer to a preventive and utilitarian conception of punishment, with the first among the two relying on a visible representational alternative, and the second envisaging the same through a secretive surveillance of a corrective administrative apparatus. The question that Foucault raises is how from within this triad of ‘ceremony, representation, exercise’, it was the third that finally gained predominance over the others. He asks,

The problem, then, is the following: how is it that, in the end, it was the third that was adopted? How did the coercive, corporal, solitary, secret model of the power to punish replace the representative, scenic, signifying, public, collective model? Why did the physical exercise of punishment (which is not torture) replace, with the prison that is its institutional support, the social play of the signs of punishment and the prolix festival that circulated them?*

It is the answer to this question that Foucault strives to find next, to unearth the relationship between ‘Discipline and Punish’ as well as the secret of ‘The Birth of the Prison’.

*Ibid., 131.
IV. Discipline as a Means to Punish: the Arrival of the New Penalty

a. *Discipline and the Body: the 'Political Anatomy'*

Foucault shows how in the Classical age, the body was studied under two registers: the ‘anatomico-metaphysical register’, which tried to understand the functioning of the body; and the ‘technico-political register’, which tried to subject the body to power and use it. For Foucault, these two distinct registers converge on their demand of ‘docility’ from the body:

The classical age discovered the body as object and target of power... The great book of the Man-the-Machine was written simultaneously on two registers: the anatomico-metaphysical register, of which Descartes wrote the first pages and which the physicians and philosophers continued, and the technico-political register, which was constituted by a whole set of regulations and by empirical and calculated methods relating to the army, the school and the hospital, for controlling or correcting the operations of the body. These two registers are quite distinct, since it was a question, on the one hand, of submission and use and, on the other, of functioning and explanation: there was a useful body and an intelligible body. And yet there are points of overlap from one to the other...at the centre of which reigns the notion of ‘docility’, which joins the analysable body to the manipulable body.69

This cultivation of docility in the body involved changes in the exercise of power at three levels. At the level of the scale of control, the body was not to be treated ‘wholesale’, as a unity, but in ‘retail’, where an infinitesimal power can act on the multiplicity of bodily mechanisms. At the level of the object of the control, the focus could no more be on the signifying elements of the body, but its economy and its efficiency. Lastly, at the level of modality, there has to be an uninterrupted supervision of the processes rather than the result.

The changed methods of power constitute, what Foucault calls, the ‘disciplines’:

These methods, which made possible the meticulous control of the operations of the body, which assured the constant subjection of its forces and imposed upon them a relation of docility-utility, might be called ‘disciplines’. Many disciplinary methods had long been in existence—in monasteries, armies, workshops. But in the course of the seventeenth and eighteenth centuries the disciplines became general formulas of domination.70

Having defined this category of ‘disciplines’ which becomes the mainstay of exercise of power, by the end of the eighteenth century, Foucault proceeds to examine its characteristics.

The function of disciplines was to produce ‘docile’ bodies, and make the body available to those to wished to study it, as well as those who wished to use it in production, increasing in the process its economic utility, while diminishing its political powers through thorough subjection and obedience. Body becomes under discipline the site of social politics, and Foucault says, ‘Discipline is a political anatomy of detail’.71 Thus, the notion of ‘detail’, which had always been a category in theology and asceticism, becomes a category in the exercise of power. Foucault examines, therefore, how a meticulous observation of detail in

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structures like the school, the barracks, the hospital, the workshop, and finally also the prison soon comes into operation, providing what he calls 'an economic or technical rationality for this mystical calculus of the infinitesimal and the infinite'.\textsuperscript{72} Foucault provides four features of discipline as a means to political anatomy—that it is 'cellular', 'organic', 'genetic' and 'combinatorial'—and now I discuss these four features one after the other.

b. \textit{The Four Aspects of Disciplinary Power}

Foucault shows how, for an efficient functioning, discipline follows an 'art of distribution' of individuals in space in a 'cellular' form, isolating individuals from each other to the maximum. This is achieved primarily through four techniques. The first is that of \textit{enclosure}, or that disciplinary structures should reserve for themselves spaces insulated from the rest of society. This was soon evident not only in the confinement of vagabonds and paupers, but also in the imposition of the compulsorily residential monastic model on schools, military barracks and factories. The second technique is that of \textit{partitioning}, or that within its enclosed space, disciplinary structures do not allow formation of groups, segregating inmates into an individualistic analytical space, on the model of the monastic cell. The third device is that of \textit{functional sites}, or that the disciplinary institutions distribute their enclosed and partitioned spaces according to different uses thereby creating not only a supervisory space but also a useful space. The fourth technique is that of the \textit{rank}, or classifying all inmates and awarding them a hierarchized place in this classification. This is, for Foucault, visible at its best in the educational apparatus, where not only are students divided into classes on the basis of their maturity and aptitude, within a class, students are given ranks after thorough examination, which becomes the only mark of their capacities. Summing up these different techniques adopted by disciplinary institutions to distribute their inmates, Foucault says,

\begin{quote}
In organizing 'cells', 'places' and 'ranks', the disciplines create complex spaces that are at once architectural, functional and hierarchical. It is spaces that provide fixed positions and permit circulation; they carve out individual segments and establish operational links; they mark places and indicate values; they guarantee the obedience of individuals, but also a better economy of time and gesture.\textsuperscript{73}
\end{quote}

This is how through a distribution of spaces, and allocating inmates to them, disciplinary power comprises a micro-physics of what Foucault calls 'cellular' power.

Coming to the second aspect of disciplinary power, Foucault shows how disciplines perform a 'control of activity' by implicating the body, thereby constructing an 'organic' power. This is achieved through five techniques. The first is that of the \textit{time-table}, which, transferred from monastic communities to disciplinary apparatuses like schools, workshops

\textsuperscript{72} \textit{Ibid.}, 140.
\textsuperscript{73} \textit{Ibid.}, 148.
and hospitals, attempted to regulate bodily rhythms and metabolic cycles of inmates. The second technique is that of *temporal elaboration of the act*, or, as can be best seen in marching and drills, adjusting movements of the body to temporal rhythms, and defining what Foucault calls an ‘anatomo-chronological schema of behaviour’. The third technique is that of *correlation of the body and the gesture*, or to define for a particular gesture the overall position of the body, which is best for efficiency and speed. This can be seen in discourses on good handwriting, where the entire body, from the tip of one’s foot to that of the index finger, is involved. The fourth method is of *body-object articulation*, or a laying down of each of the relations that the body must have with the object it manipulates, thereby causing an ‘instrumental coding of the body’. This can be observed in army drills, where parts of the body and those of rifles are correlated through gestures. The final technique is that of *exhaustive use*, or that instead of using power only for negative repression and prohibition, for instance, using the time-table only to check idleness, the use of power should be positive and exhaustive, for instance, using the time-table for maximizing production. Thus, Foucault notices how, in addition to the classificatory ‘cellular’ power, disciplinary apparatuses also construct themselves around a natural ‘organic’ power over the body. He says,

> We have seen how the procedures of disciplinary distribution had their place among the contemporary techniques of classification and tabulation; but also how they introduced into them the specific problem of individuals and multiplicity... Disciplinary power has as its correlative an individuality that is not only analytical and ‘cellular’, but also natural and ‘organic’.

Having described the first two aspects of disciplinary power, I now move on to the other two.

The third feature of disciplinary methods is that they rely on the ideas of evolution and ‘progress’, an orient the economy of time towards the finality of a ‘genesis’ of docile individuals. Calling this the ‘genetic’ aspect of discipline, Foucault says,

> The disciplinary methods reveal a linear time whose moments are integrated, one upon another, and which is orientated towards a terminal, stable point; in short, an ‘evolutive’ time. But it must be recalled that, at the same moment, the administrative and economic techniques of control reveal a social time of a serial, orientated, cumulative type: the discovery of an evolution in terms of ‘progress’. The disciplinary techniques reveal individual series: the discovery of an evolution in terms of ‘genesis’. These two great ‘discoveries’ of the eighteenth century—the progress of societies and the geneses of individuals—were perhaps correlative with the new techniques of power, and more specifically, with a new way of administering time and making it useful, by segmentation, seriation, synthesis and totalization.

Foucault notices how this aspect of disciplinary power constructs the idea of ‘individuality-genesis’, just like the creation of the individuality-cell or the individuality-organism under the other two features of discipline. And, for Foucault, just as cellular power distributed individuals in ‘tables’ and organic power controlled activities through ‘manoeuvre’, the

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74 Ibid., 156.
75 Ibid., 160.
genetic power achieves its goal through 'exercise', which is repetitive and regularized, but always graduated towards a perfective evolutionary end.

The final feature of disciplinary power is that it must combine all the different individualities: of tables, manoeuvres and exercises, towards a uniform end. This 'combinatory' aspect of discipline implies, as Foucault shows, the construction of a 'machine' that would bring together all the aspects of discipline and give them efficiency:

Thus a new demand appears to which discipline must respond: to construct a machine whose effect will be maximized by the concerted articulation of the elementary parts of which it is composed. Discipline is no longer simply an art of distributing bodies, of extracting time from them and accumulating it, but of composing forces in order to obtain an efficient machine.76

For Foucault, this combination of aspects of discipline into an effective machine requires three tactics. The first is that of the functional reduction of the body into a mere part of a 'multi-segmentary machine', the body having its only justification in constituting a part of the combinatorial edifice. The second is that of the combination of various chronological series, as pieces of machinery, to form a composite time, which can yield the optimum result. The final strategy is forming a system of command, which would control all activity towards the combinatorial end with precision and economy, with a set of injunctions.

Foucault sums up the creation of these four types of individuality stating how they give rise to four different techniques for the exercise of disciplinary power. He says,

To sum up, it might be said that discipline creates out of the bodies it controls four types of individuality, or rather an individuality that is endowed with four characteristics: it is cellular (by the play of spatial distribution), it is organic (by the coding of activities), it is genetic (by the accumulation of time), it is combinatorial (by the composition of forces). And, in doing so, it operates four great techniques: it draws up tables; it prescribes movements; it imposes exercises; lastly, in order to obtain the combination of forces, it arranges 'tactics'.77

For Foucault, among these four techniques, it is tactics, which is the highest form of disciplinary practice, leading to knowledge about and control of individuals:

Tactics, the art of constructing, with located bodies, coded activities and trained aptitudes, mechanisms in which the product of the various forces is increased by their calculated combination are no doubt the highest form of disciplinary practice. In this knowledge, the eighteenth-century theoreticians saw the general foundation of all military practice, from the control and exercise of individual bodies to the use of forces specific to the most complex multiplicities.78

Accordingly, I will now discuss disciplinary tactics in terms of its three functions: 'surveillance' to generate knowledge about individuals, 'normalization' to correct their aberrations, and 'examination' to combine these two functions into an efficient systematic.

76 Ibid., 164.
77 Ibid., 167.
78 Ibid., 167.
c. Tactics of Surveillance, Normalization and Examination

Talking in a 1977 interview about how the first of the disciplinary tactics—surveillance—comes into being, Foucault shows that it balances the economic and political costs incurred in exercising power, while constructing a self-contained system of the same:

In reality power is only exercised at a cost. Obviously, there is an economic cost... But there is also a specifically political cost. If you are too violent, you risk provoking revolts. Again, if you intervene in too discontinuous a manner, you risk allowing politically phenomena of resistance and disobedience to develop in the interstices. This was how monarchical power operated... In contrast to that you have the system of surveillance, which on the contrary involves very little expense. There is no need for arms, physical violence, material constraints. Just a gaze. An inspecting gaze, a gaze which each individual under its weight will end by interiorising to the point that he is own overseer, each individual thus exercising this surveillance over, and against, himself.79

Foucault shows in Discipline and Punish how, based on this principle of surveillance, Western states could form from the end of the eighteenth century, a mass of trained and docile bodies, on whom and through whom power could exercise itself smoothly. The exercise of surveillance presupposes a mechanism that makes observation the principal means of power, and Foucault shows how, under the disciplinary regime, hospitals, asylums, working-class housing estates, prisons, and schools all become 'observatories' based on the ideal model of the military camp. This changes, as Foucault states, the relation of architecture with visibility:

A whole problematic then develops: That of an architecture that is no longer built simply to be seen (as with the ostentation of palaces), or to observe the external space (cf. The geometry of fortresses), but to permit an internal, articulated and detailed control—to render visible those who are inside it; in more general terms, an architecture that would operate to transform individuals: to act on those it shelters, to provide a hold on their conduct, to carry the effects of power right to them, to make it possible to know them, to alter them.80

Architecture becomes the means to construct the machine of surveillance, with disciplinary apparatuses being constructed in circles opening on the inside, with watchtowers at their centre, to allow perfect and uninterrupted gaze from the administration. I would discuss this machine—the Panopticon—in greater detail in the next section of this chapter. Foucault proceeds next to connect this tactic of surveillance to emergent capitalism itself, and quotes Marx to show how observation and superintending are functions of capital, and acts as a non-coercive controlling mechanism on the co-operative labour:

The work of directing, superintending and adjusting becomes one of the functions of capital, from the moment that the labour under the control of capital, becomes cooperative. Once a function of capital, it requires special characteristics.81


81 Karl Marx, Capital, vol. 1 (1867), p. 313, quoted in Ibid., 175.
For Foucault, there are two of these ‘special characteristics’, which Marx claims surveillance acquires under capitalism. The first is that it becomes the means to an ‘integrated’ system of power, through which the economic imperatives combine with real strategies of exercising power. The second characteristic is that in its exercise, surveillance remains totally anonymous, secret and all pervading, so that observation is present as a network, rather than a one-way flow of power, with the supervisors themselves being, in turn, supervised.

Moving over to the second disciplinary tactic of normalization, Foucault shows how punishment, in a disciplinary set-up, takes the form of an ‘infra-penality’, or a ‘micro-penality’, where the objective is not so much to punish the offender as to correct him or her:

At the heart of all disciplinary systems functions a small penal mechanism. It enjoys a kind of judicial privilege with its own laws, its specific offences, its particular forms of judgement. The disciplines establish an ‘infra-penality’; they partitioned an area that the laws had left empty; they defined and repressed a mass of behaviour that the relative indifference of the great systems of punishment had allowed to escape... The workshop, the school, the army were subject to a whole micro-penality of time (lateness, absences, interruptions of tasks), of activity (inattention, negligence, lack of zeal), of behaviour (impoliteness, disobedience), of speech (idle chatter, insolence), of the body (‘incorrect’ attitudes, irregular gestures, lack of cleanliness), of sexuality (impurity, indecency).82

Punishment, thus, acquires two roles—to ‘correct’ the non-conforming individual and to ‘better’ the conforming one. This ‘corrective’ mode of punishments uses, therefore, not only judicial modes like fines, flogging and solitary confinement, but also disciplinary forms like intensification of exercise. This is why expiation and repentance, which were the main categories of the earlier form of penalty, become just the incidental by-products of this tactic based on training and exercise. Foucault also observes how, under the disciplinary regime, punishment comes to have a ‘penal accountancy’, constantly drawing up a ‘punitive balance-sheet’ of each individual, on the basis of his or her progress towards normalization. Foucault concludes that disciplinary tactics fulfils its normalizing role, through the five operations of comparison between individuals, differentiation among them, their hierarchization on the basis of quality, homogenization of what is ‘normal’, and exclusion of the incorrigible:

In short, the art of punishing, in the régime of disciplinary power, is aimed neither at expiation, nor even precisely at repression. It brings five quite distinct operations into play... The perpetual penalty that traverses all points and supervises every instant in the disciplinary institutions compares, differentiates, hierarchizes, homogenizes, excludes. In short, it normalizes.83

These five operations make disciplinary punishment different from judicial penalty whose function was to refer to the non-dynamic, generalized binary opposition of the good and the bad, without any scope of comparatively revising, hierarchizing and normalizing the same.

83 Ibid., 182-83.
Finally, Foucault turns to the third tactic of examination, which combines the techniques of the other two tactics, and symbolizes, in itself, a means to observe as well as to correct, to exercise force as well as to generate and promote the truth. Foucault says,

The examination combines the techniques of an observing hierarchy and those of a normalizing judgement. It is a normalizing gaze, a surveillance that makes it possible to qualify, to classify and to punish. It establishes over individuals a visibility through which one differentiates them and judges them. That is why, in all the mechanisms of discipline, the examination is highly ritualized. In it are combined the ceremony of power and the form of the experiment, the deployment of force and the establishment of truth.84

Having established the importance of examination as a tactical category, Foucault lists three of its functions. The first function is that examination transforms the economy of visibility into the exercise of power. While traditionally, the exercise of power was always visible, under the disciplinary regime, power is exercised through its invisibility, with the ones on whom it is being exercised becoming visible only to the authorities. Examination is the technique by which power sees, rather than being seen. The second function is that examination introduces individuality into the field of documentation. This concerns the fact that disciplinary examination produces a huge corpus of knowledge about individuals, with human behaviour and nature becoming the object of meticulous documentation and archivization. The third function is that examination, with the help of all its documentary techniques, makes each individual a ‘case’. Disciplinary examination creates the notion of the individual as an object of knowledge as well as an object for exercise of power. Thus, under examination, it is no more a case of generalization of individualities, because every individual has to be treated in his or her specificity, nor is it a transformation of individual offenders into heroes, because every offender represents a pathological case that can be objectified and normalized. Through the tactic of examination, the disciplines reverse the political axis of individualization, so that while under feudalism the sovereign and the agencies of power are individualized, in a disciplinary regime, individualization is ‘descending’, with those on whom anonymous power is exercised becoming more strongly individualized.

What stands out as the most striking result of these three tactics of disciplinary power is the observation that Foucault has already made several times: that power is not essentially repressive and negative, but is productive and leads to the generation of knowledge. He says,

We must cease once and for all to describe the effects of power in negative terms: it ‘excludes’, it ‘represses’, it ‘censors’, it ‘abstracts’, it ‘masks’, it ‘conceals’. In fact, power produces; it produces reality; it produces domains of objects and rituals of truth. The individual and the knowledge that may be gained of him belong to this production.85

With this conclusion about disciplinary tactics, I now turn to the Panopticon, the machine of disciplinary surveillance, which I left aside a little while ago, for later discussion.

84 Ibid., 184.
85 Ibid., 194.

Foucault notes that just as lepers gave rise to rituals of exclusion, the plague gave rise to the first disciplinary projects, which organized multiple separations and surveillance, as opposed to the binary division between two sets of people under the former system. For Foucault, while the separation of the leper was aimed at a pure community, the segmentations under plague aimed at a disciplined society. Segmentation and observation being the principles of the disciplinary machine, Foucault shows how it soon developed into the sophisticated device proposed by Bentham in his Panopticon (1791), about which he says,

Bentham’s Panopticon is the architectural figure of this composition. We know the principle on which it was based: at the periphery, an annular building; at the centre, a tower; this tower is pierced with wide windows that open onto the inner side of the ring; the peripheral building is divided into cells, each of which extends the whole width of the building; they have two windows, one on the inside, corresponding to the windows of the tower; the other, on the outside, allows the light to cross the cell from one end to the other. All that is needed, then, is to place a supervisor in a central tower and to shut up in each cell a madman, a patient, a condemned man, a worker or a schoolboy. By the effect of backlighting, one can observe from the tower, standing out precisely against the light, the small captive shadows in the cells of the periphery.

The Panopticon introduces two key features to detention: first, the detainee is absolutely visible to the authority, because the central tower imposes on him or her an ‘axial visibility’; second, the detainee, however, cannot communicate with any of his or her comrades, because the separated cells induce a ‘lateral invisibility’. This double feature is a guarantee of order, so that if the inmates are convicts, there is no danger of a plot, collective escape, plans for future crimes, or reciprocal bad influences; if they are patients, there is no danger of contagion; if they are lunatics, there is no risk of mutual violence; if they are schoolchildren, there is no copying, no mischief, and no waste of time; if they are workers, there are no disorders, no theft, no unions, and no laziness. This is why, by the beginning of the nineteenth century, all disciplinary institutions add to their principle of gaze the panoptic machine, and in a 1977 interview, Foucault comments on how he came across the idea of the Panopticon as:

It was while I was studying the origins of clinical medicine. I had been planning a study of hospital architecture in the second half of the eighteenth century, when the great movement for the reform of medical institutions was getting under way. I wanted to find out how the medical gaze was institutionalised, how it was effectively inscribed in social space, how the new form of the hospital was at once the effect and the support of a new type of gaze ... Then while studying the problems of the penal system, I noticed that all the great projects for re-organising the prisons (which date, incidentally, from a slightly later period, the first half of the nineteenth century) take up this same theme, but accompanied this time by the almost invariable reference to Bentham. There was scarcely a text or a proposal about the prisons which didn’t mention Bentham’s ‘device’—the Panopticon.

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86 Ibid., 200.
Coming back to the main text I was discussing, Foucault shows next how the Panopticon introduced two allied features. The first is that it dissolved the immediacy of the seer and the seen, with the detainee never being able to see the observing figure in its entirety:

Bentham laid down the principle that power should be visible and unverifiable. Visible: the inmate will constantly have before his eyes the tall outline of the central tower from which he is spied upon. Unverifiable: the inmate must never know whether he is being looked at any one moment; but he must be sure that he may always be so... The Panopticon is a machine for dissociating the see/being seen dyad: in the peripheric ring, one is totally seen, without ever seeing; in the central tower, one sees everything without ever being seen. 88

The second allied feature is that because of this, the Panopticon could act as a laboratory, where experiments could be carried out on the inmates, in terms of human behaviour as well as the effectiveness of different medical, punitive, mechanical or pedagogical innovations, without the inmates ever coming to know of them being used as guinea-pigs.

The next feature of the Panopticon, which Foucault mentions, is that it can supervise its own mechanisms. Not only can the director spy, from the central tower, on other employees like nurses, doctors, foremen, teachers, and warders, but being enclosed in the middle of this insulated architectural mechanism, the director has to ensure the functioning of the machine, because he or she would be the first victim in the case of a contagion or revolt. This is why Foucault talks in the 1977 interview of a mutual power in the Panopticon:

It's obvious that in an apparatus like an army or a factory, or some other such type of institution, the system of power takes a pyramidal form. Hence there is an apex. But even so, even in such a simple case, this summit doesn't form a 'source' or a 'principle' from which all power derives as though from a luminous focus (the image by which the monarchy represents itself). The summit and the lower elements of the hierarchy stand in a relationship of mutual support and conditioning, a mutual 'hold' (power as a mutual and indefinite 'blackmail'). 89

Foucault goes on to show, in the same interview, how the panoptic system works on a 'circulating mistrust', where everybody is constantly watching the other and keeping each other in control, so that along with surveillance, it also generates 'malveillance', or hostility:

In the Panopticon each person, depending on his place, is watched by all or certain of the others. You have an apparatus of total and circulating mistrust, because there is no absolute point. The perfected form of surveillance consists in a summation of malveillance. 90

It is this network of power and hatred that operates through mutual surveillance in the machine that makes the Panopticon such an effective device of dispensing disciplinary power.

90 Ibid., 158.
Though disciplinary mechanisms started with the segmentations of plague, the Panopticon changes their functioning substantially, because the former was invoked only in case of an 'exceptional situation', but the latter introduces discipline to 'everyday life':

The plague-stricken town, the panoptic establishment—the differences are important. They mark, at a distance of a century and a half, the transformations of the disciplinary programme. In the first case, there is an exceptional situation: against an extraordinary evil, power is mobilized; it makes itself everywhere present and visible; it invents new mechanisms, it separates, it immobilizes, it partitions; it constructs for a time what is both a counter-city and the perfect society... The Panopticon, on the other hand, must be understood as a generalizable model of functioning; a way of defining power relations in terms of the everyday life of men.91

This everyday application of power is possible because the panoptic machine makes its exercise non-coercive and yet all pervasive. Foucault shows how, the formation of the Western 'disciplinary society' rested on this transformation from the negative 'discipline-blockade' of plague to the productive 'discipline-mechanism' of the Panopticon:

There are two images, then, of discipline. At one extreme, the discipline-blockade, the enclosed institution, established on the edges of society, turned inwards towards negative functions: arresting evil, breaking communications, suspending time. At the other extreme, with panopticism, is the discipline-mechanism: a functional mechanism that must improve the exercise of power by making it lighter, more rapid, more effective, a design of subtle coercion for a society to come. The movement from one project to the other, from a schema of exceptional discipline to one of a generalized surveillance, rests on a historical transformation: the gradual extension of the mechanisms of discipline throughout the seventeenth and eighteenth centuries, their spread throughout the whole social body, the formation of what might be called in general the disciplinary society.92

For Foucault, this transformation takes place through three steps. The first is that of a 'functional inversion' of the disciplines, or that while at first, they were used to neutralize dangers, later disciplines start playing a positive productive role. The second change is that disciplinary mechanisms tend to become 'de-institutionalized', with a whole margin of lateral controls emerging from within disciplinary apparatuses. The third step is of an increasing state-control of the mechanisms of discipline, resulting in their total take-over by the police apparatus, instead of their being controlled by global feudal structures like the clergy. All these lead to a decentralization in the functioning and appropriability of discipline:

'Discipline' may be identified neither with an institution nor with an apparatus; it is a type of power, a modality for its exercise, comprising a whole set of instruments, techniques, procedures, levels of application, targets; it is a 'physics' or an 'anatomy' of power, a technology. And it may be taken over either by 'specialized' institutions (the penitentiaries or 'houses of correction' of the nineteenth century), or by institutions that use it as an essential instrument for a particular end (schools, hospitals), or by pre-existing authorities that find in it a means of reinforcing or reorganizing their internal mechanisms of power...93

And, this non-coercive productive discipline comes to produce knowledge about humanity.

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92 Ibid., 209.
93 Ibid., 215.
e. Discipline as Related to Money, Law and Knowledge

For Foucault, the objectives of disciplinary mechanisms are connected strongly to economic imperatives of the period. On the one hand, the eighteenth century showed a large demographic thrust, whereby both the free floating population and the number of people recruited in armies or schools increased rapidly, and it was necessary for the 'anti-nomadic technique' of disciplines to ‘fix’ this surplus population. On the other hand, development in the means of production because of rapid industrialization required steady monitoring of the multiplicity as efficient labour, leading to disciplinary supervision of the workforce. It is for these historical reasons, thus, that disciplines disallow ‘horizontal conjunctions’, like unions and camaraderie, and use procedures of partitioning and verticality. For Foucault, discipline is rooted in the historical conjunction of economy and multiplicity:

They must also increase the particular utility of each element of the multiplicity, but by means that are the most rapid and the least costly, that is to say, by using the multiplicity itself as an instrument of this growth. Hence, in order to extract from bodies the maximum time and force, the use of those overall methods known as time-tables, collective training, exercises, total and detailed surveillance. The disciplinary apparatuses are, thus, associated with the historical need for an economics of the multiplicity. As Foucault shows, the steady increase in the accumulation of capital required a commensurate accumulation of docile and utile labour, and this was the precise function that disciplinary apparatuses fulfilled. So much so that Foucault says, if the economic take-off of the West began with the techniques that made possible the accumulation of capital, it might perhaps be said that the methods of administering the accumulation of men made possible a political take-off in relation to the traditional, ritual, costly, violent forms of power, which soon fell into disuse and were superseded by a subtle, calculated technology of subjection. In fact, the two processes—the accumulation of men and the accumulation of capital—cannot be separated; it would not have been possible to solve the problem of the accumulation of men without the growth of an apparatus of production capable of both sustaining them and using them; conversely, the techniques that made the cumulative multiplicity of men useful accelerated the accumulation of capital. This is how discipline is inextricably connected to historical and economic imperatives of the period, and the development of capitalism and disciplinary power are mutually dependent.

As far its connection with the juridico-political institution of law is concerned, Foucault shows how though the panoptic modality of power is not immediately dependent on legal structures, it is not absolutely independent too. The bourgeoisie became the politically dominant class by the end of the eighteenth century because of its establishment of a formally coded egalitarian juridical framework, and a parliamentary, representative government. The major difference of this regime with the preceding feudal regime of tyranny and excesses lies in its apparently non-coercive exercise of power. This is where the disciplinary mechanisms

\[94\] Ibid., 220.
\[95\] Ibid., 220-21.
have a role to play, with their almost imperceptible systems of micro-power covering the need for terrorization and making bourgeois jurisprudence appear egalitarian and humane. Thus, as Foucault shows, the disciplinary mechanisms constitute the very opposite of the claims of bourgeois justice—a 'counter-law'—while reinforcing the same through its infra-legal status:

In appearance, the disciplines constitute nothing more than an infra-law. They seem to extend the general forms defined by law to the infinitesimal level of individual lives; or they appear as methods of training that enable individuals to become integrated into these general demands. They seem to constitute the same type of law on a different scale, thereby making it more meticulous and more indulgent. The disciplines should be regarded as a sort of counter-law. They have the precise role of introducing insuperable asymmetries and excluding reciprocities.

For Foucault, the uniform judicial punishment of detention in prisons, that bourgeois jurisprudence makes its hallmark, could only come into being with this counter-law, with the penal corrective technology being possible only when the codified legal power to inflict corporal punishment turns into its very opposite—a disciplinary power of surveillance.

At a third level, Foucault shows that under the disciplinary regime, the exercise of power and the formation of knowledge reinforce one another in a circular process. For Foucault, just as mathematics was born in Greece from techniques of measurement, and the natural sciences were born, at the end of the Middle Ages, from practices of investigation, the human sciences were born from disciplinary practices. When, in an extension of its Renaissance and Classical investigative spirit, the eighteenth-century Europe was engaged in a political an economic conquest of the world, nearer home, disciplinary mechanisms, following the tradition of medieval Inquisition, was building up a huge corpus of knowledge about human beings and their behaviour, giving birth to the human sciences. For Foucault, ...what this politico-juridical, administrative and criminal, religious and lay, investigation was to the sciences of nature, disciplinary analysis has been to the sciences of man. These sciences, which have so delighted our 'humanity' for over a century, have their technical matrix in the petty, malicious minutiae of the disciplines and their investigations. These investigations are perhaps to psychology, psychiatry, pedagogy, criminology, and so many other strange sciences, what the terrible power of investigation was to the calm knowledge of animals, the plants or the earth. Another power, another knowledge.

Foucault, thus, returns to one of his pet thematic obsessions, the correlation between power and knowledge, and one comes to know that the disciplinary apparatuses did not merely collude with the emergent bourgeois in their economic and social needs and produce a repressive state apparatus, but assume a productive role through their micro-physics of power, and create a body of knowledge about the very objects which they sought to exercise the combinatory tactics of surveillance, normalization and examination on. Having established this, Foucault moves over, finally, to the prison—the focal point of disciplinary strategies.

96 Ibid., 222.
97 Ibid., 226.
V. The Birth and Perpetration of the Prison System

a. The Prison and its Objectives

Talking about the birth of the prison, Foucault shows how this institution was already born, through extra-legal apparatuses that sought to make the human body docile and utile, before the juridico-penal system started using it as the only form of uniform punishment:

It would not be true to say that the prison was born with the new codes. The prison form antedates its systematic use in the penal system. It had already been constituted outside the legal apparatus... The general form of an apparatus intended to render individuals docile and useful, by means of precise work on their bodies, indicated the prison institution, before the law ever defined it as the penalty *par excellence*...

The institution of the prison was thus ‘self-evident’ in the modes of power of the period, and Foucault identifies three principles through which it operated. The first is that of ‘deprivation of liberty’, which makes imprisonment the penalty *par excellence* in a society whose most universal and most cherished value was liberty. The second principle is that of a ‘wages-form of imprisonment’, where quantitative equivalences between offences and prison terms make the time levied on a prisoner ‘pay one’s debt’ to society at having harmed it with a crime. The third principle is of transforming individuals through disciplinary tactics in imprisonment. Thus, the prison has a double foundation, ‘juridico-economic’ and ‘technico-disciplinary’, and Foucault shows how the two foundations acted simultaneously to give birth to the prison:

One thing is clear: the prison was not at first a deprivation of liberty to which a technical function of correction was later added; it was from the outset a form of ‘legal detention’ entrusted with an additional corrective task, or an enterprise for reforming individuals that the deprivation of liberty allowed to function in the legal system. In short, penal imprisonment, from the beginning of the nineteenth century, covered both the deprivation of liberty and the technical transformation of individuals.99

Foucault lists ‘seven universal maxims’ that prisons followed as their objectives:

1. The principle of correction: imprisonment transforms an individual’s behaviour;
2. The principle of classification: the prison classifies and isolates convicts on the basis of age, propensities, natures of crime and levels of transformation attained;
3. The principle of the modulation of penalties: the prison alters penalties according to the individuality of the convicts, and their progress or relapse in terms of correction;
4. The principle of work as obligation and right: work is compulsory in prisons;
5. The principle of penitentiary education: the prisoner undergoes compulsory education;
6. The principle of the technical supervision of detention: the prison should be supervised and administered by a specialized staff with the moral and technical qualities of educators;
7. The principle of auxiliary institutions: imprisonment must be followed by supervision and assistance from other institutions, until full rehabilitation of the former prisoner.

After listing the objectives, Foucault traces principles and two major outcomes of the prison.

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98 Ibid., 231.
99 Ibid., 233.
b. The Prison System, Carcerality and Delinquency

In discussing the main principles of the prison system, Foucault invokes Baltard, who, in his *Architectonographie des prisons* (1829), calls prisons ‘complete and austere institutions’, and shows how the prison becomes an exhaustive disciplinary apparatus. As opposed to disciplinary apparatuses like the school, the asylum, the workshop or the army, which involve a certain specialization, the prison is ‘omni-disciplinary’. Combining the objectives of all these apparatuses together, the prison educates, normalizes, generates economic utility, as well as physically disciplines the convicts. In addition to these, the prison also punishes, thereby combining productive discipline with a more repressive power, and producing the omnipotent configuration of what Foucault calls ‘despotic discipline’. Foucault shows how the prison exercises this power on the basis of three principles.

The first principle is that of isolation of convicts from the external world as well as from one another. Foucault shows how this ‘individualizing’ element of penalty leads to the debate between the two American systems of imprisonment: the Auburn model, which prescribed, on the basis of the monastic model, cellular isolation at night but work and meals in common, albeit under strict discipline and supervision; and the Philadelphia model, proposing absolute isolation throughout the day. It should be noted that the purpose of isolation was not only to check possibilities of revolt, but also to arouse the prisoner’s conscience, in contemplative aloneness, and morally correct him or her. The second principle is that of work. Foucault shows how labour in prisons, because of its limited extent and low output, was geared not so much to have an effect on the economy, as on the human moral mechanism. Thus, penal labour is an ‘empty economic form’ leading to no profit but the transformation of violent convicts into docile individuals adapted to the norms of industrial society. In a 1976 interview, Foucault highlights this function of work in prison succinctly:

> As it was initially conceived, penal labour was an apprenticeship not so much in this or that trade as in the virtues of labour itself. Pointless work, work for work’s sake, was intended to shape individuals into the image of the ideal labourer.  

The third principle of the prison is that it can ‘modulate’ a penalty, and alter the length of a term on the basis of a convict’s corrective progress. This third principle proves once again, since the length of the penalty is not a measurement of the ‘exchange value’ of the offence, but a category that may be adjusted according to the transformation of the inmate, that what it is geared towards is a moral transformation of the prisoner. All the three principles point towards one outcome—that the primary function of the prison system is of moral correction.

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Foucault shows how, to carry out its morally corrective function, prisons assume a certain amount of autonomy, where they can themselves decide upon the nature and length of sentences, irrespective of the judicial prescription. Borrowing a term that Charles Lucas uses in his *De la réforme des prisons* (1836), Foucault calls this act the 'Declaration of Carceral Independence', and terms the corrective function of prisons the 'carceral' function. Foucault shows how it is this 'carcerality' of the prison that leads to its adoption of the panoptic model:

The prison, the place where the penalty is carried out, is also the place of observation of punished individuals. This takes two forms: surveillance, of course, but also knowledge of each inmate, of his behaviour, his deeper states of mind, his gradual improvement; the prison must be conceived as places for the formation of clinical knowledge about the convicts... The theme of the Panopticon—at once surveillance and observation, security and knowledge, individualization and totalization, isolation and transparency—found in the prison its privileged locus of realization.\(^1\)

Thus, though the prison receives convicts only through the juridical system, its basic function is to autonomously convert these convicts into objects of knowledge through surveillance and carry on the carceral regime of moral conversion on them.

This implies that the penitentiary apparatus of the prison transforms the convicted person into a different object altogether, an object of knowledge, which Foucault calls the 'delinquent'. The delinquent is different from the offender because while the latter is defined by the crime he or she commits, the former is defined in terms of a 'biographical' knowledge of instincts, drives, tendencies, character and circumstances that operate behind the crime committed, thereby making the criminal subject an object of carceral correction. For Foucault,

The correlative of penal justice may well be the offender, but the correlative of the penitentiary apparatus is someone other; this is the delinquent, a biographical unity, a kernel of danger, representing a type of anomaly. And, although it is true that to a detention that deprives of liberty, as defined by law, the prison added the additional element of the penitentiary, this penitentiary element introduced in turn a third character who slipped between the individual condemned by the law and the individual who carries out this law. At the point that marks the disappearance of the branded, dismembered, burnt, annihilated body of the torture criminal, there appeared the body of the prisoner, duplicated by the individuality of the 'delinquent', by the little soul of the criminal, which the very apparatus of punishment fabricated as a point of application of the power to punish and as the object of what is still called today penitentiary science.\(^2\)

The emergence of this category of 'delinquency' is the second outcome of the prison system, and Foucault shows how it is on the basis of this construction that psychology enters the domain of penalty, in a bid to carceraly correct the aberrant 'monsters' that criminals are. There are therefore two major outcomes of the prison system: the creation of a delinquent class and the emergence of a carceral regime, and Foucault discusses the principles of these two categories and the politics they entail one after the other.

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c. *Prison and the Politics of the Delinquent Class*

As an entry point into the politics behind the creation of the delinquent class in prisons, Foucault analyses first the curious structure of criticisms levelled against the penal apparatus and reforms achieved therefrom. Foucault notices how criticism of the prison was almost concurrent with the birth of the institution itself, and the prison has itself formed part of projects, reforms and experiments aimed to alter its functioning. The primary criticism against prisons has been that they do not diminish the crime rate, but rather promote recidivism, with a high proportion of convicts being former inmates. The delinquent class that the prison produces becomes further prone to crime on four grounds. The first is that the prison, with its obsession with labour for labour's sake, fails to teach its inmates any useful trade, and they accordingly fail to find jobs after being set free. The second reason is that delinquents also do not find employment because the carceral regime brands them completely and restricts their movement even after freedom. Thirdly, prisons abuse their autonomy and exercise arbitrary power over detainees making the delinquent class a group of hardened criminals. Finally, the surveillant panoptic structure of the prison itself works on duplicitous modes like spying, becoming an informer, etc., and the delinquent class gets implicated in these quasi-illegal forms. The first two reasons do not allow delinquents employment, while the other two make them prone to crime; the two together result in recidivism.

What is interesting, for Foucault, is the fact that in spite of such strong criticisms against it, the prison system has never been overhauled, and the criticisms have been responded to with an even further strengthening of the very foundations of the carceral apparatus. Showing how prisons use criticism to further their own design, Foucault says,

> The answer to these criticisms was invariably the same: the reintroduction of the invariable principles of penitentiary technique. For a century and a half the prison had always been offered as its own remedy: the reactivation of the penitentiary techniques as the only means of overcoming their perpetual failure; the realization of the corrective project as the only method of overcoming the impossibility of implementing it. ¹⁰³

Thus, the prison turns its apparent failure into its very *raison d'être*, and, as Foucault shows, abets recidivism. The fact that the prison system has withstood all criticisms, and has in fact bettered the very grounds of criticism with continuous reforms, proves that it has an interest in maintaining the delinquent class. Therefore, for Foucault, if one wishes to analyse how a prison functions as a penal system and a structure of power, one should not seek to see how it curbs and controls crime, but rather 'reverse the problem' and trace the reasons for which it in fact promotes it. This promotion takes place through the creation within the carceral set-up of a delinquent class, and therefore one needs to examine how dominant structures of power utilize the prison to create this class and use it towards their own end. Foucault says.

But perhaps one should reverse the problem and ask oneself what is served by the failure of the prison; what is the use of these different phenomena that are continually being criticized: the maintenance of delinquency, the encouragement of recidivism, the transformation of the occasional offender into a habitual delinquent, the organization of a closed milieu of delinquency. Perhaps one should look for what is hidden beneath the apparent cynicism of the penal institution, which, after purging the convicts by means of their sentence, continues to follow them by a whole series of ‘brandings’ (a surveillance that was once de jure and which is today de facto; the police record that has taken the place of the convict’s passport) and which thus pursues as a ‘delinquent’ someone who has acquitted himself of his punishment as an offender?  

Thus, prisons, in fact, promote criminality while their apparent objective is of reducing the same, but for Foucault, there is no contradiction between the two, because the function of prison is not at all to eliminate offences, but to classify them into tolerable and intolerable illegalities, and use them in a general ‘economy’ of crime. Foucault says,  

Can we not see here a consequence rather than a contradiction? If so, one would be forced to suppose that the prison, and no doubt punishment in general, is not intended to eliminate offences, but rather to distinguish them, to distribute them, to use them; that it is not so much that they render docile those who are liable to transgress the law, but that they tend to assimilate the transgression of the laws in a general tactics of subjection. Penalty would then appear to be a way of handling illegalities, of laying down the limits of tolerance, of giving free rein to some, of putting pressure on others, of excluding a particular section, of making another useful, of neutralizing certain individuals and of profiting from others. In short, penalty does not simply ‘check’ illegalities; it ‘differentiates’ them, it provides them with a general ‘economy’.  

Foucault shows how by the beginning of the nineteenth century, ‘illegality’ got quite rooted in political and social movements, through trade unions and other modes of radical protest from among workers. There was, therefore, a ‘great fear’ of the political potential of illegalities, leading to possible revolts, that ruled the minds of the dominant agencies of power. The solution was to monitor the vast field of illegalities through the introduction into it of a particular controlled and heavily supervised illegality, namely delinquency. The success of the prison has been not so much in checking crimes in a direct way, but in indirectly checking it by producing the relatively harmless and controlled illegality of the delinquent class:  

For the observation that prison fails to eliminate crime, one should perhaps substitute the hypothesis that prison has succeeded extremely well in producing delinquency, a specific type, a politically or economically less dangerous—and, on occasion, usable—form of illegality; in producing delinquents, in an apparently marginal, but in fact centrally supervised milieu; in producing the delinquent as a pathologized subject. The success of the prisons, in the struggles around the law and illegalities, has been to specify a ‘delinquency’... So successful has the prison been that, after a century and a half of ‘failures’, the prison still exists, producing the same results, and there is the greatest reluctance to dispense with it.  

Foucault lists several uses that dominant power structures made of delinquency to forward its interests. First of all, it was used to check illegalities by making delinquents infiltrate criminal

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104 Ibid., 272.  
105 Ibid., 272.  
106 Ibid., 277.
societies as informers. Secondly, the delinquent class was used as goons to comprise an alternate police force and a parallel army to break up strikes and beat up resistant workers. The third use that delinquency was put to use was colonization, with dominant power extending its hold over places like Australia and Algeria primarily through erstwhile convicts. The fourth use which bourgeois power put delinquency to was the setting up of prostitution networks in the nineteenth century, an illegality tolerated for the sake of gratification of dominant sexual desire. Finally, it can be seen how powers use delinquents for international espionage, arms dealing, drug-trafficking, etc. This is not an exhaustive list of the uses of the delinquent class, but what these uses indicate is that the prison system created delinquency to carry out the clandestine operations involved in the bourgeois ascendency to power.

Delinquency is created within the prison system through surveillance, but what it leads to, with its use of secret agents, is a perpetual surveillance of the whole population. This is probably the greatest use of delinquency that nineteenth century power devised: to use it not only as a means of spying over society, but to use it as an excuse for a thorough policing of the people. As Foucault shows in a 1976 interview, the prisons tolerated certain illegalities to be able to exercise total power over people through the police apparatus:

At the end of the eighteenth century, people dreamed of a society without crime. And then the dream evaporated. Crime was too useful for them to dream of anything as crazy—or ultimately as dangerous—as a society without crime. No crime means no police. What makes the presence and control of the police tolerable for the population, if not fear of the criminal? This institution of the police, which is so recent and so oppressive, is only justified by that fear.  

This shows how, though not an immediate outcome of the prison system, the police also becomes one of the means of exercise of social power, and now I discuss its features.

d. The Police as an Apparatus of Power

Foucault shows how the punitive system of power works on the basis of a circuit formed of the three categories of police, prison and delinquency. He says,

So that one should speak of an ensemble whose three terms (police-prison-delinquency) support one another and form a circuit that is never interrupted. Police surveillance provides the prison with offenders, which the prison transforms into delinquents, the targets and auxiliaries of police supervisions, which regularly send back a certain number of them to prison.  

While Foucault discusses two of these three terms in great detail in *Discipline and Punish*, he does not say much about police in the text. Accordingly, I pick up a couple of lectures

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Foucault delivered in 1979, where he discusses the police as an apparatus in great detail, and traces its genealogy from the seventeenth century. For Foucault, the beginnings of the idea of a police were quite different from the current role we ascribe it. He says,

So what the seventeenth- and eighteenth-century authors understand by “the police” is very different from what we put under the term... What they understand by “police” isn’t an institution or mechanism functioning within the state, but a governmental technology peculiar to the state; domains, techniques, targets where the state intervenes.\(^{109}\)

It is, therefore, these different functions that the police had in the Classical age that has to be studied to understand the emergence of police as an apparatus in our times.

Foucault analyses first Turquet de Mayenne’s *Aristocratic Democratic Monarchy* (1611), a utopian project for a police state presented to the Dutch States General, and shows how the text presents the police, not only as an administrative wing of the state, just like the judiciary or the army, but also as an apparatus that embraces everything else. Thus, the police comprises, from its very beginning, a totalitarian agency of surveillance, whose function is not just to stop crime, but to keep a watch on human behaviour and practices in general. Foucault looks next at Delamare’s *Compendium*, written at the beginning of the eighteenth century, where this ‘totalitarian’ function of the police is further elaborated and classified:

Delamare says that the police must see to eleven things within the state: (1) religion; (2) morals; (3) health; (4) supplies; (5) roads, highways, town buildings; (6) public safety; (7) the liberal arts (roughly speaking, arts and science); (8) trade; (9) factories; (10) manservants and laborers; (11) the poor.\(^{110}\)

To show how the police covered the whole gamut of exercise of power, Foucault turns next to German, where ‘Poliziewissenschaft’ is the term for the general science of administration, and mentions texts like Huhenthal’s *Liber de Politia* and Willebrand’s *Précis for the Police*, where, like in Delamare, multiple functions of the police get mentioned. Foucault analyses next Von Justi’s *Elements of Police*, where, in an advancement of the earlier treatises on the apparatus, a distinction is made between two functions of the police: ‘Die Politik’, which is a ‘negative’ task of fighting the state’s internal and external enemies; and ‘Polizei’, which is a ‘positive’ task of keeping the citizens happy and secure. This dual task leads to what Foucault calls the ‘central paradox’ of policing, whereby the police is the means to exercise power over the people, while also taking them into confidence about its necessity. It is this dual role that gets a major boost from the carceral production of delinquents under the prison system, providing the police apparatus a legitimacy and a rationality, and aiding its unmitigated use by bourgeois power in disciplining the populace through constant social surveillance.


e. The Prison, Criminality, and Discourse

There is another point allied to this generation of delinquency and it concerns a new mode of discursivization of criminality around the structure of the prison and its by product. Foucault mentions two important delinquent figures who first people this new discursive horizon. The first is Vidocq, a former inmate of a convict-ship who became a chief of police, immortalized in discourse by two texts written by himself on his criminal and delinquent life: Mémoires and Historie de Vidocq racontée par lui-même. Foucault finds in the popularity of his story the rise of the figure of the delinquent as an object and instrument for the police, working both against it and with it. The other figure, also immortalized in discourse is Vidocq’s contemporary, Lacenaire, who was a minor criminal but one strongly suspected to be a police spy. Foucault discovers in these two figures the process of discursive perpetration through which delinquent practice legitimized itself as ‘the licit illegality of power’.

The major discursive form that delinquency acquired in the nineteenth century was that of the fait divers, the daily reporting of crimes, which did not only become an integral part of all newspapers, but often had dedicated publications of its own. Foucault shows how, while the crime novel which developed from the broadsheets made the criminal appear as a great artist and a different kind of an individual, the criminal fait divers made the act of criminality appear in an everyday redundant form. The two forms of literature together forge a discursive universe, which constitutes delinquency as both everyday and exotic in the public imagination and rationalizes the use of police power over the people. Another type of discursivization of criminality that took place around the same time, though in an opposite direction, is the representation of crimes in workers’ newspapers, and which Foucault calls the ‘counter fait divers’. Workers’ movements were always wary of the retrograde role of delinquency, and thus papers that started emerging from such movements, around 1830-50, proposed a political analysis of criminality. These discursive representations of criminality highlighted cases of delinquency amongst the bourgeoisie, while also showing how crime among the common people was more a result of exploitative circumstances, rather than pathological constitutions or criminal propensities.

It is understandable how this ‘counter fait divers’ has in it the potential to challenge the social bases of penal power, and Foucault shows how this especially happens with the Fourierists, who through their paper La Phalange, proposed a radical political theory with a positive value placed on crime. For the Fourierists, crime is a creation of dominant power equations, but it can also be turned into a weapon against them, in the way blacks did in their war of liberation in America. Noting how this new discursive value of criminality can constitute a practical radical means to oppose power structures, Foucault says,
The lessons of La Phalange were not quite wasted. They found an echo when, in the second half of the nineteenth century, taking the penal apparatus as their point of attack, the anarchists posed the political problem of delinquency; when they thought to recognize in it the most militant rejection of the law; when they tried not so much to heroize the revolt of the delinquents as to disentangle delinquency from the bourgeois legality and illegality that had colonized it; when they wished to re-establish or constitute the political unity of popular illegalities.\textsuperscript{111}

It has been shown how instead of repressing crime in its totality, the penal structure of the prison subversively abets it through the delinquent class for its own ends in power. Now, Foucault ends his discussion on delinquency and allied issues like the police and the discursivization of crime with the possibility of a subversion from within the delinquent class, where criminals, branded and used by power, can take up cudgels against it and dethrone it.

f. The Carceral Network of the Prison

Having finished discussing, in detail the first outcome of the prison system, that is the production of delinquency, I now turn to how Foucault analyses the other product, namely that of a carceral network. Foucault shows the carceral regime of the prison has six features:

1. The carceral system connected punishment to the necessity of identifying crimes as abnormalities and pathological cases. For Foucault, 'The carceral network linked, through innumerable relations, the two long multiple series of the punitive and the abnormal.'\textsuperscript{112}

2. The carceral network does not only punish offenders but produces delinquents out of them and recruits them in its service to perpetuate its own structure of power. For Foucault, 'Although it is true that prison punishes delinquency, delinquency is for the most part produced in and by an incarceration which, ultimately, prison perpetuates in its turn.'\textsuperscript{113}

3. The carceral system makes the power to punish appear natural and legitimate, by removing the excesses of power in the exercise of punishment and by combining the two registers of justice and discipline into one rational system of penality. As Foucault says, 'The carceral "naturalizes" the legal power to punish, as it "legalizes" the technical power to discipline.'\textsuperscript{114}

4. The carceral system, armed with this economy of legitimized and rationalized power, gives rise to a new type of 'law' that forms the mainstay of modern power, where justice is based on the principles of correction and 'normalization'. Foucault says, 'The carceral network, in its compact or disseminated forms, with its systems of insertion, distribution, surveillance, observation, has been the greatest support, in modern society, of the normalizing power.'\textsuperscript{115}


\textsuperscript{112} Ibid., 300.

\textsuperscript{113} Ibid., 301.

\textsuperscript{114} Ibid., 303.

\textsuperscript{115} Ibid., 304.
5. The carceral system uses its panoptic apparatus to constitute an ‘examinatory’ justice, where the exercise of power entails the formation of a body of knowledge about the prisoners, leading to the formation of the human sciences. As Foucault says,

The carceral network constituted one of the armatures of this power-knowledge that has made the human sciences historically possible. Knowable man (soul, individuality, consciousness, conduct, whatever it is called) is the object-effect of this analytical investment, of this domination-observation.\textsuperscript{116}

6. Finally, the carceral networks gain for the prison, through this relationship between power and knowledge, a solidity, which has made the institution last, in spite of so many criticisms levelled against it. Foucault says, ‘But, rooted as it was in mechanisms and strategies of power, it could meet any attempt to transform it with a great force of inertia.’\textsuperscript{117}

Having presented the features of the carceral system that prisons constitute, Foucault notices how all this makes the current penal system of the prison, with its ‘carceral city’, a totally different and much more pervasive system of punishment. He says,

We are now far away from the country of tortures, dotted with wheels, gibbets, gallows, pillories; we are far, too, from that dream of the reformers, less than fifty years before: the city of punishment in which thousand small theatres would have provided an endless multicoloured representation of justice in which the punishments, meticulously produced on decorative scaffolds, would have constituted the permanent festival of the penal code. The carceral city, with its imaginary ‘geopolitics’, is governed by quite different principles...that at the centre of this city, and as if to hold it in place, there is, not the ‘centre of power’, not a network of forces, but a multiple network of diverse elements—walls, space, institution, rules, discourse; that the model of the carceral city is not, therefore, the body of the king, with the powers that emanate from it, nor the contractual meeting of wills from which a body that was both individual and collective was born, but a strategic distribution of elements of different natures and levels.\textsuperscript{118}

Though this picture of the prison as the omniscient and omnipotent agency of all of social power might appear quite ominous and irredeemable, Foucault ends the book on the hopeful note that means of resistance to this overbearing, and yet capillary, exercise of power can emerge from within the two outcomes of the prison system itself. On the one hand, the total reliance of current power on delinquency to carry itself out might turn counter-productive, if not in the Fourierist way, at least through the sheer corruption and criminality that it entails, to make the prison forgo this link and thereby bring itself to an end. On the other hand, the absolute reliance of the carceral element of penal power on knowledge creates parallel bodies of institutions of human sciences, like social work, which might soon rob the prison of its sovereign charge of supervising the people. Foucault ends his treatise on the prison with the statement that this dual process has already begun, and after a grim portrayal of the naked power-play of forces that be, he finally provides the prophecy of their imminent dismantling.

\textsuperscript{116} Ibid., 305.
\textsuperscript{117} Ibid., 305.
\textsuperscript{118} Ibid., 307.
VI. Conclusion: Power, Resistance and the Role of the Body

a. Prohibitive Power and the Denial of Resistance

While the chapter has discussed Foucault’s notion of power in the socio-politico-economic domain of materiality, what remain to be noted are his ideas about resisting the same. In a 1977 interview, Foucault shows how there can be no resistance to power as long as the objects of power have full faith in the unity of the subject, or the master of its exercise, and reduce the whole of power to the ‘figure of the master’. He further shows how this reduction of power is accompanied by another reduction of it into merely prohibitive power:

...to this reduction of power to the figure of the master there is linked another reduction, that of procedures of power to the law of prohibition. This reduction of power to law has three main roles: (i) It underwrites a schema of power which is homogeneous for every level and domain... (ii) It enables power never to be thought of in other than negative terms... the challenging of power as thus conceived can appear only as transgression. (iii) It allows the fundamental operation of power to be thought of as that of a speech-act... The manifestation of power takes on the pure form of ‘Thou shalt not’.119

Thus, it is a reduction of power to the repressive state apparatus and subjects of its exercise that reduce the chances of a truly resistant movement. What Foucault observes in a 1975 interview is that traditional Marxist revolutionary practice has erroneously played the same game and hindered the chances of a truly resistant revolution. He says,

It’s true that since the late nineteenth century Marxist and ‘Marxised’ revolutionary movements have given special importance to the State apparatus as the stake of their struggle. What were the ultimate consequences of this? In order to be able to fight a State... the revolutionary movement must possess equivalent politico-military forces and hence must constitute itself as a party, organised internally in the same way as a State apparatus with the same mechanisms of hierarchies and organisation of powers... Secondly, there is the question... of the capture of the State apparatus... Hence the State apparatus must be kept sufficiently intact for it to be employed against the class enemy... Finally then, as a third consequence, in order to operate these State apparatuses which have been taken over but not destroyed, it will be necessary to have recourse to technicians and specialists. And in order to do this one has to call upon the old class which is acquainted with the apparatus, namely the bourgeoisie.120

Foucault notes in a 1977 discussion that this reduction of the possibility of a revolution, in both the exercise of bourgeois power and traditional attempts to subvert it, marks the possible disappearance of resistant politics itself, and it is a sad Foucault who says,

We are perhaps experiencing the end of politics. For politics is a field that has been opened by the existence of the revolution, and if the question of the revolution cannot longer be posed in these terms, then politics is in danger of disappearing.121


b. **Multiple Power and the ‘Real’ Revolution**

However, Foucault is not the type of thinker who would stop with this pessimistic message of doom. Instead, he proceeds, as in a 1977 interview, to distinguish between a revolution that relies on a reductionist repressive model of the State and does not alter its power relations, and a ‘real’ revolution that seeks to undo the very basis of multiple power:

I would say that the State consists in the codification of a whole number of power relations which render its functioning possible, and that Revolution is a different type of codification of the same relations. This implies that there are many different kinds of revolution, roughly speaking as many kinds as there are possible subversive recodifications of power relations, and further that one can perfectly well conceive of revolutions which leave essentially untouched the power relations which form the basis for the functioning of the State.\(^{122}\)

Having identified the reason behind the non-actualization of a revolution in the principle of reduction of power to monolithic repressive structures like the state, Foucault can easily conceive of this ‘real’ and effective revolution as one that roots itself in a questioning of the multiplicities of power. In a 1977 interview, Foucault states clearly that a struggle can become truly operative only when it gives up its binary ‘logic’ and takes up the question of capillaries:

This theme of struggle only really becomes operative if one establishes concretely—in each particular case—who is engaged in struggle, what the struggle is about, and how, where, by what means and according to what rationality it evolves. In other words, if one wants to take seriously the assertion that struggle is the core of relations of power, one must take into account the fact that the good old ‘logic’ of contradiction is no longer sufficient, far from it, for the unravelling of actual processes.\(^{123}\)

As is clear from the quote above, power perpetuates itself on the basis of multiple systems of rationalization, and therefore, Foucault proposes, in a 1979 lecture, that liberation cannot come from critiquing the ‘violence’ of power or an institution of power per se, but only through an unmasking of particular forms of political rationality:

As for all relations among men, many factors determine power. Yet rationalization is also constantly working away at it… The government of men by men—whether they form small or large groups, whether it is power exerted by men over women, or by adults over children, or by one class over another, or by a bureaucracy over a population— involves a certain type of rationality. It doesn’t involve instrumental violence… Consequently, those who resist or rebel against a form of power cannot merely be content to denounce violence or criticize an institution. Nor is it enough to cast the blame on reason in general. What has to be questioned is the form of rationality at stake… The question is: how are such relations of power rationalized?… Liberation can only come from attacking…political rationality’s very roots.\(^{124}\)

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c. **Body and Power: onward to the Domain of Physicality**

The insistence of Foucault on the absolute necessity of invoking the multiple space of capillary powers for a true resistance to systems of dominance, makes one turn to the body as a locus of exercise of power. The body represents a seat of productive capillary power because of three reasons: first, the very fact that there are millions of human bodies, as opposed to a single State, makes the body a seat of multiple power; secondly, the marginalization of body under dominant discourse makes it a centre of manoeuvres on the part of more peripheral capillary powers; and thirdly, the non-repressive side of power, which produces knowledge, can be seen at work best on the body, as is evident in the carcereral system itself. Accordingly, Foucault devotes a lot of attention to the analysis of how power constructs itself on the body. While I have already explained how Foucault analyses the involvement of the body in penal mechanisms, Foucault’s explanation, in a 1975 interview, of the transition from feudal to bourgeois power on the basis of the body, can also be noted:

In a society like that of the seventeenth century, the King’s body wasn’t a metaphor, but a political reality. Its physical presence was necessary for the functioning of the monarchy... On the contrary, it’s the body of society which becomes the new principle in the nineteenth century. It is this social body which needs to be protected, in a quasi-medical sense. In place of the rituals that served to restore the corporal integrity of the monarch, remedies and therapeutic devices are employed such as the segregation of the sick, the monitoring of contagions, the exclusion of delinquents. 125

This inculcation of the idea of the social ‘body’ and the imperatives of disciplining it and producing knowledge about it are, as Foucault establishes in a 1976 lecture, the very bases of formation of bourgeois power and the system of industrial capitalism. He says,

> This new mechanism of power is more dependent upon bodies and what they do than upon the Earth and its products. It is a mechanism of power which permits time and labour, rather than wealth and commodities, to be extracted from bodies. It is a type of power which is constantly exercised by means of surveillance rather than in a discontinuous manner by means of a system of levies or obligations distributed over time...This new type of power, which can no longer be formulated in terms of sovereignty, is, I believe, one of the great inventions of bourgeois society. It has been a fundamental instrument in the construction of industrial capitalism and of the type of society that is its accompaniment. 126

Therefore, one can have an analysis of power in the domain of physicality, and just as, at the end of the last chapter, a probe into the Foucauldian understanding of power in the discursive domain of mentality led me into the domain of socio-politico-economic materiality, here, an analysis of this material power leads me forward to the third element in the principle of tri-hierarchization—the domain of physicality—which I take up in the next chapter.

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