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Democracy's Reflection in Penal Practices

Almost everyone has a certain level of awareness, at least through movies, about the deadliest punishments humans of pre-modern history used to practice on offenders, ranging from boiling to death, drowning, crucifixion to even impalement and necklacing. The hanging of the family of “Maximus” for his potential threat to overthrow the authoritarian ideals of the new Emperor of the Roman Empire, Commodus, and his sheer motivation to give power back to people in the movie *The Gladiator* could illuminate this historical practice. Throughout the Middle Ages, no citizen dared to challenge the authority of the power that exercised the penal system. To further delve into the annals of disciplinary history, Michel Foucault critically examines the transformation of punitive practices and institutions throughout the Middle Ages and The Modern Era in his work *Discipline and Punish: The Birth of the Prison*. Foucault meticulously dissects the evolution of punishment from public spectacles of torment to a refined, psychologically inclined penal system. While Foucault argues that there was a gradual historical shift in penal systems, I argue that as punitive practices evolved to become more beneficial and contextualized for the citizens, they also began to bear a striking resemblance to the ideals of overall liberal social order, even more specifically to democracy — rule of many, i.e., citizens. Because of this sheer resemblance, punitive practices can further prove that ideals of democracy

and social liberal order are the fundamental parts of the most responsive and effective form of government to the citizens and their needs. Through a historical lens and an examination of the changing paradigms of punishment, we conclude that the contemporary penal system, striving to encompass society's diverse needs and concerns, parallels the democratic and liberal philosophy of governance while also adopting their detrimental nature.

In comprehending the evolution of the modern penal system, I reckon that confronting the gruesome realities of historical punishments could pave the way to a more nuanced and complex relationship between democracy and discipline. During the pre-modern era, the sheer brutality and absence of consideration for the crime context were quite common in punitive practices as a public spectacle. One striking example is the regicide of Robert-François Damiens, whose execution remains one of the last reminders of the brutality of punishment that was still in practice (Foucault 3). Damiens, having been found guilty of attempting the life of King Louis XV, underwent a gruesome punishment involving the pouring of molten lead, boiling oil, fused resin, wax, and sulfur over him, followed by the barbaric act of drawing and quartering executed by four horses, resulting in the departure of his limbs and body to ashes through fiery consumption, and ultimately scattering his remains into the wind (Foucault 3). Such penalties were prevalent before the massive disappearance of deadly spectacle punishments started, especially in Western Europe. For example, until the eighteenth century, the punitive authorities widely practiced amende honorable, pillory, hanging, flogging, branding, and crucifixion as a public spectacle in many nations, such as France, England, and Prussia (Foucault 7). Usually, the penalizing institutions did not consider any external factors or conditions that could have encouraged the offender but spent considerable time staging the distinctive types of deadly punishment to ensure an entertaining yet terrorizing spectacle for the public. The history of penal

systems like these exemplifies how, in antiquity, punitive measures helped to keep the audience in terror, indicate that the state's sovereignty should remain unchallenged, and set the definition of justice and crime on behalf of the populace.

However, as history advanced into the eighteenth and nineteenth centuries, a significant shift occurred in punitive practices, moving away from the gruesome public spectacles of punishment as a form of terror and entertainment (Foucault 8). The “gloomy festivals of punishment” that once thrived were gradually declining, and their brutality lost its acceptance within society — even the people themselves began to regard the scaffolds as barbarous (Foucault 8). This paradigm shift in societal perspective and government approach upheld the downturn of public spectacles and the rise of a more critical approach. Gradually, the populace redirected their focus toward the trial proceedings and the sentence, and being charged itself brought enough shame and humiliation to the offender as people regarded the punishment itself as a hideous necessity rather than a heroic decision (Foucault 9). This transition saw a reconfiguration of the relationship between the penal practice and the human body, as the punitive practices moved almost away from direct physical torture and instead revolved more around imprisonment, confinement, forced labor, penal servitude, and deportation, which were different ways of depriving one of increasingly valuable individual liberty (Foucault 11). Furthermore, the evolution of punishment entailed a heightened contextualization of penal proceedings, closely examining the circumstances, motivations, and factors surrounding the offense (Foucault 17). This shift seemed to prioritize punishing the spiritual side of offenders, their souls, over torturing their bodies, which were now recognized as an integral part of the state's citizenry (Foucault 16).

However, a profound and unsettling reality lies underneath the surface of what appears to be a progressive evolution of penal systems. The transition from gruesome public spectacles to a more “humane” form of punishment, such as imprisonment, represents not a genuine elimination of crime but merely a transformation— the shape of imprisonment is not a leap towards a solution but merely a calculated transformation—a “technical mutation” (Foucault 257). The belief that prisons effectively reduce crime rates is not true; instead, they tend to keep illegalities within a stable number, if not worse, in the state (265). The penal system's supposed function as a corrective measure falls short of its promise, as prisons often produce more delinquents than they rehabilitate and instead cause “recidivism” — the tendency of a convicted criminal to re-offend (265). The environment and constant exposure to suffering and constraints imposed within these institutions breed anger and a sense of injustice among inmates, who become even further convinced that the penal system works against them. Even after prison, delinquents must continuously deal with conditions such as police surveillance, disadvantageous policies, and restricted residence, almost propelling their return to illegality (Foucault 267). From the offender’s perspective, the institution tasked with upholding the law and establishing justice operates as an abuse of power, perpetuating the delinquency cycle. If the goal of the penal apparatus is to reduce offenses, then the failure of prisons becomes evident, as crime rates remain largely unaffected, which prompts us to reconsider the true purpose of imprisonment, which appears to be more about “distinguishing” and controlling illegalities than eradicating them (Foucault 271). Through the indirect sufferings and constant surveillance of those delinquents, they will be ruthlessly repressed and treated like a new minority class among long-dominant majority groups.

With its evident drawbacks, the gradual transformation from brutal public spectacles to a more contextualized and just penal system shares similar motivations as the society undergoes the societal shift towards a liberal social order that highly values the principles of democratic governance and individual liberty. Like the core philosophy of democracy, the penal system prioritizes people's well-being and economic prospects within the state by considering every detail that could affect the court decision. Since the 19th century, the whole process of penalizing has made the judge consider more and more factors that could impact the severity of the punishment, which has redistributed the deciding power of judges in the court among “subsidiary authorities” — be they psychiatrists, neurosurgeons, or forensics scientists — to ensure that the well-informed sentencing will be executed on the offender. (Foucault 22). This historical phenomenon could illuminate the sheer reflection of democratic ideals, such as sharing sovereignty among other people to maintain checks and balances of governance and prioritizing the utmost utility and justice for the majority of citizens. This progression results from societies increasingly embracing democratic ideals, where the power lies with the majority who hold their representatives accountable for their actions and policies — the USA, arguably the most powerful country, could be a clear example despite the overwhelming current political polarization. The populace directly appoints their representatives, often annually, ensuring a sense of reliance and establishing that the true orchestrators of influence are the people themselves (Tocqueville 79).

However, democracy gives absolute power to the people of the majority while ignoring and failing to meet minorities' societal and governmental needs. Interestingly, the penal system also obtained this repressive nature of democracy towards minorities, oppressing the prisoners and effectively creating a new minority class — so-called delinquents — constantly at a

disadvantage compared to the majority. In short, the institution meant to uphold justice and rehabilitation inadvertently contributes to a system that perpetuates inequality and breeds delinquency, further widening the gap between the majority and the marginalized, illuminating a striking resemblance to the dark side of democracy.

In conclusion, the evolution of penal systems from inhuman public spectacles to nuanced ones might signify a broader societal shift toward democratic ideals and adopt both the repressive and favorable nature of democracy depending on the relation to minorities and majorities. In addition, this ultimate similarity between penal practices and liberal social order holds immense importance and deserves deep academic attention from scholars and policymakers. Undoubtedly, this very intersection could potentially fill critical gaps in understanding the dynamics of democratic governance and punishment.

Works Cited

- de Tocqueville, Alexis. *Democracy in America: A New Abridgment for Students*, Faithlife Corporation, 2016. *ProQuest Ebook Central*,
<https://ebookcentral.proquest.com/lib/nyulibrary-ebooks/detail.action?docID=5153166>.
- Foucault, Michel. *Discipline and Punish: The Birth of the Prison*. 2nd Vintage Books ed.,
Vintage Books, 1995.