

Michel Foucault

DISCIPLINE AND PUNISH

The Birth of the Prison [1975]

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At the beginning of the nineteenth century, then, the great spectacle of physical punishment disappeared; the tortured body was avoided; the theatrical representation of pain was excluded from punishment. The age of sobriety in punishment had begun. By 1830-48, public executions, preceded by torture, had almost entirely disappeared. Of course, this generalization requires some qualification. To begin with, the changes did not come about at once or as part of a single process. There were delays. Paradoxically, England was one of the countries most loath to see the disappearance of the public execution: perhaps because of the role of model that the institution of the jury, public hearings and respect of habeas corpus had given to her criminal law; above all, no doubt, because she did not wish to diminish the rigour of her penal laws during the great social disturbances of the years 1780-1820. For a long time Romilly, Mackintosh and Fowell Buxton failed in their attempts to attenuate the multiplicity and severity of the penalties laid down by English law – that 'horrible butchery', as Rossi described it. Its severity (in fact, the juries regarded the penalties laid down as excessive and were consequently more lenient in their application) had even increased: in 1760, Blackstone had listed 160 capital crimes in English legislation, while by 1819 there were 223. One should also take into account the advances and retreats that the process as a whole underwent between 1760 and 1840; the rapidity of reform

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Similarly, the hold on the body did not entirely disappear in the mid-nineteenth century. Punishment had no doubt ceased to be centred on torture as a technique of pain; it assumed as its principal object loss of wealth or rights. But a punishment like forced labour or even imprisonment – mere loss of liberty – has never functioned

without a certain additional element of punishment that certainly concerns the body itself: rationing of food, sexual deprivation, corporal punishment, solitary confinement. Are these the unintentional, but inevitable, consequence of imprisonment? In fact, in its most explicit practices, imprisonment has always involved a certain degree of physical pain. The criticism that was often levelled at the penitentiary system in the early nineteenth century (imprisonment is not a sufficient punishment: prisoners are less hungry, less cold, less deprived in general than many poor people or even workers) suggests a postulate that was never explicitly denied: it is just that a condemned man should suffer physically more than other men. It is difficult to dissociate punishment from additional physical pain. What would a non-corporal punishment be?

There remains, therefore, a trace of 'torture' in the modern mechanisms of criminal justice – a trace that has not been entirely overcome, but which is enveloped, increasingly, by the non-corporal nature of the penal system.

The reduction in penal severity in the last 200 years is a phenomenon with which legal historians are well acquainted. But, for a long time, it has been regarded in an overall way as a quantitative phenomenon: less cruelty, less pain, more kindness, more respect, more 'humanity'. In fact, these changes are accompanied by a displacement in the very object of the punitive operation. Is there a diminution of intensity? Perhaps. There is certainly a change of objective.

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. Mably formulated the principle once and for all: 'Punishment, if I may so put it, should strike the soul rather than the body' (Mably, 326).

It was an important moment. The old partners of the spectacle of punishment, the body and the blood, gave way. A new character

came on the scene, masked. It was the end of a certain kind of tragedy; comedy began, with shadow play, faceless voices, impalpable entities. The apparatus of punitive justice must now bite into this bodiless reality.

Is this any more than a mere theoretical assertion, contradicted by penal practice? Such a conclusion would be over-hasty. It is true that, today, to punish is not simply a matter of converting a soul; but Mably's principle has not remained a pious wish. Its effects can be felt throughout modern penalty.

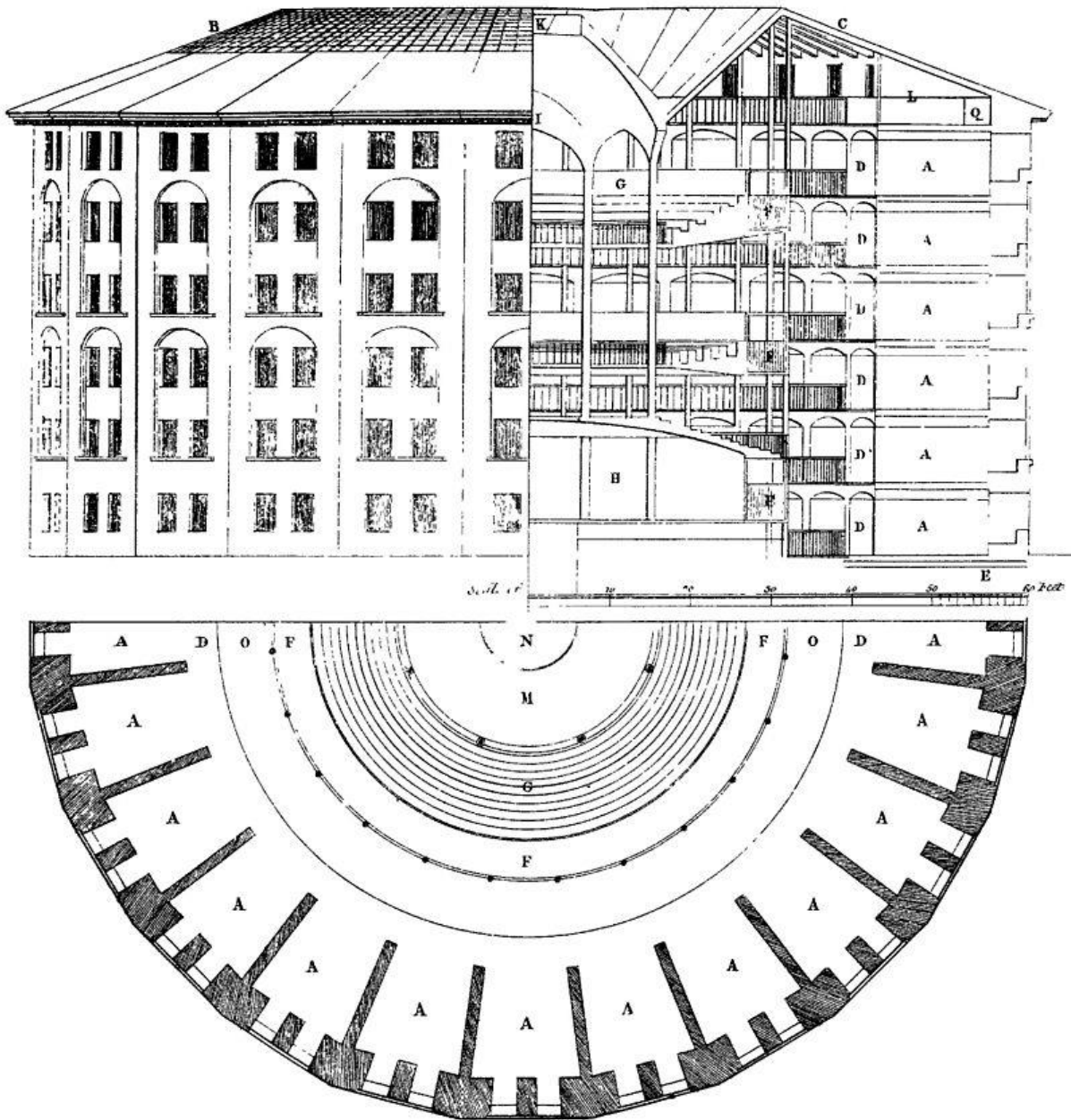
To begin with, there is a substitution of objects. By this I do not mean that one has suddenly set about punishing other crimes. No doubt the definition of offences, the hierarchy of their seriousness, the margins of indulgence, what was tolerated in fact and what was legally permitted – all this has considerably changed over the last 200 years; many crimes have ceased to be so because they were bound up with a certain exercise of religious authority or a particular type of economic activity; blasphemy has lost its status as a crime; smuggling and domestic larceny some of their seriousness. But these displacements are perhaps not the most important fact: the division between the permitted and the forbidden has preserved a certain constancy from one century to another. On the other hand, 'crime', the object with which penal practice is concerned, has profoundly altered: the quality, the nature, in a sense the substance of which the punishable element is made, rather than its formal definition. Undercover of the relative stability of the law, a mass of subtle and rapid changes has occurred. Certainly the 'crimes' and 'offences' on which judgement is passed are juridical objects defined by the code, but judgement is also passed on the passions, instincts, anomalies, infirmities, maladjustments, effects of environment or heredity; acts of aggression are punished, so also, through them, is aggressivity; rape, but at the same time perversions; murders, but also drives and desires. But, it will be objected, judgement is not actually being passed on them; if they are referred to at all it is to explain the actions in question, and to determine to what extent the the subject's will was involved in the crime. This is no answer. For it *is* these shadows lurking behind the case itself that are judged and punished. They are judged indirectly as 'attenuating circumstances' that introduce into the verdict not only 'circumstantial' evidence,

but something quite different, which is not juridically codifiable: the knowledge of the criminal, one's estimation of him, what is known about the relations between him, his past and his crime, and what might be expected of him in the future. They are also judged by the interplay of all those notions that have circulated between medicine and jurisprudence since the nineteenth century (the 'monsters' of Georget's times, Chaumié's 'psychical anomalies', the 'perverts' and 'maladjusted' of our own experts) and which, behind the pretext of explaining an action, are ways of defining an individual. They are punished by means of a punishment that has the function of making the offender 'not only desirous, but also capable, of living within the law and of providing for his own needs'; they are punished by the internal economy of a penalty which, while intended to punish the crime, may be altered (shortened or, in certain cases, extended) according to changes in the prisoner's behaviour; and they are punished by the 'security measures' that accompany the penalty (prohibition of entering certain areas, probation, obligatory medical treatment), and which are intended not to punish the offence, but to supervise the individual, to neutralize his dangerous state of mind, to alter his criminal tendencies, and to continue even when this change has been achieved. The criminal's soul is not referred to in the trial merely to explain his crime and as a factor in the juridical apportioning of responsibility; if it is brought before the court, with such pomp and circumstance, such concern to understand and such 'scientific' application, it is because it too, as well as the crime itself, is to be judged and to share in the punishment. Throughout the penal ritual, from the preliminary investigation to the sentence and the final effects of the penalty, a domain has been penetrated by objects that not only duplicate, but also dissociate the juridically defined and coded objects. Psychiatric expertise, but also in a more general way criminal anthropology and the repetitive discourse of criminology, find one of their precise functions here: by solemnly inscribing offences in the field of objects susceptible of scientific knowledge, they provide the mechanisms of legal punishment with a justifiable hold not only on offences, but on individuals; not only on what they do, but also on what they are, will be, may be. The additional factor of the offender's soul, which the legal system has laid hold of, is only apparently explanatory

and limitative, and is in fact expansionist. During the 150 or 200 years that Europe has been setting up its new penal systems, the judges have gradually, by means of a process that goes back very far indeed, taken to judging something other than crimes, namely, the 'soul' of the criminal.

And, by that very fact, they have begun to do something other than pass judgement. Or, to be more precise, within the very judicial modality of judgement, other types of assessment have slipped in, profoundly altering its rules of elaboration. Ever since the Middle Ages slowly and painfully built up the great procedure of investigation, to judge was to establish the truth of a crime, it was to determine its author and to apply a legal punishment. Knowledge of the offence, knowledge of the offender, knowledge of the law: these three conditions made it possible to ground a judgement in truth. But now a quite different question of truth is inscribed in the course of the penal judgement. The question is no longer simply: 'Has the act been established and is it punishable?' But also: 'What *is* this act, what *is* this act of violence or this murder? To what level or to what field of reality does it belong? Is it a phantasy, a psychotic reaction, a delusional episode, a perverse action?' It is no longer simply: 'Who committed it?' But: 'How can we assign the causal process that produced it? Where did it originate in the author himself? Instinct, unconscious, environment, heredity?' It is no longer simply: 'What law punishes this offence?' But: 'What would be the most appropriate measures to take? How do we see the future development of the offender? What would be the best way of rehabilitating him?' A whole set of assessing, diagnostic, prognostic, normative judgements concerning the criminal have become lodged in the framework of penal judgement. Another truth has penetrated the truth that was required by the legal machinery; a truth which, entangled with the first, has turned the assertion of guilt into a strange scientifico-juridical complex.

A design for Jeremy Bentham's Panopticon.



3. Panopticism

The following, according to an order published at the end of the seventeenth century, were the measures to be taken when the plague appeared in a town.¹

First, a strict spatial partitioning: the closing of the town and its outlying districts, a prohibition to leave the town on pain of death, the killing of all stray animals; the division of the town into distinct quarters, each governed by an intendant. Each street is placed under the authority of a syndic, who keeps it under surveillance; if he leaves the street, he will be condemned to death. On the appointed day, everyone is ordered to stay indoors: it is forbidden to leave on pain of death. The syndic himself comes to lock the door of each house from the outside; he takes the key with him and hands it over to the intendant of the quarter; the intendant keeps it until the end of the quarantine. Each family will have made its own provisions; but, for bread and wine, small wooden canals are set up between the street and the interior of the houses, thus allowing each person to receive his ration without communicating with the suppliers and other residents; meat, fish and herbs will be hoisted up into the houses with pulleys and baskets. If it is absolutely necessary to leave the house, it will be done in turn, avoiding any meeting. Only the intendants, syndics and guards will move about the streets and also, between the infected houses, from one corpse to another, the 'crows', who can be left to die: these are 'people of little substance who carry the sick, bury the dead, clean and do many vile and abject offices'. It is a segmented, immobile, frozen space. Each individual is fixed in his place. And, if he moves, he does so at the risk of his life, contagion or punishment.

Inspection functions ceaselessly. The gaze is alert everywhere: 'A considerable body of militia, commanded by good officers and men

of substance', guards at the gates, at the town hall and in every quarter to ensure the prompt obedience of the people and the most absolute authority of the magistrates, 'as also to observe all disorder, theft and extortion'. At each of the town gates there will be an observation post; at the end of each street sentinels. Every day, the intendant visits the quarter in his charge, inquires whether the syndics have carried out their tasks, whether the inhabitants have anything to complain of; they 'observe their actions'. Every day, too, the syndic goes into the street for which he is responsible; stops before each house: gets all the inhabitants to appear at the windows (those who live overlooking the courtyard will be allocated a window looking onto the street at which no one but they may show themselves); he calls each of them by name; informs himself as to the state of each and every one of them – 'in which respect the inhabitants will be compelled to speak the truth under pain of death'; if someone does not appear at the window, the syndic must ask why: 'In this way he will find out easily enough whether dead or sick are being concealed.' Everyone locked up in his cage, everyone at his window, answering to his name and showing himself when asked – it is the great review of the living and the dead.

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The plague as a form, at once real and imaginary, of disorder had as its medical and political correlative discipline. Behind the disciplinary mechanisms can be read the haunting memory of 'contagions', of the plague, of rebellions, crimes, vagabondage, desertions, people who appear and disappear, live and die in disorder.

If it is true that the leper gave rise to rituals of exclusion, which to a certain extent provided the model for and general form of the great Confinement, then the plague gave rise to disciplinary projects. Rather than the massive, binary division between one set of people and another, it called for multiple separations, individualizing distributions, an organization in depth of surveillance and control, an intensification and a ramification of power. The leper was caught up in a practice of rejection, of exile-enclosure; he was left to his doom in a mass among which it was useless to differentiate; those sick of the plague were caught up in a meticulous tactical partitioning in which individual differentiations were the constricting effects of a power that multiplied, articulated and subdivided itself; the great confinement on the one hand; the correct training on the other.

The leper and his separation; the plague and its segmentations. The first is marked; the second analysed and distributed. The exile of the leper and the arrest of the plague do not bring with them the same political dream. The first is that of a pure community, the second that of a disciplined society. Two ways of exercising power over men, of controlling their relations, of separating out their dangerous mixtures. The plague-stricken town, traversed throughout with hierarchy, surveillance, observation, writing; the town immobilized by the functioning of an extensive power that bears in a distinct way over all individual bodies – this is the utopia of the perfectly governed city. The plague (envisaged as a possibility at least) is the trial in the course of which one may define ideally the exercise of disciplinary power. In order to make rights and laws

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function according to pure theory, the jurists place themselves in imagination in the state of nature; in order to see perfect disciplines functioning, rulers dreamt of the state of plague. Underlying disciplinary projects the image of the plague stands for all forms of confusion and disorder; just as the image of the leper, cut off from all human contact, underlies projects of exclusion.

They are different projects, then, but not incompatible ones. We see them coming slowly together, and it is the peculiarity of the nineteenth century that it applied to the space of exclusion of which the leper was the symbolic inhabitant (beggars, vagabonds, madmen and the disorderly formed the real population) the technique of power proper to disciplinary partitioning. Treat 'lepers' as 'plague victims', project the subtle segmentations of discipline onto the confused space of internment, combine it with the methods of analytical distribution proper to power, individualize the excluded, but use procedures of individualization to mark exclusion – this is what was operated regularly by disciplinary power from the beginning of the nineteenth century in the psychiatric asylum, the penitentiary, the reformatory, the approved school and, to some extent, the hospital. Generally speaking, all the authorities exercising individual control function according to a double mode; that of binary division and branding (mad/sane; dangerous/harmless; normal/abnormal); and that of coercive assignment, of differential distribution (who he is; where he must be; how he is to be characterized; how he is to be recognized; how a constant surveillance is to be exercised over him

in an individual way, etc.). On the one hand, the lepers are treated as plague victims; the tactics of individualizing disciplines are imposed on the excluded; and, on the other hand, the universality of disciplinary controls makes it possible to brand the 'leper' and to bring into play against him the dualistic mechanisms of exclusion. The constant division between the normal and the abnormal, to which every individual is subjected, brings us back to our own time, by applying the binary branding and exile of the leper to quite different objects; the existence of a whole set of techniques and institutions for measuring, supervising and correcting the abnormal brings into play the disciplinary mechanisms to which the fear of the plague gave rise. All the mechanisms of power which, even today, are disposed around the abnormal individual, to brand him and to alter

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him, are composed of those two forms from which they distantly derive.

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 peripheric 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. They are like so many cages, so many small theatres, in which each actor is alone, perfectly individualized and constantly visible. The panoptic mechanism arranges spatial unities that make it possible to see constantly and to recognize immediately. In short, it reverses the principle of the dungeon; or rather of its three functions – to enclose, to deprive of light and to hide – it preserves only the first and eliminates the other two. Full lighting and the eye of a supervisor capture better than darkness, which ultimately protected. Visibility is a trap.

To begin with, this made it possible – as a negative effect – to avoid those compact, swarming, howling masses that were to be found in places of confinement, those painted by Goya or described by Howard. Each individual, in his place, is securely confined to a cell from which he is seen from the front by the supervisor; but the side walls prevent him from coming into contact with his companions. He is seen, but he does not see; he is the object of information, never a subject in communication. The arrangement of his room, opposite the central tower, imposes on him an axial visibility; but the divisions of the ring, those separated cells, imply a lateral invisibility. And this invisibility is a guarantee of order. If the inmates are convicts, there is no danger of a plot, an attempt at collective escape, the planning of new crimes for the future, bad reciprocal influences; if they are patients, there is no danger of

contagion; if they are madmen there is no risk of their committing violence upon one another; if they are schoolchildren, there is no copying, no noise, no chatter, no waste of time; if they are workers, there are no disorders, no theft, no coalitions, none of those distractions that slow down the rate of work, make it less perfect or cause accidents. The crowd, a compact mass, a locus of multiple exchanges, individualities merging together, a collective effect, is abolished and replaced by a collection of separated individualities. From the point of view of the guardian, it is replaced by a multiplicity that can be numbered and supervised; from the point of view of the inmates, by a sequestered and observed solitude (Bentham, 60–64).

Hence the major effect of the Panopticon: to induce in the inmate a state of conscious and permanent visibility that assures the automatic functioning of power. So to arrange things that the surveillance is permanent in its effects, even if it is discontinuous in its action; that the perfection of power should tend to render its actual exercise unnecessary; that this architectural apparatus should be a machine for creating and sustaining a power relation independent of the person who exercises it; in short, that the inmates should be caught up in a power situation of which they are themselves the bearers. To achieve this, it is at once too much and too little that the prisoner should be constantly observed by an inspector: too little, for what matters is that he knows himself to be observed; too much,

because he has no need in fact of being so. In view of this, 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 at any one moment; but he must be sure that he may always be so. In order to make the presence or absence of the inspector unverifiable, so that the prisoners, in their cells, cannot even see a shadow, Bentham envisaged not only venetian blinds on the windows of the central observation hall, but, on the inside, partitions that intersected the hall at right angles and, in order to pass from one quarter to the other, not doors but zig-zag openings; for the slightest noise, a gleam of light, a brightness in a half-opened door would betray the presence of the guardian.² The Panopticon is a

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machine for dissociating the see/being seen dyad: in the peripheral ring, one is totally seen, without ever seeing; in the central tower, one sees everything without ever being seen.³

It is an important mechanism, for it automatizes and disindividualizes power. Power has its principle not so much in a person as in a certain concerted distribution of bodies, surfaces, lights, gazes; in an arrangement whose internal mechanisms produce the relation in which individuals are caught up. The ceremonies, the rituals, the marks by which the sovereign's surplus power was manifested are useless. There is a machinery that assures dissymmetry, disequilibrium, difference. Consequently, it does not matter who exercises power. Any individual, taken almost at random, can operate the machine: in the absence of the director, his family, his friends, his visitors, even his servants (Bentham, 45). Similarly, it does not matter what motive animates him: the curiosity of the indiscreet, the malice of a child, the thirst for knowledge of a philosopher who wishes to visit this museum of human nature, or the perversity of those who take pleasure in spying and punishing. The more numerous those anonymous and temporary observers are, the greater the risk for the inmate of being surprised and the greater his anxious awareness of being observed. The Panopticon is a marvellous machine which, whatever use one may wish to put it to, produces homogeneous effects of power.

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So much for the question of observation. But the Panopticon was also a laboratory; it could be used as a machine to carry out experiments, to alter behaviour, to train or correct individuals. To experiment with medicines and monitor their effects. To try out different punishments on prisoners, according to their crimes and character, and to seek the most effective ones. To teach different techniques

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The panoptic schema, without disappearing as such or losing any of its properties, was destined to spread throughout the social body; its vocation was to become a generalized function. The plague-stricken town provided an exceptional disciplinary model: perfect, but absolutely violent; to the disease that brought death, power opposed its perpetual threat of death; life inside it was reduced to its simplest expression; it was, against the power of death, the meticulous exercise of the right of the sword. The Panopticon, on the other hand, has a role of amplification; although it arranges power, although it is intended to make it more economic and more effective,

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it does so not for power itself, nor for the immediate salvation of a threatened society: its aim is to strengthen the social forces – to increase production, to develop the economy, spread education, raise the level of public morality; to increase and multiply.

How is power to be strengthened in such a way that, far from impeding progress, far from weighing upon it with its rules and regulations, it actually facilitates such progress? What intensifier of power will be able at the same time to be a multiplier of production? How will power, by increasing its forces, be able to increase those of society instead of confiscating them or impeding them? The Panopticon's solution to this problem is that the productive increase of power can be assured only if, on the one hand, it can be exercised continuously in the very foundations of society, in the subtlest possible way, and if, on the other hand, it functions outside these sudden, violent, discontinuous forms that are bound up with the exercise of sovereignty.

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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.

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