

## THE POST-DISCIPLINARY PRISON

*To be free [during the nineteenth and early twentieth centuries], in this modern sense, is to be attached to a polity where certain civilized modes of conducting one's existence are identified as normal, and simultaneously to be bound to those « engineers of the human soul » who will define the norm and tutor individuals as to the ways of living that will accomplish normality (...) [Now], freedom is seen as autonomy, the capacity to realise one's desires in one's secular life, to fulfil one's potential through one's own endeavours, to determine the course of one's existence through acts of choice.*

*N. Rose, 1999, 76-84*

### INTRODUCTION

Those who have studied penal systems have tried very hard to describe and interpret the historically heavy inertia of carceral institutions. The goal was to show how the carceral reforms remained trapped, to borrow a phrase from A. Pires, « in a flytrap » of a *modern penal rationality*, defined as a closed system of thought, the basis of which was created at the end of the 18th century, and had the capacity to naturalize the normative structure of penal laws and their institutional applications<sup>1</sup>. The emergence of this system of thought has allowed for the continuation, following M. Foucault, of the decoding of the regime of modern penalty and the untangling at a profound level of analysis, the paradox of how the carceral reforms contributed to the perpetuation of the system. This occurred because the reforms were implicitly or explicitly based on the rationality and its assumptions.

Some famous researchers did not hesitate to oppose this « belief in inertia » with one of change and even rupture. The contemporary penal discourses and practices would translate the progressive emergence of a new penology not so much focussed upon individuals and their transformation (that which characterized the correctionalist « old penology »), but rather towards the effective management of prisoners.

This new penology would be less focused on responsibility, moral flaws, diagnosis, intervention and treatment of the criminal as with his classification, categorization and management, since he is defined as belonging to a dangerous or undesirable group : « at risk » (Feeley, Simon, 1992).

Prison would thus be the final link in a chain of exclusion under an overarching actuarial justice of risk management, directed towards that which we don't try to integrate into *inclusion circuits*. In a parallel vein of thought, Z. Bauman believes that we have already entered into a post-correctionalist carceral era (Bauman, 2000). The utopian prison, says Bauman, would no longer be the *Panopticon*, a space of visibility, transparency, and surveillance, as had so inspired M. Foucault, but rather *Pelican Bay* (California), a prison that is almost completely automated, designed to, as much as possible, limit inter-prisoner contact and prisoner contact with the outside, without activity or distraction ; a pure instrument of incapacitation.

If these studies have greatly stimulated thought, one can now say that not only do actuarial techniques not offer a unique alternative to correctionalist penology but that the change itself has been greatly overestimated (O'Malley, 2004, ch. VII). Moving the theoretical cursor somewhat is one thing — effecting a 180 degree shift is another. On the other hand, if Pelican Bay and more generally, all of the super maximum security institutions (the « supermaxes ») certainly embody the most regressive<sup>2</sup> aspects of this rationality and can indeed be seen as an ideal type of a specific carceral governmentality, this ideal type does not allow one to observe with the necessary acuity the most important contemporary changes and possibly the most significant of the many contemporary carceral systems.

The description of the model which I have chosen to call « post-disciplinary » seeks to at least partially improve this shortcoming. The analytical scan of it that I am proposing is empirically based on the observation of « medium-security » Canadian federal penitentiaries. Nevertheless, the pertinence of this model, and in consequence, the sociological interest in its description, goes beyond the Canadian context : many new institutions, many new projects or carceral reforms<sup>3</sup> potentially lean towards this type of management ; in other words, the post-disciplinary model of some Canadian penitentiaries provides a view of a possible future for European prisons.

This model must be seen as a specific and contingent historical configuration but nevertheless one that is resonant of modern carceral institutions. It is the product, within a specific penal rationality, of the intertwining of an historical tendency that is deeply rooted : a correction-security dialectic, meaning the dynamic gap between the punitive project and the concrete operationalization of incarceration. We must also consider the emerging lines of force of which, without any doubt, it is more safe, more modest, and more honest to affirm our real inability to predict whether they

announce a prison apparatus<sup>4</sup> whose strategic coherence will end up replacing the disciplinary model. In waiting to have the historical distance necessary for the reduction of these uncertainties, two things already seem clear : the disciplinary project is far from expired or obsolete but some actual transformations cannot be directly thought of as more strictly related to it. It is this double affirmation and its uncertainties that make me choose, like Castel in another context (Castel, 1981), the expression of post-disciplinary prison.

Giving the study a theoretical governmentalist perspective must improve the analysis of a process that has hitherto been too superficially studied in terms of « de-totalitarianization » of the institution to succeed in shedding some light on the regime in power — *i.e.* of the orientation of conducts — that accompanied (and which in a certain way characterizes) this de-totalitarianization. The challenge will indeed be to describe how prison, the relationships to sovereignty (sharing the legal and the illegal capacities to impose sanctions in an authoritarian way, a security framework in a strict sense) and of discipline (techniques of surveillance and normalization : *a good discipline is one that tells you at each moment what you have to do* (Foucault, 2004, 48) are re-problematized and complexified by a polymorphous collection of « governmental » tactics<sup>5</sup>.

Upon this theoretical foundation I thus attempt a re-orientation towards a body of thought that is currently immersed in critical uncertainty : progressively and partially deprived of one of its traditional targets (the sovereign power of the institution over the prisoners), it has the greatest difficulty in characterizing, from a sociopolitical point of view, the « progressivist » and « neo-liberal » transformations of carceral institutions, of which it sees many perverse effects without nevertheless regretting anything from the preceding configuration. It is within this framework of sociological emergency and in this context of struggle and of reforms that it seemed opportune to draw a very general analytical portrait of this configuration and to resolve to only later develop each of the elements that comprise this configuration in situating them mainly within individual narratives of practices and experiences<sup>6</sup>.

The presentation of objectives, norms of behaviour and conceptions of security specific to the three medium-security facilities under study provides a good introduction for the comprehension of the complexity of this post-disciplinary penitentiary governmentality :

**The medium security institution will:**

- contain those inmates who pose a risk to the safety of the community in an environment which promotes and tests responsible, socially-acceptable behaviour through moderately restricted freedom of movement, association and privileges; and
- facilitate the delivery of a program and activity base designed to motivate inmates to adopt continued responsible behaviour within the limits of a closed environment.

**Medium security inmates should:**

- demonstrate the desire and the ability to interact effectively with others, individually and in moderately structured groups, while subject to regular, and often direct, supervision; and
- demonstrate an interest in and an active participation in a program plan designed to meet their individual needs, particularly those which would lead to placement in a less structured environment and ultimately, their reintegration into the community.

**Security**

- The perimeter of a medium security institution will be well-defined, secure and controlled. Inmate movement and association will be regulated and generally supervised. Although arms will be retained in the institution, they will not normally be deployed within the perimeter<sup>7</sup>.

To contain high-risk individuals, to test their behaviours, to responsabilize them and make them acceptable, to let them associate to some degree, to motivate them, to surveille them, to make them participate actively, to answer their needs, to re-integrate them, to secure them, to control them...This simple description of objectives-norms-security already allows us to see the sociological depth of the *governmental style* that today characterizes this type of institution. In order to analyse this style, it is not enough to see this medium security institution as an institution with contradictory objectives, in which the structure would be split between an objective of re-integration and rehabilitation on the one hand, and one that

is more security-oriented on the other, but on the contrary, to attempt to understand how this apparent « struggle » has a relative strategic coherence and occurs in a specific manner within a security *continuum* institutions of minimum, medium and maximum security, special handling units—that characterizes the classification of institutions by Correctional Services Canada, based on a management system using the concepts of « risk management » and « dangerousness ». Moreover, if the prisoners in this type of institution are perceived as being simultaneously « dangerous », « in danger », « having needs », « at risk », « to motivate », « to responsabilize », it is not the contradictions among these multiple facets that will be highlighted, but on the contrary, how they are connected in a specific process of subjectivization — what constitutes a subject — specifically within a particular governmentality.

We underline, furthermore, that to speak of « configuration » and « assemblage » will mean that some aspects of the configuration can very well be found in other types of organization — it is true, to take only one example, of the importance of communication within prison in the general model of management called « participative » — and it is, above all, the specific relationship uniting several aspects that makes the configuration specific. Keeping this in mind, I propose to organize the description of this configuration around four themes : *i.* the rights of prisoners and the paradox of the legitimacy of the institution ; *ii.* active security, *leadership* and communicational order ; *iii.* the uses of « risk » : classification of institutions and psychosocial expertise ; finally, *iv.* the system of privileges, namely, in the jargon of Quebec penitentiaries, the « candy system », or the intensified instrumentalization of social relationships in prison.

## THE RIGHTS OF PRISONERS AND THE PARADOX OF THE LEGITIMACY OF THE INSTITUTION

The emergence of the post-disciplinary model in Canada followed the wave of criticism that broke upon the correctional services during the 1970s. The promotion of prisoners' rights, a discourse based not on the improvement of conditions of detention but on the rights-of-prisoners-as-citizens was an important engine of the process<sup>8</sup>.

This is a two-sided history : that of, to borrow the term used by G.Salle, a « test » of prison by civil society, and that of an attempt to actively renew its legitimacy through the adaptation and incorporation into the functioning of the institution (Salle, 2004). On the one hand, the denunciation of the illegality of detention turns against the state the legal tool of

which it is composed : a public framing of the actions in terms of respect for rights and legal control imposed on the action of the state shows it to be opaque and arbitrary<sup>9</sup>. On the other hand, the apparatus of imprisonment is therefore forced to include the legal critique in its own functioning. The effects of the rights, but mostly the implementation of external grievance agencies, progressively form a protection against the abuses of power by an administration now less sovereign—and that is a real novelty. In return, this effect is a way for the institution to integrate, domesticate, and survive this democratic activity of contention.

In brief, the development of prisoners' rights is the product of the militant activity of actors who have mobilized a rhetoric that partially goes against the dominant rationality of the system (the prisoner-as-citizen entering into collusion with the opposition between the « criminal » and « the honest people », the *practice of divide and rule*<sup>10</sup> that is typical of this rationality), but this discursive collusion operates within a warrior-defensive sphere, a pure incarnation of this very rationality. N. Fisher, in a similar context, suggested this expression : the body malleability nowadays associated with the guaranty of rights (Fisher, 2004).

Moreover, this guaranty remains relative : large sections of the rights within this prison-security framework remain subject to and conditioned by this security framework, hence constituting a *resource* for the anticipation, orientation and the control of behaviours. Let us take, for example, the case of private family visits (PFV), put in place in 1980. Anticipating the idea according to which the prisoner must keep all his rights except that of coming and going, the PFVs are the direct result of the movement for the promotion of prisoners' rights. The study of their functioning shows the existence of « passes »<sup>11</sup> that allow this right to become an instrument of government and to integrate it into the tactical arsenal for the production of order. Indeed, beyond the inequalities inherent in the apparatus, access to the PFV is conditional upon good institutional behaviour. A disciplinary measure such as the subjection to disciplinary solitary confinement or a transfer to another institution automatically erases access to a PFV program (Vacheret, 2005). The right to a visit hence constitutes the privilege of those whom the members of the correctional service have deemed as not compromising the security of the institution. The « pass » thus allows for the re-integration of the PFV into the daily game of negotiations that defines detention : privileges given to prisoners — leaders who contribute to order<sup>12</sup> a game of punishments and rewards that characterizes the « candy system » — phenomena described later in the article.

More generally, if we are really in the 4th evolutionary phase of prisons as described by Stastny and Tyrnauer (1982), characterized by a new diversity and a definite pluralism (prisoners, guards, educators, parole officers, researchers, media, militant organizations promoting respect for rights, representatives of aboriginal communities, lawyers, psychologists, doctors, correctional investigators), it is precisely this adaptation to its environment and this governmentalization of the institution which has allowed it to preserve intact its structural principle of security and its primary vocation : to contain. The emergence of the post-disciplinary model thus correlates with a movement of opening up, of a complexification of social life and the relative multiplication of actors on the carceral scene through which the administration *had to loosen its grip while ensuring a relative control over its intervention* (Fisher, 2004), and succeeded in integrating the criticisms directed at it within a renewed prison management model.

## ACTIVE SECURITY, LEADERSHIP AND COMMUNICATIONAL ORDER

The « conversations » described as « works in progress » of R. Wiebe,<sup>13</sup> former warden and active promoter of reforms that led to the emergence of the post-disciplinary organization, are a good introduction to an understanding of the strategy of a *leadership* institutionalized to put into place what I will call a « communicational order ». More generally, they shed light on the emergence of a new modality of orientation of conducts in prison to improve the lack of efficiency of the disciplinary regime, that moreover, demanded the use of methods that became illegitimate in the context of the promotion of prisoners' rights. The emergence of this model is not so much described by Wiebe as a will to democratize the carceral milieu as a necessary adaptation of the institution reacting to the increasing complexity and a will to effectively reform the disciplinary model whose limits were tested behind the walls (riots) as well as beyond the walls (crime rate). The chosen excerpt offers a graphic illustration of the expansion of a new carceral model inextricably linked to the reinforcement of a specific form of power that Wiebe defined as the capacity to influence — using here, probably without knowing it, a vocabulary close to Foucaultian problemicization — that is supported by two traditional pillars in prison : leadership and communication.

It seemed to be a time when there was much more emphasis on professionalizing the public service, and on moving away from the quasi-military model that was typical of the public service until then. (...) It was

punitive, and although there were little bits and pieces of what we would consider programming, certainly it didn't have any real emphasis in the work.(...)I have the last strap that was ever used at the British Columbia Penitentiary.(...) What people forget is that it didn't reduce the rate of crime particularly. It was an era of riots and hostage-takings — a riot a week somewhere in the system was not unusual (...)

The way we ordered ourselves and the way we conducted business changed fairly dramatically. Basically, what happened is that organizations shifted from an authority model to a power model. *By « authority model » I mean an organization that defines who had control and who had the authority to do what.* People acted within those authorities without much regard to the impact of their decisions or concern with the influence they would have. But as we generated much more complex organizations, *the authority model simply became ineffective, and we moved to a power model. What I mean by « power » is the ability to influence.* In the management of organizations, there has been an increasing disrespect for or lack of interest in authority as a way of changing, organizing, shifting and motivating behaviour towards meeting organizational goals. The goal now is to develop the credibility and accountability by which you are able to influence changes in the organization. One of the by-products is the current interest in the whole subject of leadership. (...)

*Leadership is the ability to lead using influence, as opposed to authority.* The process of changing its forms of management and leadership was difficult for the criminal justice system, because it was such a strongly entrenched authority model (...) A second shift was the need to manage competing interests: to move away from a single-focus objective to managing a whole complexity of interests, often competing in nature, and trying to bring balance and resolve conflicts (...) *In the old models under the authority structure, conflicts were usually generated by persons who*



*resisted the authority, for whatever reason. You had to use all kinds of disciplinary measures to ensure that people adhered to authority. Now, the skill is to manage conflict in a way that people can actually get together, agree and bring things to a middle ground. (Wiebe, 2000, 13-14 and 35-36, my emphasis).*

Communication, already seen in 1960 by McCleery (1960) as a « functional equivalent of power » and a force supplement necessary to maintain a stable system of authority, is, in the post-disciplinary organization, inextricably linked to the principle of « active security ». Active security indeed aims to *optimize the security of the establishment, of the personnel, of the offenders and of the public by means of the relations between the personnel and the offenders, as much as by the exchanges of information among the personnel. To this end, it is incumbent upon members of personnel who work directly with the prisoners to always deepen their understanding of the offenders by means that are effective for them, thus reducing the probability of unexpected behaviours on the part of these offenders. In order to insure a sustained comprehension of individual cases, the members of personnel must exchange lessons learned or observations likely to be of interest to them about the behaviour of the offenders*<sup>14</sup>. This active security is distinguished from the non-relational approach of the static security embodied in the apparatus and organization of the paramilitaries of the establishment and does not blend well with the surveillance principle at the heart of disciplinary mechanisms. Active security is a way of producing order underlined by the will to influence by persuasion and the communication of types of behaviour that conform to the objectives of the institution rather than being imposed by force or disciplinary measures. The novelty here is therefore in the fact that what is part, in other configurations, of a pragmatic negotiation of an order — juxtaposition of communication and power relations — is now formally integrated with a government strategy through the principle of active security.

This process of formalization also characterizes the way leadership works in prison. Indeed, officialized in 1976 by a commissioner's directive, the creation of prisoner committees aimed at creating a communication channel between prisoners and personnel in order to improve the functioning of programs and activities and in order to establish « harmonious » relations between each party. If each prison has its own internal directive regarding the functioning of those committees, a common trend can nevertheless be found. Institutional leaders in charge of acting as intermediaries between prisoners and the administration, prisoners' committees represent many groups of prisoners (the lifers, groups representing different cultural

minorities...) ; a committee of the « general population » represents all of the inmates. Representatives are elected within each group ; the administration then checks the « conformity » of the elected person in relation to the security objectives of the prison before validating the choice.

The representatives of the committees organize recreational activities, such as small sports matches or « community parties » that allow for seeing visiting families. They defend the interests of their group and try to resolve individual problems : the one who wants to change his cell, the one being injured by a rumour, the one who is depressed, the one in debt and at risk of hard prison time and of suffering reprisals that require him to ask for transfer to another prison. They transmit information to the administration about tensions in prison and transmit information to the prisoners about administration guidelines regarding thresholds not to be crossed relative to the small arrangements governing daily life. As intermediaries, these representatives participate in the resolution of conflicts between prisoners as well as between prisoners and correctional officers. The « good leaders » are hence described (by the members of the administration as by the prisoners, whether they are leaders or not), as one of the essential pillars of the stability of the institution (*if they have the power it's because we have the control, we know it, they know it*). The good leader is the one with experience, a reputation, networks, a background, respects others in interactions, has listening skills, demonstrates speaking abilities, always considers the advice of « the old ones ». Neither too « pro-prisoner », nor too « pro-administration », the good leader is a balancer whose art is mostly one of communication. At the risk of losing his status, he must give information to the administration without seeming to be an « informer », just as he must transmit the administration's guidelines to the prisoners without them having the feeling or him giving the impression that he is betraying an « anti-administration » carceral culture in the process of following the guidelines. In sum, the prisoners' committee, an essential bridge between the prison administration and the prison population, is a veritable engine of communicational order and of the concretization of the principles of active security.

The prisoners' committees are therefore central actors in a governmentalized prison : charged with pacifying the administration, avoiding confrontation by deflating potential conflicts, avoiding losses of control and excesses of different kinds, they keep the prison governable. Describing this reality in these terms negates neither the multiplicity of struggles for influence nor the heterogeneity of resistances which form all of the complexities of life in prison ; quite to the contrary, it allows us to observe with greater acuity the consequences of the formalist framework that now structures the

roles and status of everyone ; the very real exercise of counter-powers, especially through skillful negotiation and the granting of collective privileges — negotiation that can be supported when the tactical context is appropriate, based on the threat of complaint and the demand for the « respect of rights » — is not a limit to the exercise of governmental power, it is an immanent part of it ; governmental power and counter-powers (formal and informal, multiple, heterogeneous and fragmented) are characterized by a mutually re-inforcing effect.<sup>15</sup>

## RISK (S) : THE CLASSIFICATION OF INSTITUTIONS AND PSYCHOSOCIAL EXPERTISE

Structurally, the prison appears to be a fortress that, instead of being built at the border and destined/designed to defend against an exterior enemy, is embedded in the socio-political as well as spatial context and targets « the enemy from within », trapped between walls they may not escape as long as the justice system has not decided otherwise (Chauvenet, 1998). On the inside, the defensive-warrior apparatus is re-inforced by, as discussed earlier, an « active » security with specific modalities.

This apparatus is also supplemented by another form of security mechanism which here no longer describes a particular institution but rather the security *continuum* of Canadian federal penitentiaries. This *continuum* is supported by the production of individualized knowledge about the « risks » that each member of the prison population represents. This knowledge insures the fluid and controlled processing of prisoners from one type of prison to another. Indeed, in this system, the prisoners in a special handling unit must, *by their behaviour, show their capacity and desire to follow a plan designed to facilitate their transfer to a maximum security institution*. The prisoners in a maximum security institution must, *by their participation, demonstrate their acceptance of a plan designed to respond to their individual needs, especially activities that might lead to their transfer to a less structured institution*, and so forth<sup>16</sup>. The role and the power of psycho-experts working within the correctional services are here of fundamental importance : the evaluation of risks of recidivism among prisoners by these experts, determines the institution in which the prisoner will begin his sentence, and the « active » participation in therapeutic programs determines the access to an institution with a lower security level as well as the granting of parole<sup>17</sup>.

In analyzing the bodies of knowledge and practices aimed at curtailing the « risk of recidivism » within Canadian penitentiaries, the work of K. Hannah-Moffat (2005) highlights the fluidity and flexibility of knowledge-risks able to participate in a multiplicity of penal and correctional strategies.

The author thus describes a neo-liberal model that is based on a range of scientific-expert conceptions of risk that are adapted to targetted psycho-therapeutic interventions.

Indeed, Hannah-Moffat describes how the alignment of the « risk » of recidivism in relation to the « needs » of the prisoner that require a psycho-social intervention, contribute to the formation of a « transformative risk subject » : the secure containment of risks now rests on an « effective and rational » evaluation of « needs ». The hybridization of risks and needs happens through a triple process. First, only the needs associated with dynamic individual attributes likely to modify the probability and risk of recidivism will be taken into account. The « non-criminogenic », that is, the needs outside of the individual (such as, for example, the structural mechanisms that produce poverty) are therefore considered as of lesser priority or are just simply outside the area of intervention. Second, these needs are defined in terms of the institutional offer of already existing targetted programs (the battle against addictions, violence, for the reinforcement of self-esteem...). The prisoners are thus excluded from the processes of defining their own needs, to only be the recipients of pre-defined and targetted programs that exclude a whole array of data evaluated as non-pertinent. Finally, the correctional techniques related to the definition of risk are above all authorized and legitimized by science, in the sense that they derive from a statistical knowledge of population-related variables specific to a population. Hence, a need that summons an intervention is not necessarily perceived as such by the interested person, but rather the characteristic that an individual shares with a population that was identified as statistically related to recidivism<sup>18</sup>. In other words, the massive mobilization of risk within the domain of psycho-social expertise relating to prisoners is produced by a mingling of classical clinical knowledge with an array of bodies of knowledge and expert techniques of evaluation and of the management of criminogenic risks within which real individuals are abstracted according to this or that objective, defined in the context of an administrative program and redesigned in abstract fluxes of population (Castel, 1981, 202).

The psycho-social programs based on the hybridization of risks and needs are thus part of a logic that does not strictly merge with the disciplinary project. An important aspect of these bodies of knowledge and techniques is in the fact that these programs, targetted and « adapted » to the « needs » of the prisoner, always aim at the creation of a subject that is normatively disciplined, but above all, that this discipline nows involves the creation of a manager prudent with regard to his risks/needs, responsible and capable of identifying his sources of risk, his resources and the situations

that can produce a criminal behaviour. (O'Malley, 1992). The process of responsabilization that occurs here is not primarily based on ideas of cause or of fault, they are rather situated at a « motivational » pole, a pole that is based upon psychological values related to the individual : personal initiative, individual involvement (Digneffe *et al.*, 2002, 123 ; Cauchie, Chantraine, 2005 ; Chantraine, Cauchie, 2006). In brief, the medium of discipline is no longer as Foucault described, a political anatomy of the body but more and more the imperative towards autonomy, conceived as the pivot upon which the prisoner is supposed to share the objectives of the programs and the experts. The power of the expert is not exerted in a negative and repressive manner but rather in a suggesting one, and the great strength of this modality of the exercise of power is related to the fact that its arbitrary nature is more difficult to show since it no longer institutes and legitimizes itself through an order imperative but rather a « scientifically » validated knowledge.

#### THE « CANDY SYSTEM » OR THE INSTRUMENTALIZATION INTENSIFIED BY SOCIAL RELATIONSHIPS IN PRISON

Historians and sociologists have strongly believed in the gap between the modern disciplinary « program » decoded by Foucault and concrete daily life in prison. Far from being structured around a unique disciplinary principle and equally far from an exercise in physical violence freed from all constraint, the security imperative imposes upon the penitentiary administration and its agents a pragmatic management of daily life : *day to day, it negotiates, represses, privileges, instrumentalizes, oppresses, sanctions, and rewards the prisoners, in order to minimize disorder in prison* (Chantraine, 2004). Carceral order hence appears as an unstable equilibrium in perpetual reconfiguration, the product of a double necessity : for the guards, accomplishing their mission of low-problem containment, the best solution consists in most often « giving leeway » in the form of an informal tolerance ; the other, for the prisoners, to improve their daily life and more generally organize a social life within the gaps left by the regulations, according to a *continuum* of covert-overt behaviours in relation to the guards. It is at the heart of this double necessity that one can observe a complex system of privileges, completely useful in the pacification and stabilization of relationships within the prison, a *sine qua non* for the cooperation of the prisoners and of their participation in their own subjugation as well as the source of significant inequalities among prisoners. The « candy system », a Quebecois term that describes the system of individual and collective privileges, participates in this traditional modality for the creation of order but is neverthe-

less characterized by several features that link it to other aspects of the post-disciplinary configuration.

Firstly, it functions more with rewards than with punishments (« *instead of always working through penitence, we grant more and more privileges, we let things slide, we give them more and more* », I am informed by an agent of the correctional services) ; in this sense, while the candy system had its specificities, its analysis benefits from being put in parallel with the transformations of competitive policies and neo-liberal forms of government through the rewards in the « free world »<sup>19</sup>. Secondly, it is based on the granting of a relative comfort rather than strict privations (« *they must be given a lot in order for them to have a lot to lose* »), but also upon the instrumentalization of the spaces of the autonomy of the prisoners, who are producers of some of their own « candies ». Open to suggestions that promote initiative, the prisoners' committees freely organized activities (community parties, evenings of televised sports events, different projects involving exterior intervenors...) which can be cancelled in case there is trouble relating to internal order.

These collective privileges are at the base of an explicit control of some over others (« *we tell them to calm down, we don't want to lose our privileges!* » explains a « lifer »). As a result, all activity likely to threaten things that we have earned is regulated and/or suppressed by the prisoners themselves, and more specifically by the leaders, those who are self-described as the *pen[itentiary] police*. This regulation by the leaders is that much more motivated when they try to protect and develop their own privileges : legal privileges (such as salary and a mobility in prison that would be tied to jobs), specific informal privileges (exceeding quotas of things allowed in a cell, for example) and specific privileges within the array of collective privileges (choice of menus, given many priorities over others...). In this context, the institutional production of control rests less and less on arbitrary power and physical force precisely because this specific exercise of power is nowadays assumed by the leaders themselves : the exercise of power is *delegated*. The leaders thus play the game of the penitentiary administration while being guided in their action by a rational objective that is justified as improving daily life<sup>20</sup>.

The candy system is therefore an interlocking arrangement : the more the committee representatives succeed in policing social relationships (an effort to reduce tensions that are inherent in situations of enforced closeness), the more the prisoners receive collective « candies », meaning freedoms to maneuver that allow them to choose and organize their recreational

activities, and the more the leader is strengthened in his leadership position in relation to both the administration and the prisoners, which allows him, in turn, to benefit from individual privileges.

Finally, and this is an essential point, although the institutional authorities are sometimes reluctant to recognize it, a perverse *continuum* closely unites the management of punishment and the organization of daily life. A transfer to a minimum security institution, being granted parole, being granted visitation rights, are described by the prisoners as an integral part of the candy system. This very concrete linking (« *they say : yeah, if you don't follow this program, you won't get your time in the trailer [PFV], ya' know, threats.* ») results in a questioning of the idea according to which the guards are the pillars in the creation of order, since it shows the reinforcement of the status of the expert in relation to the security equilibrium in the establishment. Hence, being blackmailed into participating in programs (« *you have no choice, there's a gun at your head* »), and the use of experts' reports in making parole decisions become the subject of virulent and huge criticism<sup>21</sup>.

By reintegrating the management of punishment with traditional negotiations over privileges, the candy system is described as having participated in a individualization of strategies of adaptation and a fragmentation of individual hopes that is without precedent, as well as an intensified instrumentalization of social relationships (« *the candy system, it was a choice, it is « divide and rule » ; it was very effective* », reports an officer). This mechanism is therefore the object of an insoluble subjective ambivalence for prisoners. On the one hand, because it allows some to invest themselves in projects and because it is based on the granting of relatively good material living conditions, the candy system is described by prisoners as « *allowing a good time* ». On the other hand, this mechanism causes the prisoners to declare that « *the candy system has corrupted the atmosphere and that now, with the candy system, it's every man for himself* ».

Hence, the loop is now closed. At first blush, the post disciplinary model seems guided by a carceral utopianism in which the *guilty subject* would progressively be replaced by a *subject that has confessed and is capable of consenting, participating, negotiating, constructing and executing a correctional plan* (Kaminski, 2006). At second blush, the « candy system », including management of punishment and daily living conditions, achieves a utopia in a pragmatic way : the project of a government is no longer disciplinary but rather « encouraging » and focussed on the personal implications for the prisoner. It is also strengthened by an effective

instrumentalization of social relationships that compensates for the imperfect consents of the the prisoners and is necessary for the realization of this desire. The analysis of this candy system is therefore necessary to fully understand how the relative autonomy of the prisoners is actually and considerably reinforced but also how the institution gives itself the means that effectively direct the behaviours and the rational choices of prisoners in conformity with its objective.

## CONCLUSION

A genuinely successful post-disciplinary — or governmental — prison is one where, at the same time, rights are to a greater extent, respected ; the risks, very carefully evaluated, the security communication is re-inforced, the influence of *leadership* is controlled, the prisoners emulated, their autonomy is controlled, their privileges given out in small doses, their hopes fragmented and their solidarity dissolved. Without transforming the penal rationality that provided him with his manner of thought, this model of carceral management is nevertheless a variety of the punitive project described by Foucault in *Discipline and Punish*. It consists of a post-disciplinary prison in the sense that R. Castel evoked a post-disciplinary order to analyze the transformations in the medical-psychological area.

This order inextricably mixes an « hyper-rational » side based on a positivist scientific mode of risk management and a side that is « subjective », that is based on responsabilization, the call for autonomy and the re-inforcement of individual motivations:

This connection between an hyper-rationalized, controlled side, and a side where freedom, carefully supervised, can blossom — at the minimum, a union of computerization and psychologization — is distinguished from other forms, better analyzed and more often criticized, forms of the exercise of power in which an authority is imposed from top to bottom, minimizing the small pockets of freedom that try to resist it (...)

Another model of regulation has developed : the encouragement to cooperate from one's position and according to one's need, to the management of constraints in the context of a division of labour between the organs of domination and those who are subjected to it (...) Such would be a post-disciplinary order that would not work any more through the imposition of



constraint but through the organization and management of the human factor according to new configurations under which social necessity occurs (*Castel, 1981, 208-210*).

Let us affirm, based on this analysis, a double statement. Firstly, the process of emergence of the post-disciplinary model is obviously operationalized, embodied, modified, in relation to the penal system itself : novelties sometimes resulting from conflicts and external challenges interlock into a system because the system succeeds at translating those novelties into its own rationality, hence, preserved (a political lesson appears here : the reintegration of a political claim in a strategy of government risk always aimed at minimizing if not betraying the potential breadth of this claim). Secondly, these new elements of management do not happen in an historical vacuum ; they largely depend on changes in the environment of the penal system. The analysis must therefore avoid any penal-centrism and focus with all necessary acuity upon these more general evolutions, and this, much beyond the marxist critique according to which prison would remedy the collateral devastations of macro-economic transformations.

Indeed, and this is the essential point, the mechanism through which the encouragement towards autonomy modulates, inflects and sometimes re-inforces disciplinary mechanisms that are not specific to the prison environment : today, it is well understood by thinkers on this subject and even more by sociologists of contemporary labour<sup>22</sup>. Therefore, the analysis cannot avoid the fact that the novelties of the system are modulated by forms of the exercise of power that cut through different social systems. An analysis cannot ignore the fact that a critique of contemporary prisons would be deprived of its most fundamental elements if it didn't look for pertinent connections with the broad and concrete analysis of the transformations of liberalism. If contemporary prisons function less and less on the disciplinary model, this state of fact is paradoxically reinforced by the current pre-eminence of *discipline and punish* : since the rise of the major social disciplines to the forms of government « within the social » and the recent neo-liberal exhortations to individualization, autonomy, self realization through work (Rose, 1999), prison remains the mirror unto modern freedom and the subjectivizations that are produced in its name.

Far from destroying political thought and action, the study seeks to give rise to a sociology of penal innovation in exploring the lack of prison reform in a security and warrior context. In moving the theoretical cursor from the analysis of processes of de-personalization and mortification (Goffman) towards processes of individualization and subjectivation in

prison, it reaffirms the persistence of the fundamental problem of the weight of the safety principle and the capacity of the prisoners to act. It suggests that innovation — meaning here a *significant* reform — cannot emerge from a simple critique of the sovereign power and totalitarianism of the institution. It shows that the denunciation of the totalitarian character of the institution and the promotion of human rights remain clearly necessary (and still of current pre-eminence in most systems), but are insufficient to explore the conditions for or the impossibility of-a democratic prison.

Simultaneously, without waiting for a general reform that might redress the fundamental lack (the contradiction between the democratic imperative and modern penal rationality), the analysis of the governmental reconfiguration of prison opens new areas of struggle : it transforms into concrete political problems that which today remains limited in the form of individual knowledge and experience : intensified instrumentalization of social relationships, fragmentation of strategies of adaptation in spite of the creation of a right of collective complaint, intolerable power of the psycho-social expert... Is it possible to promote a re-enforcement of autonomy without it being subjected to the security mechanisms of the institution ? While carrying on with the socio-political question of the never-ending excess of sovereign power in prison, such a perspective aims at shaking the pillars on which the institution built a respectable appearance. How can collective communication and expression, which generate reciprocity and meaning, be disconnected from institutional constraint ? Can therapeutic relationships be used to protect the integrity of the people being contained rather than being part of this intensive training for freedom that characterizes contemporary neo-liberal correctionalism? While pursuing the sociopolitical study of the endurance of the excess of sovereign power in prison, such a perspective thus seeks to shake the pillars upon which the institution is forged from new respectable habits.

## BIBLIOGRAPHY

- BAUMAN Z., 2000, Social Uses of Law and Order, in GARLAND D., SPARKS R., (Eds.), *Criminology and Social Theory*, Oxford, Oxford University Press, 23-46.
- BERNHEIM J.-C., 2003, Un « modèle » surfait au Canada, *Manière de voir. Obsessions sécuritaires*, octobre-novembre, 69-71.
- CASTEL R., 1981, *La gestion des risques : de l'anti-psychiatrie à l'après-psychanalyse*, Paris, Minuit.
- CAUCHIE J.-F., 2005, Un système pénal entre complexification et innovations. Le cas ambivalent des travaux communautaires belges, *Déviance et société*, 4, 399-423.
- CAUCHIE J.-F., CHANTRAINE G., 2005, De l'usage du risque dans le gouvernement du crime. Nouveau prudentialisme et nouvelle pénologie, *Champ penal/ Penal Field*, Vol 2., <http://champpenal.revues.org/document78.html>.
- CHANTRAINE G., 2004, *Par-delà les murs. Expériences et trajectoires en maison d'arrêt*, Paris, PUF/Le Monde.
- CHANTRAINE G., VACHERET M., 2005, Expertise psychologique, gestion des risques et rapports de pouvoir dans les pénitenciers canadiens, *Questions pénales*, septembre, 18-4.
- CHANTRAINE G., CAUCHIE J.-F., 2006, Risque(s) et gouvernementalité, *Socio-Logos*, <http://socio-logos.revues.org/document13.html>.
- CHAUVENET A., 1998, Guerre et paix en prison, *Les cahiers de la sécurité intérieure*, 31, 91-100.
- DIGNEFFE F., NACHI M., PÉRILLEUX T., 2002, Des contrôles sans fin(s), ou le passage de la vérification à l'autocontrôle permanent, *Recherches sociologiques*, 33, 1, 109-126.
- FEELEY M., SIMON J., 1992, The New Penology: Notes on the Emerging Strategy of Corrections and its Implications, *Criminology*, 30, 449-474.
- FISHER N., 2004, Foucault et le droit, de l'hypothèse répressive à l'instrument de gouvernement : le cas de la rétention administrative dans la France contemporaine, *communication au colloque « La politique vue avec Foucault »*, Paris, Sciences-Po, CIR.
- FOUCAULT M., 1975, *Surveiller et punir*, Paris, Gallimard, Tel.
- FOUCAULT M., 2001 [1982], Le sujet et le pouvoir, *Dits et écrits II, 1976-1988*, Paris, Gallimard, Quarto, 1041-1062.
- FOUCAULT M., 2004, *Sécurité, territoire, population. Cours au Collège de France, 1977-1978*, Paris, Gallimard/Seuil, Hautes Études.
- GOFFMAN E., 1968, *Asiles, Études sur la condition sociale des malades mentaux et autres reclus*, Paris, Minuit, Le Sens Commun.
- HANNAH-MOFFAT K., 2005, Criminogenic Need and the Transformative Risk Subject: The Hybridization of Risk and Need in Penalty, *Punishment and Society*, 1, 29-51.
- IHL O., KALUSZYNSKI M., 2004, La peine et la récompense, entre gouvernementalité et sciences de gouvernement, *communication au colloque « La politique vue avec Foucault »*, Paris, Sciences-Po, CIR.
- KAMINSKI D., 2006 (à paraître), Un nouveau sujet de droit pénal, in COLLECTIF (Ed.), *La responsabilité et la responsabilisation dans la justice pénale*, Bruxelles, De Boeck & Larcier, Perspectives criminologiques.
- LASCOURMES P., LE BOUHRIS J.-P., 1996, Des « passe-droits » aux passes du droit. La mise en œuvre socio-juridique de l'action publique, *Droit et société*, 32, 51-73.

- LE BLANC G., 2004, *Les maladies de l'homme ordinaire*, Paris, Éditions du Passant.
- LEMONDE L., LANDREVILLE P., 2002, La reconnaissance des droits fondamentaux des personnes incarcérées : l'expérience canadienne, in DE SCHUTTER O., KAMINSKI D. (Eds.), *L'institution du droit pénitentiaire* Paris, LGDJ, La pensée juridique, 69-87.
- McCLEERY R., 1960, Communications Patterns as Bases of Systems of Authority and Power, in CLOWARD R. A. (Ed.), *Theoretical Studies in Social Organization of the Prison*, New-York, Social Science Research Council, 49-77.
- O'MALLEY P., 1992, Risk, Power and Crime Prevention, *Economy and Society*, 21, 3, 252-275.
- O'MALLEY P., 2004, *Risk, Uncertainty and Government*, London, GlassHouse Press.
- PIRES A. P., 1998, Aspects, traces et parcours de la rationalité pénale moderne, in DEBUYST Ch., DIGNEFFE F., PIRES A. P. (Eds.), *Histoire des savoirs sur le crime et la peine. 2/ La rationalité pénale et la naissance de la criminologie*, Bruxelles, De Boeck Université, 3-52.
- ROBINSON D. N., ROBINSON D. M., 2004, Medium Security, in BOSWORTH M. (Ed.), *Encyclopedia of Prisons and Correctional Facilities*, Thousand Oakes, Sage, 588-589.
- ROSE N., 1999, *Powers of Freedom: Reframing Political Thought*, Cambridge, Cambridge University Press.
- SALLE G., 2004, Mettre la prison à l'épreuve. Le GIP en guerre contre l'« Intolérable », *Cultures et conflits*, 55, 71-96.
- STASTNY G., TYRNAUER G., 1982, *Who Rules the Joint?*, Toronto, Lexington Books.
- SYKES G. M., 1999 [1958], *The Society of Captives. A Study of a Maximum Security Prison*, Princeton, Princeton University Press.
- VACHERET M., 2005, Les visites privées au Canada, entre réinsertion et contrôle accru : portrait d'un système, *Champ pénal/ Penal Field*, <http://champpenal.revues.org/document74.html>.
- VACHERET M., COUSINEAU M.-M., 2005, L'évaluation du risque de récidive au sein du système correctionnel canadien : regards sur les limites d'un système, *Déviance et société*, 4, 379-398.
- WIEBE R., 2000, *L'héritage visionnaire de Ron Wiebe : une conversation inachevée*, Service correctionnel du Canada, [http://www.csc-scc.gc.ca/text/pblct/ronweibe/ronweibe\\_f.pdf](http://www.csc-scc.gc.ca/text/pblct/ronweibe/ronweibe_f.pdf).

NOTES

This article appeared first in French: Chantraine G., 2006, « La prison post-disciplinaire », *Déviance et Société*, Vol. 30, n°3, pp. 273-288. This article has been translated by Uri Ben-Gal.

- 1 See Pires, 1998.
- 2 For « regression » as a specific type of evolutionary change within the penal system, see Cauchie, 2005.
- 3 See, for example, the recent adoption of new penitentiary rules of the Council of Europe.
- 4 Translator's note: I translate the term « dispositif » into « apparatus ». This translation is accepted in the Foucaultian writings in English, for example in « The Confession of the Flesh » (1977) interview. In *Power/Knowledge Selected Interviews and Other Writings* (ed Colin Gordon), 1980: pp. 194-228.
- 5 See also Frigon, Robert in this number.
- 6 As well as the analyzed official documents, this study is the result of on-the-ground research conducted in three medium security Canadian federal penitentiaries. This research consisted of 23 semi-directed interviews conducted with « leaders » in prison and was also based on a collection of formal and informal discussions held with members of personnel of correctional services as part of an ethnographic research project.
- 7 Correctional Service of Canada, « Classification of Institutions », 2004, [http://www.csc-scc.gc.ca/text/plcy/cdshtm/006-cde\\_e.shtm](http://www.csc-scc.gc.ca/text/plcy/cdshtm/006-cde_e.shtm).
- 8 This recognition was fully operationalized in the Law on the Correctional System and Parole, in force since 1992.
- 9 I base this, by analogy, on the theoretical tools used by Fisher (2004) to comprehend the transformations of the detention camp at Arenc in France. The analysis of Lemonde and Landreville (2002) allows for the recreation in the Canadian context, of the process by which this test occurred.
- 10 Foucault, 2001 [1982], 1042.
- 11 In the sense of Lascoumes, Le Bouhris, 1996.
- 12 For a caricatured example, see the Report of the Committee of Inquiry into Certain Internal Policies and Management Practices at the Leclerc Institution, Correctional Service of Canada, as well as its denunciation by Bernheim, 2003, 70.
- 13 Correctional Service of Canada, [http://www.csc-scc.gc.ca/text/pblct/ronwiebe/ronwiebe\\_e.pdf](http://www.csc-scc.gc.ca/text/pblct/ronwiebe/ronwiebe_e.pdf)
- 14 Correctional Service of Canada, « Active Security », Directive of the Commissioner, [http://www.csc-scc.gc.ca/text/plcy/cdshtm/560-cde\\_e.shtm](http://www.csc-scc.gc.ca/text/plcy/cdshtm/560-cde_e.shtm).
- 15 See here the important thoughts of Foucault (2001 [1982]) on the reciprocal immanence of governmental power and of forms of struggle and resistance.
- 16 Correctional Service of Canada, « Classification of Institutions », 2004, [http://www.csc-scc.gc.ca/text/plcy/cdshtm/006-cde\\_e.shtm](http://www.csc-scc.gc.ca/text/plcy/cdshtm/006-cde_e.shtm)
- 17 See Vacheret, Cousineau, 2005.
- 18 See also Cliquennois in this number.
- 19 See, for example, Ihl and Kaluszynski (2004), for an analysis of the politics of emulation of high-level functionaries, especially in Canada and in the United States.
- 20 In return, the administration sees and describes the leaders both as indispensable allies and potential enemies, the « good leader » always threatening to become the « bad leader » who uses physical force and rules through terror, rather than fear and respect.

- 21 See Chantraine, Vacheret, 2005 for an analysis of critiques and a description of strategies of resistance and adaptation of prisoners facing this institutional blackmail.
- 22 See for example Le Blanc, 2004, 99-100.