

# Prisons under the lens of ethnographic criticism

## Gilles Chantraine advocates for ethnographies of the social uses of law in prisons

I would like to use the term 'prison-centrism' to describe criticism that, because it is confined within four walls, lacks a careful consideration of how prisons organically relate to the rest of the repressive apparatus, and even more broadly fails to consider the role prisons play in social relations as a whole. The underlying purpose of prison-centrism is to naturalise the existence of prison and its internal order.

Sociologists who content themselves with making 'rehabilitation' the sole foundation and aim of their analysis, i.e. limiting their work to enumerating everything that stands in the way of its successful achievement, risk implicitly embracing the correctionalist agenda, leading them to produce weak criticism that is strangely compatible with the views of the disciplinary powers that a more thorough deconstruction should have objectified. In this sense, legal doctrine (punishment theories, for example) and mainstream criminology have been politically and socially very 'useful' for the creation, consolidation and reproduction not only of the modern penal system, but also of prisons and of their underlying punitive rationality. Legal debates relating to the four principal theories of punishment – deterrence, rehabilitation, retribution and denunciation – have produced superficial contrasts that do not stand up to thorough analysis. These four theories share three essential characteristics. First, to varying degrees they all promote the notion that it is necessary to punish; they also share the idea that punishment

must be stigmatising and physically restrictive to be effective; finally, they set up prison as the central reference of the penal system.

The security corollary of prison-centrism is the naturalisation of the organisation of social relations in prison. Prison-centrism is an ideology that, like every ideology, is based on a foundational tautology. As soon as its rhetorical packaging has been removed, this tautology can be very simply summed up by two implicit or explicit propositions:

- Prison exists because it is inevitable
- Security constraints are what they are because they are necessary, given the individual characteristics of prisoners

Enclosed within four walls, prison-centrism has three flaws: first, its interpretation of the social phenomena it studies is located in, and confined to, prison; second, it naturalises the institution by side-stepping its radical history; third, it reduces interpretation and intellectual inquiry to the search for a functional optimisation of the institution that would transcend its constitutive aporias.

Analyses influenced by abolitionism, reductionism and penal minimalism have used a focal length that prevented the analytical myopia that compromises the state promoted-thinker, enabling them to place more focus on the intrinsic violence of the punishment, and to recall something that tends to be invisible because it is so visible, something blinding. As Christie (1981) argues: 'imposing punishment within the institution of law means

the inflicting of pain, intended as pain'. Critical theory therefore needed to identify several mechanisms:

- first, the specific mechanisms of pain-infliction, i.e. direct and collateral damage of incarceration, analysis of prison sentences as corporal and sensorial punishment.
- second, the mechanisms by which this infliction tends to be either euphemised through the penal process with its language, its ceremonial procedures and its platform of legality, or masked through the institution's lack of organisational transparency.
- third, additional mechanisms generating moral indifference with regard to this infliction, through a division of repressive labour – which splits up and dilutes responsibilities, enabling every actor in the repressive chain to deplore prisoners' miserable living conditions without feeling responsible.

### Ethnographing violence: from the interaction to the structure

The fiction of democracy, as a way of connecting the principles of equality and freedom, does not prevail in prison. It no longer serves as a backdrop to the system of interaction in detention. The real backdrop to social relations in prison is the deprivation of liberty, stemming from a political relationship of explicit subjection. In this sense, prison, understood as a political system, is more like a tyrannical regime than a democratic one. Antoinette Chauvenet (2006) has described the theoretical and empirical consequences that prison's overarching tyrannical structure has on the nature of the social relations within it. In so doing, her theories reflect a return to the motivations behind the first golden age of ethnographic sociological fieldwork in prison, which might be described as a desire to link microsociological observations of the prison environment to the sociohistorical forces that shape the institution.

By taking account of the underlying interaction regime, Chauvenet is able to take seriously the idea that violent relations are not 'mandatory', and that most incidents of violence do not grow out of interpersonal disputes – that is to say disputes among prisoners or between guards and prisoners – but that they instead 'start from nothing', that they can be directed at anyone, and that their archetypal form is the 'explosion'.

Prison-centrism obscures the specificity of the organisation's relationship to the structure, masking its violence and mystifying the role this violence plays in wider social relations. It establishes a narrow analytical corridor for the consideration of violence in terms of individual dangerousness, to which the institution has a duty to react. However, a different theoretical elaboration enables a more progressive understanding of the organisational production of violence. This theoretical construct, tied to ethnographic methodology, makes it possible to move away from prison-centrism; it breaks with the tautological ideology according to which observed violent phenomena and the ubiquitous atmosphere of violence serve to legitimise, either implicitly or explicitly, the security constraints that are supposed to contain it. This alternative theoretical framework shows that, on the contrary, part of the problem (that is, the problem of violence) is to be found in the search for its solution (that is, the reinforcement of security measures).

### Law as a weapon? Speaking 'rights' to power

To quote Antoinette Chauvenet: 'Prison, because it deprives those it holds of freedom, is *de facto* similar to a tyranny in many respects, in spite of the rules, checks, all of the efforts and words designed to subject its system to the rule of law. However, owing to these limits, it is a particular despotism, of a bureaucratic and legal nature, a limited tyranny' (Chauvenet, 2006).

This being the case, we need to know how and why the law is able

to limit the tyrannical nature of the institution, and *a contrario*, how and why the institution is attempting to harness the law, in other words, what it is doing prevent its structure and operation from being undermined by the law. Here, the sociological issue and the political issue are no longer one and the same, since it is a matter of knowing if rights promotion is nothing but a contemporary rehashing of prison-centrism, or if, on the contrary, it is changing the political backdrop to social relations in prison.

It is this latter point that I think an ethnography of the concrete uses of law in prison must first acknowledge; the twofold nature of law, both as a vehicle of domination (law in the service of the administration) and as a fulcrum for the dominated (the rights of incarcerated individuals against the institution).

Just because legal rights in prison tend to adapt to the operation of the institution does not make them trivial. It is not trivial whether the administration sets itself the goal of eliminating escapes and forcibly quelling every gesture of protest, or instead makes room for dialogue and renounces the paranoid vision of an ubiquitous, permanent risk. Nor is it trivial whether detention is managed through threats and violence, or by providing considerable opportunities for work, training, and family contact. It makes a significant difference when prisoners have the prospect of being released, so that the opportunities made available within prison become somewhat meaningful, instead of being subjected to endlessly renewed security detention, which the institution considers necessary to keep prisoners under constant pressure. And a prison administration with complete, unassailable discretionary power is not the same as a situation where independent agencies intervene to defend rights, however imperfect such attempts are bound to be.

From this perspective, establishing prisoner's rights changes the basis of power relationships and gives more traction to prison criticism. Therefore, in the context of

an empirical sociology of the social uses of law, it is important to develop research along at least three lines, examining:

- how the need for security always tends to transform rights into privileges,
- how, in prison, a law constitutes one resource among others, and gets linked to other methods of regulating behaviour,
- how different levels (local, national and European) and different actors participate in the process of legally translating a dispute in prison.

It is therefore a matter of grasping the extent to which the promotion of rights undermines the usual exercise of authority and domination, in the sense of offering tools for resisting arbitrariness in prison. This is the ambivalence of law: it can be in the hands of the dominators even as it arms the dominated. But it is also a matter of understanding how the institution succeeds in integrating legal language, and responding to criticism of its tyrannical operation while reinforcing and modernising its disciplinary aims. To conduct an ethnography of the social uses of law in prison, it is important to avoid a naive legalism that overestimates the law's power to change the institution, and just as important to avoid a cynical functionalism that sees every legal advance as a veiled victory for prison power. The objective of the research would also have to be a kind of political action, since by studying prisoners' ordinary relationship with the law, this research would help increase consciousness of the law in prison. ■

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