Special Edition: Prison Scrutiny

Contents

Tomas Max Martin is senior researcher and *Andrew M. Jefferson* is senior researcher, DIGNITY — Danish Institute Against Torture

Jamie Bennett is a former prison governor, now Chief Strategy Officer at Youth Justice Board.

Kalliopi Kambanella is senior legal advisor and *Brenda van den Bergh* is senior public health advisor at DIGNITY — Danish Institute against Torture

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*Andrew M. Jefferson is senior researcher and **Tomas Max Martin** is senior researcher at DIGNITY — Danish Institute against Torture*

***Sophie van der Valk** is a postdoctoral researcher and **Mary Rogan** is an Associate Professor of Law at Trinity College Dublin, Ireland*

***Gilles Chantraine** is senior researcher at CLERSE - CNRS/University of Lille*

*An interview with **Mina Ibrahim** about the work and recent history of the **MENA Prison Forum***

Prison scrutiny: Editors' introduction[1]

Tomas Max Martin is senior researcher and **Andrew M. Jefferson** is senior researcher, DIGNITY — Danish Institute Against Torture

This special thematic issue of the PSJ is about scrutiny understood as a distinct way of approaching, learning about, and knowing prisons. The question of how exactly prison life can be known and understood, by whom, with what consequence, and with what strings attached continues to dog the practices of prison professionals, prison scholars and prison reformers alike. Given the traditional opacity of prisons,[2] perennial questions persist about whose point of view should be privileged, what tools should be used, and who gets to judge what entry point is best. In this collection we privilege a pluralist approach unpacking various routes to knowing prisons. We do so through the notion of *scrutiny*. Each contributor has been commissioned to write about scrutiny from their own vantage point, be that of the critically engaged scholar or the involved reflexive practitioner. Our hope is that together the contributions cast new light on the variety of means and methods through which prisons might be thought about and responded to.

Our ultimate ambition is to counter the excesses of prisons and their excessive use. We posit openness as a potential, partial antidote to prison excess and scrutiny as a mode of knowing that can — when turned towards the institution — help to open prisons and inhibit inherent harms. Yet, scrutiny is also an act of power. To see, to gaze, to stare, or maybe rather to 'visibilise', is also a way to govern, objectify and control. Michel Foucault's seminal work on the disciplinary gaze of the modern prison offers key insight on this dynamic.[3] However, we might also remember that Foucault was deeply committed to the detailed and practical documentation of prison conditions and practices through his strong involvement in the Groupe d'Information sur les Prisons in France during the 1970s.[4] We suggest that the notion of scrutiny captures this tension and pushes our joint thinking about 'looking at the prison' further.

To our knowledge the term *scrutiny* is not commonly applied to prisons; it is not part of the standard vocabulary of either insiders or outsiders, professionals, commentators, or reformers. As further pursued below, we deliberately chose an under-utilised term to rock with the taken-for-grantedness of other and more dominant concepts like prison monitoring or oversight.

The notion of scrutiny implicates a range of actors and actions that generate knowledge about prison life. These include monitoring, inspecting, auditing, researching, visiting, exposing through journalism, and representing through literature, art, photography, and film. These are some of the myriad ways in which prison life is observed, interrogated, and made known. Equally, if not more important, is the way prisons scrutinize themselves and their inhabitants.

This special issue brings different approaches to scrutiny into conversation with one another. We aspire to nuance and critically explore key issues related to access, accountability, transparency, documentation and so on with a particular focus on rationales of scrutiny, the positionality of scrutinizers vis-à-vis the scrutinized and the (possibly shared) dilemmas of scrutinizers.

What does scrutiny actually mean? Etymologically, scrutiny comes from the Latin word *scrutinium*, which means to look for something hidden, often quite carefully and hands-on. The roots refer to the noun *scruta,* rubbish or trash. Thus, scrutiny links deeply to practices of examining or sorting through scraps or shreds in the hope of identifying something of value. Reprising this origins story, we might think of present-

2. Rhodes, L. A. (2001). Toward an anthropology of prisons. *Annual review of anthropology,* 65-83
3. Foucault, M. (1977). *Discipline and Punish. The Birth of the Prison.* New York: Pantheon Books; see also Chantraine, this edition.
4. Welch, M. (2010). Pastoral power as penal resistance: Foucault and the Groupe d'Information sur les Prisons. *Punishment & Society,* 12(1), 47-63.

day prison scrutinizers — in their various forms — as hands-on foragers for scraps in pursuit of knowledge, exposing themselves to 'qualms'[5] and 'dizziness'[6] in the process. Scrutiny is also a term historically applied to the examination of initiates into the Catholic faith. It thus has distinctly normative and evaluative connotations. It is a practice through which the inculcation of institutional norms is registered.

We suggest — as a kind of thought experiment — that *scrutiny* is different from other terms for articulating ways of interrogating and interpreting prison life. Unlike inspecting, monitoring, or auditing scrutiny is not directly linked to distinct institutional forms and practices. It is not a notion that is weighed down, for example, by presuppositions about what ought to be produced as a result — such as transparency, facts, faults, or recommendations — and what it is actually about. Deliberating collectively about prison scrutiny is to adopt a creative approach to who looks at what and who and how in prisons.

One of the main ideas behind using this 'exotic' term is to think across the different practices of scrutiny applied to prison life and to exploratively draw on a broad register of scholarship accordingly. A key source of inspiration is, without a doubt, the literature on prison monitoring that links strongly to the history and work of the International Committee of the Red Cross and has accelerated considerably in the last couple of decades since the adoption of the Optional Protocol to the Convention Against Torture (OPCAT) in 2002. The work of Mary Rogan and colleagues is a good example of this,[7] and also features in van der Valk and Rogan's article in this edition. Prison research too is clearly a form of scrutiny. To study the prison social scientifically, for example, is to turn the gaze of the researcher towards logics, dynamics, practices, and effects of imprisonment as well as to the prison's relations with society. Methodological literature on, for instance, researcher reflexivity and research ethics is a particularly relevant reference point about the nuts, bolts and politics of generating knowledge that concerns not only researchers, but also other actors engaged in scrutinizing prisons.[8] Broadening the scope beyond prisons, there exists a vast literature on measurement and auditing more generally (including critical and anthropological scholarship on audit culture and human rights indicators).[9] This literature addresses core and constituent elements related to the assessment of people's and institutions' performance that are also at stake in the particular and peculiar practices of prison scrutiny. Critical inspiration can also be drawn from surveillance studies,[10] and media studies (as Bennett does in this edition). Casting the net even wider, philosophical orientations towards perception and observation (phenomenology, for example), that have inspired the 'sensorial turn' in social science (and prison studies) also offer food for thought in our search for new refreshing ways to delineate ways of seeing and sensing prison life in its own terms and in the terms of those who inhabit them.[11]

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The contributions

This collection features contributions that have an empirical base, focus on the ways a given form of scrutiny affects everyday prison life, and explore questions that bridge theory and practice. We are pleased to present a diverse input to a conversation about scrutiny that includes authors and cases from a range of countries. As we have persistently pointed out elsewhere, prison research must break the Eurocentric thinking about what imprisonment is and means.[12] This obviously also goes for discussions of how they can be known and scrutinized, not least as various

5. Martin, T. M. (2019). The ethnographer as accomplice—Edifying qualms of bureaucratic fieldwork in Kafka's penal colony. *Critique of Anthropology,* 39(2), 139-154
6. Rutherford D. (2012). Kinky empiricism. *Cultural Anthropology* 27(3): 465–479; Jefferson, A.M. (2022). Prison reform and torture prevention under 'compromised circumstances.' *Criminology & Criminal Justice,* 0(0).
7. See for instance: Ciara O'Connell and Mary Rogan (2022). Monitoring Prisons in Europe: Understanding Perspectives of People in Prison and Prison Staff, *Law and Social Inquiry,* p1 – 31; Aizpurua, E., & Rogan, M. (2021). Rights protection in prisons: Understanding recommendations-making by prison inspection and monitoring bodies in the European Union. *Punishment & Society,* 23(4), 455–477.
8. Drake, D.H., Sloan, J., & Earle, R. (2015). *The Palgrave Handbook on Prison Ethnography.* Hampshire: Palgrave.
9. Merry, S. E. (2011). Measuring the World: Indicators, Human Rights, and Global Governance. *Current Anthropology,* 52(S3), 83-95; Power, M. (2003). Evaluating the audit explosion. *Law & Policy,* 25(3), 185-202; Strathern, M. (2000). New accountabilities: anthropological studies in audit, ethics and the academy. In M. Strathern (Ed.), *Audit Cultures.* London: Routledge.
10. Marx, Gary T. (2016). 'Defining the Terms of Surveillance Studies', *In Windows Into the Soul: Surveillance and Society in an Age of High Technology* (Chicago, IL, 2016; online edn, Chicago Scholarship Online, 18 May 2017).
11. Herrity, K. Z., Schmidt, B. E., & Warr, J. (2020). *Sensory Penalties.* Bingley: Emerald.
12. See for instance Martin, T. M., & Jefferson, A. M. (2019). Prison Ethnography in Africa: Reflections on a Maturing Field. *Politique Africaine,* 155(3), 131-152.

forms of policy, laws, techniques, and technicians zip around the world and are translated into different historical, political and cultural contexts with varied consequences.

The first contribution to this edition is from Jamie Bennett, who dives into the role of media and art in scrutinizing prison. Bennett unpacks the powerful history and impact of Jimmy McGovern's three-part BBC TV-series *Time* as a case study to explore the potential of popular culture to be a form of public accountability that offers an independent and rounded assessment of contemporary prisons. Secondly, Kalliopi Kambanella and Brenda van den Bergh share their experiences of applying and adapting creative approaches to prison monitoring considering restrictions and challenges imposed by the COVID-19 pandemic. Together with their project partners in the Philippines, Kambanella and van den Bergh developed a model for oversight-from-a-distance, which raises new questions about core features and traditions of prison scrutiny. Thirdly, Andrew M Jefferson and Tomas Max Martin offer an essayistic reflection on the affinity between the scrutiny practices of prison monitors and prison ethnographers. Based on 20 years of doing prison ethnography, Jefferson and Martin consider the way monitors and ethnographers alike seek to put knowledge of prison life to work as they approach the prison with professional baggage, a set of generic tools and a quest to fashion facts into narratives, often while struggling for access. Fourthly, Sophie van der Valk and Mary Rogan write about their extensive empirical research into the practices of monitoring bodies in Ireland. Based on interviews with prisoners, they examine the barriers to engagement which prisoners face when choosing (or not) to interact with prison oversight mechanisms — barriers that place a limit on when and what prisoners are willing to speak to monitoring bodies about and what is considered worth taking a risk for. The fifth contribution is from Gilles Chantraine, who innovatively turns the exploration of scrutiny styles towards the prison's own practices of gazing at prisoners. Chantraine describes two such scrutiny styles — the 'neo-disciplinary' and the 'warlike' — based on ethnographic case studies of 'prisons for minors' and 'radicalization assessment units' in France,

showing how scrutiny is a form of control, but also how it is resisted by prisoners as well as staff. Finally, the edition returns to prison scrutiny in the nexus between art and activism through Mina Ibrahim's account of the work of the MENA Prison Forum. Andrew M and Tomas Max interviews Ibrahim about the history and cutting-edge work of this network in advocating and facilitating a multidisciplinary engagement with 'the prison' and the experience of imprisonment in the Middle East and North Africa.

Themes

The contributions paint a diverse picture and offer distinct insights according to the cases and issues they address. Yet, several common themes or questions can be identified. We raise a few here. Firstly, it seems evident that scrutiny — across its many forms — has the propensity to *reproduce* institutional power, while also and concurrently having the potential to *transform* institutional power. Some scrutinizers look at prisons with a view to bring practice back on track according to formal standards. As such scrutiny is a top-down practice that seeks to strengthen managers' grip on institutions. In doing so, scrutinizers apply professional tools and discourses that to a great extent reaffirm the grand order of things, the power of formal law and the position of elites. Yet, scrutiny also has the potential to transform. Scrutiny may produce knowledge that can hold people in power accountable for their actions. Scrutinizers may give voice to people, who are silenced and harmed and as such speak truth to power. The contributions show that these two ideal-typical forms of scrutiny are quite muddled in practice. Still, we argue, people who scrutinize prisons (and share our ambition of countering the excesses of prisons and their excessive use) need to stay on their toes to avoid merely reproducing prisons and to make the most of the transformative potential of scrutiny.

Along this line of thinking, the contributions also draw attention to the fact that scrutiny is inherently and ineluctably multi-directional. Prison managers, officers and prisoners scrutinize each other as much as they are subject to scrutiny from outsiders. As such, the contributions jointly stress that questions of whether

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scrutiny is practiced for, with, or against 'the prison' are always at stake.

Formalized forms of prison scrutiny — preventive monitoring, forensic audits, internal inspections etc. — subscribe to certain commonsensical basics: the importance of impartiality, the credibility afforded by professionalism and formal training, the importance of 'being there' to scrutinize *in situ* etc. The contributions show how these basics are twisted and challenged in practice and how seemingly imperfect and embryonic scrutiny practices are, indeed, productive, notwithstanding ensuing limitations and ambiguities. Scrutiny is dynamic, malleable, and contingent. The practice of scrutinizing prisons, its history, its politics, and its consequences must always be understood in context.

Finally, and accordingly, the contributions simply but importantly document that 'prison scrutinizer' is not a protected title. Divisions of labour between media, lawyers, internals, researchers etc. is widespread. With this special issue, we wish to acknowledge this diversity and to encourage prison scrutinizers to learn from each other's faults, to recognise each other's strengths, and to jointly strive to make prisons less closed, less harmful, and less predominant.

Scrutinising prisons through popular culture: Jimmy McGovern's *Time*

Jamie Bennett is a former prison governor, now Chief Strategy Officer at Youth Justice Board.

In June 2021, prisons were thrust into the living rooms of the British public. This was not because of a high-profile incident or major policy announcement, but rather public interest was piqued by BBC's three-part series *Time*. Created by distinguished writer, Jimmy McGovern and starring well-known actors Sean Bean and Stephen Graham, the series attracted an audience of 12 million viewers,[1] and won British Academy Awards for best mini-series and best actor. *Time* was praised by critics including people who have lived and worked in prisons[2] and the Director of Prison Reform Trust described that the series was 'telling a fundamental truth about our prison system'.[3]

With such popular and critical acclaim, can it be argued that *Time* is more than entertainment? It may have been a ratings triumph, an artistic success, and produced a brief talking point for viewers, but is there more that can be claimed? Can *Time*, and indeed popular culture more broadly, be understood as a vehicle to scrutinise the contemporary prison system, to shape public attitudes and generate reform? These are not new questions. Prisons have long been a deep source of fascination for the public and the media. In the now distant past (and presently in some corners of the world), punishments were enacted in public, but the creation of prisons has seen a retreat from public view. England and Wales are high users of imprisonment by Western European standards, with the rate of imprisonment 134 people per 100,000 of the population,[4] but even this equates to less than 0.15 per cent of the population being imprisoned at any time.

For most people exposure to imprisonment is not through personal experience but instead the image of imprisonment is a 'social construction' made up of stories and images gleaned from third party sources such as politics, media, and popular culture.[5] The significance of the media in public understandings of imprisonment leads to questions about what is represented, how it is represented and what the consequences are of those representations.

This article will take up these questions, using *Time* as a case study to explore the potential of popular culture to be a form of public accountability that offers an independent and rounded assessment of contemporary prisons.[6] The article will start by describing *Time* and the work of its creator, Jimmy McGovern. The subsequent sections will explore three primary questions. First, to what extent is *Time* an authentic representation of contemporary prisons in England? Second, what is the benchmark or standards against which *Time* is assessing the prison system? Third, what are the effects of popular representation such as *Time*? Underlying these questions is a claim that popular culture deserves to be taken seriously not only as an art form, but from a sociological perspective as a form of scrutiny.

Jimmy McGovern's *Time*

Jimmy McGovern is a successful and critically acclaimed UK television writer. He came to prominence in the 1980s as a regular writer on the ground-breaking soap opera *Brookside* (1982-2003). He achieved significant success with the series *Cracker* (1993-2006),

1. BBC (2022). *Four of the BBC's biggest dramas The Tourist, The Responder, Vigil and Time to return for a second series on BBC One and BBC iPlayer.* BBC 22 March 2022. Available at https://www.bbc.com/mediacentre/2022/the-tourist-the-responder-vigil-time-second-series-bbc (accessed on 16 July 2022).
2. E.g. see Crilly, J. (2021). BBC's drama Time took me back to being inside – I hope it showed the public how painful prison is. inews 22 June 2022. Available at https://inews.co.uk/opinion/bbc-drama-time-took-me-back-being-inside-hope-showed-public-painful-prison-1063902 (accessed on 16 July 2022).
3. McGeorge, A. (2021) 'Time tells fundamental truth about our prison system and political neglect': BBC drama praised by Prison Reform Trust director. *Metro* 07 June 2021. Available at https://metro.co.uk/2021/06/07/bbc-drama-time-praised-for-fundamental-truth-about-prison-system-14730658/ (accessed on 16 July 2022).
4. World Prison Brief (2022). United Kingdom: England & Wales. Available at https://www.prisonstudies.org/country/united-kingdom-england-wales (accessed on 17 July 2022)
5. Surette, R. (2014) *Media, Crime, and Criminal Justice* Fifth edition. Belmont: Wadsworth, CA.
6. Raine, J. (2008) *Inspection and the criminal justice agencies.* In Davis, H. and Martin, S. (eds) *Public Services Inspection in the UK.* London: Jessica Kingsley Publishers.

featuring hard-drinking and unconventional criminal psychologist Dr Edward 'Fitz' Fitzgerald, working with Greater Manchester Police in solving serious crimes. Other distinguished works have included *The Lakes* (1997-99) and *The Street* (2006-09), which included stories exploring domestic issues such as personal health, happiness and relationships, but also illuminated contemporary social issues including gambling, sexual violence, migration and the effects of military service. McGovern has been particularly acclaimed for his drama-documentaries re-examining recent history, including *Hillsborough* (1996) about the fatal crush at a football ground, which killed 97 Liverpool supporters; *Dockers* (1999) focussing on the strike by Liverpool dock workers between 1995 and 1998 *Sunday* (2002) examining the shooting of 26 unarmed civilians by British paratroopers in Derry in 1972. McGovern combines a popular sensibility, attracting large television audiences, with an ability to blend social and political critique into his work.

The criminal justice system has been a recurring backdrop in McGovern's work. *Accused* (2010-12) was an anthology series in which each episode focussed on a character awaiting a verdict in court, while the mini-series *Banished* (2015) depicted a penal colony being established in 18th century Australia. A notable single drama was *Common* (2014), which tells the story of 17 year old, Johnjo O'Shea, who is present when one of his friends stabs and kills another man at a fast food takeaway. Although not directly involved, O'Shea is convicted of murder under the principle of joint enterprise, or common purpose. The film presents the principle as unjust but also offers some hope, concluding with a reconciliation between O'Shea's mother and the mother of the victim.

Time is McGovern's most sustained examination of the prison system. The main protagonists are Mark Cobden, a teacher who kills a man after a drunk driving incident and is sentenced to four years in prison, and Eric McNally, a respected veteran prison officer whose son is serving a sentence in another establishment. Cobden is out of his depth when he arrives in prison. He is bullied by a prisoner who steals his food and pushes in front of him to use the communal telephone. Cobden shares a cell with Bernard, who is mentally unwell and harms himself, ultimately taking his own life through an overdose of medication. His second cell

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mate, Daniel, succumbs to drug addiction after struggling to come to terms with his crime and his sentence. Cobden struggles with the difficult realities of prison life and is tormented with guilt for his offence. Over time, nevertheless, Cobden establishes himself and starts to forge a life inside. He fights back against the bully, savagely biting his ear, and in doing so wards off potential predators. A Catholic chaplain, Marie-Louise, offers help and involves Cobden in a group where prisoners meet with young people to divert them from crime. Cobden reaches out to the wife of the man he killed, initially writing to her, recognising the harm he has caused and seeking some atonement for his wrongdoing. He uses his teaching skills to help another prisoner, Kavanagh, to learn to read and write. Towards the end of his sentence, Cobden is allowed out on day release to attend a conference where he speaks about his crime. He is pressured by organised criminal, Jackson Jones, to smuggle a parcel of drugs into the prison, but he ultimately decides to refuse, instead accepting a retributive beating. Prison officer, McNally is also targeted by Jones, who threatens that unless McNally brings drugs and phones into the prison, his son will be attacked. McNally initially refuses and arranges for his son to be moved to another prison. This, however, only offers temporary respite and after his son is seriously assaulted, McNally starts to bring contraband into the prison. Once in the grip of the gang, McNally carries on trafficking until he is caught when searched on his way into the prison. Continuing to protect his son, McNally refuses to name any of those involved in orchestrating the operation, and he is sentenced to four years in prison. In the prison reception area, awaiting his sentencing hearing, McNally crosses paths with Mark Cobden, who has reached the end of his sentence and is being released. Outside, Cobden reaches out to the wife of the man he killed and they have an initial, tentative meeting in which she agrees to further contact, saying: 'I want to forgive you, you see. I need to forgive you. But I can't…I'll keep trying'.

Time is successful as popular drama, attracting a sizeable audience and generating media debate about contemporary prisons, including raising challenging issues about mental health, corruption, drug policies, and the causes of crime. It is an example of McGovern's crafting of popular culture and political discourse.

Truth claims in popular culture

Time has been lauded by many for its authenticity. A primary attraction of films and television is that they offer access to the hidden world of prisons. Many popular films claim to be based upon real events, such as *Escape from Alcatraz* (dir Don Siegel, US, 1979) or *Midnight Express* (dir Alan Parker, US, 1978). Others are based upon the lives of real people, such as *Birdman of Alcatraz* (dir John Frankenheimer, US, 1962), *Sense of Freedom* (dir John Mackenzie, UK, 1981) and *Bronson* (dir Nicolas Winding Refn, UK, 2008). Some films have been written by people who have lived and worked in prisons, including *Animal Factory* (dir Steve Buscemi, US, 2000), *Screwed* (dir Reg Traviss, UK, 2011) and *Starred up* (dir David Mackenzie, UK, 2013). Real locations or even prisoners feature in productions, such as *Riot in Cell Block 11* (dir Don Siegel, US, 1954), *The Jericho Mile* (dir Michael Mann, US, 1979) and *Caesar Must Die* (dir Paolo Taviani and Vittorio Taviani, It, 2012). Of course, not all prison films make claims to authenticity, for example the most popular prison film of all time, *The Shawshank Redemption* (dir Frank Darabont, US, 1994), although filmed in a real prison, is set in the past, has an aesthetic that draws heavily on genre conventions, and has themes of friendship, work and freedom that strive for greater universality rather than specifically commenting on imprisonment. Popular television programmes often have a similar pedigree to films, for example, *Orange is the New Black* (US 2013-19) takes its inspiration from Piper Kerman's memoir of her time in prison; *Oz* (US 2002-6) featured two actors who had previously spent time in prison; *Prison Break* (2006-17) was partly filmed in a decommissioned prison, and; *Escape at Dannemora* (US 2018) is based on real life events. While in the UK, the writers of popular series *Porridge* (UK 1974-7) and *Bad Girls* (UK 1999-2006) drew inspiration from the writings of former prisoners, visits to prisons, discussions with prisoners, prison staff and reform groups.

It has been argued that by striving for authenticity, television and films: 'tell us a great deal about the nature of our society, our prisons, and our theorization about prisons at any point in time…'[7] and can: '…act as a kind of social barometer, registering the concerns of their era and may have played a role in disseminating ideas and understandings about the state of penal institutions and where they might be heading'.[8] The reception of *Time* suggests that it has been broadly understood as an attempt to act as this kind of social barometer, reflecting the reality of contemporary English prisons.

In McGovern's distinguished drama-documentaries, he has carefully researched and constructed credible representations that are often at odds with official accounts.[9] For *Hillsborough,* McGovern worked with the families of those killed; *Dockers* was produced from writers' workshops with workers involved in the protracted strike and; *Sunday,* was filmed in the location where the events took place using narrative based on testimonies of those present and the families of the victims. While *Time* is not a drama-documentary, McGovern deployed similar approaches in his production. He had periodically held writers' workshops in prisons and had worked with criminal justice organisations.[10] In writing the screenplay, he corresponded with people inside prisons to ensure authenticity.[11] Similarly, the actors, including Stephen Graham who plays the prison officer, Eric McNally, undertook research including shadowing experienced prison staff.[12] The interior prison scenes were filmed in Shrewsbury prison, which was decommissioned in 2013.[13] Seen in the context of McGovern's work, the series is an attempt to use research, personal

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7. Cheatwood, D. (1998) *Films About Adult, Male, Civilian Prisons:* 1929-1995. In Bailey, F. and Hale, D. (eds) *Popular Culture, Crime, and Justice* Belmont: West/Wadsworth: 209-31. p.227
8. Wilson, D. and O'Sullivan, S. (2004) *Images of Incarceration: Representations of Prison in Film and Television Drama.* Winchester: Waterside Press. p.55
9. Blandford, S. (2013) *Jimmy Mcgovern.* Manchester: Manchester University Press
10. Dougary, G. (2021) *Jimmy McGovern on new BBC prison drama Time: "I didn't want to write an easy villain"*. Radio Times 06 June 2021. Available at https://www.radiotimes.com/tv/drama/jimmy-mcgovern-time-bbc-prison-big-rt-interview/ (accessed on 16 July 2022)
11. Jailhousemoose (2021) Time. 04 June 2021. Available at https://jailhousemoose.wordpress.com/2021/06/04/time/ (accessed on 16 July 2022).
12. Martin, L. (2021) *Stephen Graham and Jimmy McGovern on 'Time', and How the Prison-Industrial Complex Fails Us.* Esquire 03 June 2021. Available at https://www.esquire.com/uk/culture/tv/a36616044/time-stephen-graham-and-jimmy-mcgovern-interview/ (accessed on 16 July 2022).
13. Martin (2021) see n.12

experiences and location to create an authentic account of contemporary English prisons.

The aesthetics of *Time* generate a sense of realism. In particular, the set designer created a 'greying tone' to wash out the actors, heightening the sense of stress and deprivation and making the environment 'look miserable and oppressive'.[14] This was not necessarily an attempt to recreate a realistic image but acted to heighten the emotional texture. In other aspects of the aesthetics, *Time* draws upon media representations. As part of the research, McGovern watched recent prison documentaries, including the Channel 4 series *Prison* (dir Paddy Wivell, 2018), filmed at HMP Durham. There are scenes that deploy a documentary aesthetic, such as de-centered action, where the action comes not from the subject of the image but instead from the background or off-frame. This is used when a fight breaks out in the prison reception area as Mark Cobden first arrives. This technique provides a sense of unpredictability and spontaneity. There is a scene when McNally first smuggles drugs into the prison, which recreates images shot on illicit mobile phones of prisoners suffering the effects of psychoactive substances. Such images circulate on social media and sometimes break into mainstream news. These images can provide unmediated access to hidden aspects of imprisonment.[15] The deliberate recreation of such images offers a semblance of immediacy and illicit access. The aesthetics of *Time* deploy creative devices to generate a sense of emotional realism and authenticity.

Analysis of the narrative highlights the relationship between reality and representation in popular culture. With any narrative, there is a question of selection — what does the artist choose to focus on? In *Time*, the central character, Mark Cobden, is a previously law-abiding 'everyman' who can act as a guide to prison life. This is a well-worn trope used in *Porridge, The*

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Shawshank Redemption and *Orange is the New Black*. This device enables empathy with the central character who is often an atypical or less morally tainted prisoner, and it enables the viewer to be inducted along with the character into the social rules of prison life. The setting of the film is a Victorian prison with its long galleried landings. This setting does not necessarily accord with the reality of prison life, around 25 per cent of prisoners are in Victorian prisons, but it does chime with the public image of what a prison looks like.[16] As well as selection, film making is a creative process that involves embellishment, such as emphasis on action, violence and conflict. While prisons are violent places, they are also domestic spaces in which people conduct their everyday lives. A recent study of prisoners' responses to prison films noted that while the events in films did occur in real life, they were often exceptional rather than being the norm, with most prisoners seeing themselves marginalised in films, being the: 'other guys in shot just playing pool, just going about their daily business'.[17] In his response to *Time*, author and former prisoner Carl Cattermole echoed these observations, suggesting that popular culture could not represent the relentless tedium of prison life, in which 'boredom is more likely to kill you than any psycho'.[18]

Truth claims or authenticity are a significant part of the appeal of prisons in popular culture, including *Time*, with fictional representations sometimes being considered a social barometer of prison practices at a particular time.[19] The nature of these claims, however, is complex. *Time* for example draws upon real experiences, events, practices and places, but this factual base is crafted into a creative form in which choices are made about what to focus on and what emotions and senses to engage. Rather than telling an objective truth, *Time* is a creative representation of reality in which there is a negotiation between the real institution and its representation.

14. Martin (2021). See n.12
15. Schlosser, J. A. and Feldman, L. R. (2022) 'Doing time online: Prison TikTok as social reclamation', *Incarceration*. doi: 10.1177/26326663221095400.
16. Moran, D, Jewkes, Y, March, E & Houlbrook, M (2021) 'The long shadow of the Victorian prison', *Prison Service Journal,* no. 256, pp. 10-14
17. Bennett, J and Knight, V (2021) *Prisoners on prison films* London: Palgrave MacMillan. p.45
18. Maloney, A. (2021). Hell in a cell: BBC's Time is a frighteningly real prison drama that's the ultimate prison deterrent. The *Sun* 11 June 2021. Available at https://www.thesun.co.uk/tv/15247172/bbc-time-real-prison-drama-deterrent/ (accessed on 16 July 2022).
19. Cheatwood, D. (1998) *Films About Adult, Male, Civilian Prisons: 1929-1995* in Bailey, F. and Hale, D. (eds) *Popular Culture, Crime, and Justice* Belmont: West/Wadsworth p. 209-31; Wilson, D. and O'Sullivan, S. (2004) see n.8

Contesting penal values in popular culture

McGovern's writing has a consciously political edge. He has outlined three rules when writing drama-documentary:[20] write them because the victims or their families have asked you to write them; the process of writing must empower the powerless; and the camera must go to places where those in power do not want it to go. While it is not always common for writers to be so consciously political, sociologist Stuart Hall[21] has observed the ubiquity of encoded political values in media.

Media representation of prison plays a role in explaining crime, framing the problems and guiding emotional responses.[22] It has been argued that media representations can be understood as a 'power resource'[23] offering idealized visions of social order. People hold different ideas about what prison is or should be, and this is played out in media representation. It is widely argued that the dominant media discourse, including news, documentary and fiction, represents prisoners as dangerous and violent and prisons being inadequate to meaningfully reform people.[24] These depictions are concerned with maintaining the status quo and legitimizing the use of imprisonment for containment. In contrast, it has been argued that there is an 'alternative tradition' in prison films[25] and that the media may promote penal reform by: providing an insight into a world that the general public know little about and have little direct experience of; providing a benchmark for acceptable treatment; translating academic and political concerns into digestible narratives; exposing perspectives that are often at odds with media and official descriptions; creating empathy with offenders, victims and staff.[26] It has even been argued that some representations promote a radical critique drawing upon critical criminology that reveals the nature of the harms caused by punishment and the underpinning power interests that are served.[27] In the different media visions of the prison, debates about criminal justice are being played out.

In *Time*, McGovern uses the narrative to present criticisms of the contemporary penal system and to suggest alternative approaches. The experience of prison is depicted as harmful, with pervasive violence, mental health problems, and drugs. The violence depicted includes bullying, retribution, and enforcement activity by organised criminal gangs. Violence is a common feature in fictional representations, but does reflect a material reality in contemporary prisons. Violence in English and Welsh prisons accelerated after 2015, reaching a peak in 2019,[28] with the independent inspectorate of prisons expressing concern about deteriorating safety.[29] Self-harm also increased during the same period.[30] The film shows the wider problem of mental health in prisons when Cobden shares a cell with Bernard, who is unstable, unpredictable, and violent towards himself and others. When he takes his own life, his mother protests in the prison car park, confronting McNally, who empathises with her but attempts to explain the context:

> *'You say he should have been in the hospital and I agree with you Mrs. Hughes. But that goes for half the men in this place. They should be in mental hospitals not in the nick. But there's no room, so they stay here, and we do the best we can for them'*

People in prison are more likely to have mental health conditions than the general population and the

> People hold different ideas about what prison is or should be, and this is played out in media representation.

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20. McGovern, J. (2004) *The power of truth*. The Guardian 10 June 2004. Available at https://www.theguardian.com/film/2004/jun/10/features.features11 (accessed on 16 July 2022)
21. Hall, S. (2013) The work of representation in Hall, S., Evans, J. And Nixon, S. (Eds) *Representation* Second edition London: Sage p.1-59
22. Rafter, N. (2000) *Shots in the mirror: Crime films and society* Oxford: Oxford University Press
23. Ericson, R., Baranek, P., and Chan, J. (1991) *Representing order: Crime, law and justice in the news media* Milton Keynes: Open University Press. p.11
24. Surette (2014). See n.5; Brown, M. (2009) *The culture of punishment: prison, society, and spectacle* New York: New York University Press
25. Rafter (2000). See n.22
26. Wilson and O'Sullivan (2004). See n.8
27. Bennett, J. (2014) *Repression and revolution: Representations of criminal justice and prisons in recent documentaries* in Prison service journal No.214 p.33-8
28. See https://data.justice.gov.uk/prisons/safety-and-order#assaults-rate-prisoner. Accessed on 11 August 2022.
29. HM Chief Inspector of Prisons for England and Wales (2019). *Annual Report 2018–19*. Available at https://www.justiceinspectorates.gov.uk/hmiprisons/wp-content/uploads/sites/4/2019/07/6.5563_HMI-Prisons-AR_2018-19_WEB_FINAL_040719.pdf. Accessed on 11 August 2022.
30. See https://data.justice.gov.uk/prisons/safety-and-order#assaults-rate-prisoner. Accessed on 11 August 2022.

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prison environment can be detrimental to mental health.[31] The House of Commons Justice Select Committee has recently concluded that there are longstanding problems regarding mental health in prisons, including significant unmet needs and mentally ill people being sent to or kept in prison due to a shortage of mental health services in the community.[32] With regard to drugs, *Time*, shows how Cobden's second cell mate, Daniel, turns to drugs to dull the emotional pain as he struggles to come to terms with his crime and sentence. Many people in prisons have drug problems and although rates of positive drug tests vary from prison to prison, the national rate was around 15 per cent prior to the coronavirus pandemic in 2020.[33] One survey in 2017/18 found that 8 per cent of women and 13 per cent men did not have a prior drug problem but developed one in prison.[34] *Time* examines and exposes the impact of organised crime in prisons. It has been argued that a lucrative market opened in prisons in the mid-2010s due to the emergence of psychoactive substances, which were initially undetectable and easier to smuggle into prisons, and attempts to prevent and control smuggling were impacted by reductions in staff resources.[35] The drugs market in prison brought violence, including exploitation of vulnerable people, enforcement of debts, and competition between rival groups.[36] In *Time*, Jackson Jones is the head of a criminal organisation that spans inside and outside of the prison. He threatens prisoners, including in a different prison, and can intimidate and compromise a member of staff. The depiction of organised crime reflects a changing prisoner society in which the illicit economy produces new forms of prison victimization and generates greater economic power and status for suppliers.[37] The depiction of violence, drug misuse mental health, and organised crime is grounded in material concerns about the prison system, concerns that have been identified in academic and official accounts.

Although bleak, *Time* is not without hope and indeed promotes more progressive practices. As Cobden endures his prison sentence, he is not alone. Even as his marriage dissolves, he receives unstinting support from his elderly parents, who regularly visit him. The scenes in the visits room show men nervously waiting, seated at tables before the visits start, the music then swells as the doors open, with excitable children, smiling partners and relatives entering the hall, embracing their loved ones. The visits hall is shown as a place in which people in prison can drop their prison mask and once again be fathers, husbands and family members. Although family relationships can be strained, or even broken by the prison experience, those relationships can help people to survive in prison and rebuild their lives after.[38] Relationships with staff are shown to be important, with Eric McNally depicted as an even-handed and conscientious officer, who is not soft, idealistic or naïve but has clear and consistent boundaries. McNally displays many of the characteristics of a role model prison officer.[39] It is only the threat to his son that leads him to become corrupted. A more idealistic and impassioned member of staff is the chaplain, Marie-Louise, who offers support to Cobden. In a particularly moving sequence, after Cobden is prevented from attending his father's funeral, Marie-Louise, holds a parallel service for him in the prison chapel. McGovern's Catholic faith has often

> Although family relationships can be strained, or even broken by the prison experience, those relationships can help people to survive in prison and rebuild their lives after.

31. Bradley, K. (2009) *The Bradley Report: Lord Bradley's review of people with mental health problems or learning disabilities in the criminal justice system.* Available at https://lx.iriss.org.uk/sites/default/files/resources/The%20Bradley%20report.pdf. Accessed on 11 August 2022.

32. House of Commons Justice Committee (2021) Mental health in prison. Available at https://committees.parliament.uk/publications/7455/documents/78054/default/. Accessed on 11 August 2022.

33. See https://data.justice.gov.uk/prisons. Accessed on 11 August 2022.

34. Cited in Black, C. (2020). *Review of Drugs: Executive Summary.* Available at https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/897786/2SummaryPhaseOne+foreword 200219.pdf. Accessed on 11 August 2022.

35. Gooch, K. and Treadwell, J. (2020). *Prisoner Society in an Era of Psychoactive Substances, Organised Crime, New Drug Markets and Austerity.* In *British Journal of Criminology* 60(5): 1260-1281.

36. Gooch, K. and Treadwell, J. (2021). *'It doesn't stop at the Prison Gate': Understanding Organised Crime in Prison.* In *Prison Service Journal* No.252 p.15-30

37. Gooch, K. and Treadwell, J. (2020). See n.36.

38. Farmer, M. (2017) *The Importance of Strengthening Prisoners' Family Ties to Prevent Reoffending and Reduce Intergenerational Crime.* Available at https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/642244/farmer-review-report.pdf. Accessed on 12 August 2022.

39. Liebling, A., Price, D. and Shefer, G. (2011) *The Prison Officer* Second edition Abingdon: Willan

permeated his work, including the film *Priest* (dir Antonia Bird, UK, 1994). Cobden's experiences of guilt and attempts at atonement are rooted in faith, and in Marie-Louise, McGovern depicts prison chaplains fostering hope and light in the darkness of the prison.[40] As well as receiving support from others, Cobden uses his skills as a teacher to help a fellow prisoner, Kavanagh, to learn to read. Peer support literacy programmes have been nurtured by the charity Shannon Trust as a way of helping those who have difficulties with reading and writing.[41] Through this relationship, the series shows the power of peer support in prisons.[42] Together, peer support, family support and staff-prisoner relationships present the potential for prisons to be places where communities are forged and 'rehabilitative cultures'[43] emerge that enable people to experience personal growth and positive change.

McGovern uses *Time* to promote alternative approaches to criminal justice, including prevention and restorative justice. Prevention is the focus of the sessions held in the chapel in which prisoners meet with children at risk of committing serious crime. The prisoners discuss their life experiences and experiences in prison: Daniel talks about killing a man in a fight; Paul explains how his gambling addiction led to him neglecting his family, and; Baz describes how he was disfigured after being attacked by other prisoners, who threw boiling water mixed with sugar into his face. In the first two episodes, the children sit silently listening to these stories, but in the third the children give testimony of how the group has encouraged them to avoid crime and focus on education. The groups play a dual function of both allowing life stories of people in prison to be presented to the viewing audience, as well as suggesting that people in prison can play a role in generativity, that is adults helping to educate and divert younger people from crime. The Oscar winning documentary, *Scared Straight!* (dir Arnold Shapiro, US,

> Together, peer support, family support and staff-prisoner relationships present the potential for prisons to be a place where communities are forged.

1978) popularised the idea that prisoners could undertake this work, albeit in that documentary, the diversionary programme relied upon intimidating and humiliating the children as a form of deterrence. The idea that exposing children to prisons as a diversionary approach has persisted, despite research showing that not only is it ineffective, but can be harmful, making future offending more likely.[44] Although the group depicted in *Time* is based on education rather than intimidation, it nevertheless continues to perpetuate the myth that exposing children to prisons is a beneficial preventative activity. More successfully, *Time*, shows the limitations and potential of restorative justice — an approach that brings those harmed by crime and those responsible for the harm into communication, enabling them to repair harm and find a positive way forward.[45] Restorative Justice can be a complex and difficult journey. Cobden is rebuffed in his initial attempts to contact the wife of the man he has killed, and while Daniel meets the parents of the man he has killed, the meeting ends in acrimony and he reacts by turning to drug misuse. Only at the end of the series, when Cobden has his first tentative meeting with the wife of his victim, is it suggested that restorative justice can be a productive approach for all people affected. McGovern had touched upon the potential of restorative practices, in *Common*, which ends with a meeting between the mother of a young man who has been murdered and the mother of another young man who has been convicted under joint enterprise rules.

Time can be placed in the alternative tradition of film and television. McGovern depicts some of the problems of prisons including violence, organised crime, drug misuse, mental health and suicide. By doing so, McGovern translates academic, practitioner and policy concerns into a digestible form, and sets a benchmark of what is acceptable or unacceptable. The series is also a vehicle for presenting the progressive

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40. Kirk Beedon, D. (2022) *Pastoral care for the incarcerated : hope deferred, humanity diminished?* London: Palgrave MacMillan.
41. See https://www.shannontrust.org.uk/in-prisons.
42. Bagnall, A., South, J., Hulme, C. et al. (2015) *A systematic review of the effectiveness and cost-effectiveness of peer education and peer support in prisons.* In *BMC Public Health* 15:1 p1-30.
43. Mann, R., Fitzalan Howard, F., and Tew, J. (2018) *What is a rehabilitative prison culture?* In *Prison Service Journal* No.235 p.3-9
44. Petrosino, A., Turpin-Petrosino, C. and Buehler, J. (2003) *Scared Straight and Other Juvenile Awareness Programs for Preventing Juvenile Delinquency: A Systematic Review of the Randomized Experimental Evidence.* In *The ANNALS of the American Academy of Political and Social Science.* 589(1) p.41-62.
45. See https://restorativejustice.org.uk/what-restorative-justice.

potential of communities including family, peer support and staff-prisoner relationships. *Time* suggests that a reformed prison system may have a wider role in preventing and responding to crime. Generative prevention through adults in prison educating and attempting to deter young people is, albeit misguidedly, offered as a way of breaking cycles of crime, while restorative justice is depicted as a complex but potentially more constructive response to crime. While the precise approaches included in the series may be questioned, the wider significance is that McGovern is deploying the narrative to present education and atonement as progressive alternatives to punitiveness.

The effects of popular representation

There has been a perennial debate about the effects of media representations — often centred around whether media representation promotes violence. Some prison films have been swept up in controversies around their perceived effects. For example, *A Clockwork Orange* (dir Stanley Kubrick, US/UK, 1971) was removed from distribution in the UK following the media and political furore around allegations of copycat incidents[46], while *Natural Born Killers* (dir Oliver Stone, US, 1994) generated a media and political panic as well as prompting litigation based on allegations that it inspired real life violence.[47] While both films contain violent scenes, they are technically accomplished and intellectually astute, challenging media and political exploitation of violent crime. On television, *Scum* (dir Alan Clarke, 1977) became a cause celebre when its searing critique of the borstal system, including violence, racism and suicide, proved too hot to handle for the BBC and it was banned from broadcast.[48] The makers remade it with largely the same cast two years later and released it in cinemas. It remains an iconic British prison film, although the original TV film is less

> While both films contain violent scenes, they are technically accomplished and intellectually astute, challenging media and political exploitation of violent crime.

well known and was only aired on television in 1991. *Time*, has in contrast had a warm reception from audiences and critics, but can this translate into political action of the type intended by the series creators?

Jimmy McGovern has previously used drama documentary as a vehicle for promoting social justice, particularly, *Sunday* and *Hillsborough*. These films were made and broadcast while the issues they depicted were controversial and the subject of political and legal scrutiny. It was only in 2010 that the Bloody Sunday Inquiry[49] revealed the full extent of the actions of the British Army in Derry, described by the then Prime Minister, David Cameron as 'unjustified and unjustifiable'.[50] The definitive account provided by the Hillsborough Independent Panel was published in 2012[51] and in 2016 a coroner's court determined that the victims of the tragedy had been 'unlawfully killed' due to failures of the police, ambulance service, the owners of the football stadium and safety inspectors.[52] McGovern's films cannot be seen in isolation but are often part of a wider campaign for justice including grassroots activism by families, legal action, political advocacy, investigative journalism and academic research. McGovern's work was part of the media branch of the campaigns, raising awareness, amplifying the voices of the victims and agitating for action. One of the exemplars of prison reform through media is the case of Robert Burns, a First World War veteran who was imprisoned in the brutal Georgia chain gang. After escaping he established himself as a successful publisher. He later agreed to return to Georgia on the understanding he would receive leniency but when the state reneged, he escaped again. His memoir *I Am a Fugitive from a Georgia Chain Gang!* was published in 1931 and made into a successful film in 1932. This generated pressure for Georgia to pardon Burns and reform their penal system. This eventually came to fruition, albeit more than a

46.   Kramer, P. (2011). *A Clockwork Orange*. Basingstoke: Palgrave MacMillan.
47.   Courtwright, D. (2000). *Way Cooler Than Manson: Natural Born Killers*. In Toplin, R. (Ed) *Oliver Stone's USA: Film, history and controversy.* Kansas: University of Kansas Press p. 228-48.
48.   Kelly, R. (1998). *Alan Clarke.* London: Faber
49.   See https://www.gov.uk/government/publications/report-of-the-bloody-sunday-inquiry
50.   Cameron, D. (2010) PM: *Statement on Saville Inquiry.* Available at https://www.gov.uk/government/news/pm-statement-on-saville-inquiry#:~:text=I%20never%20want%20to%20believe,ask%20our%20soldiers%20to%20serve (accessed on 22 August 2022).
51.   Available at https://www.gov.uk/government/publications/the-report-of-the-hillsborough-independent-panel (accessed on 22 August 2022).
52.   See https://www.bbc.co.uk/news/uk-england-36138337 (accessed on 22 August 2022)

decade later.[53] Of course, *Time* is not based upon a real-life individual case of injustice but is concerned with the general state of the prison system and is a clarion call for reform. *Time* is best seen as being situated within a broader discourse about prison reform, along with other activity such as advocacy by grassroots organisations and penal reform groups; the research and commentary of academics and scrutiny bodies; the contributions of professional representatives; litigation by prisoners, families and other interested parties. Advocacy and agitation through the various mediums can have a cumulative effect of promoting reform.

It should be remembered, however, that audiences do not necessarily receive representations of prisons in the ways intended by the creators. The examples of *A Clockwork Orange, Natural Born Killers* and *Scum* attest to this. The responses to *Time* suggest that different viewers or interested parties read the series differently or choose to emphasise different aspects. While one former prisoner, John Crilly, described *Time* as 'a real, no holds barred, depiction of the harsh, brutal and torturous life that is imprisonment' that could 'awaken the public to what prison is really like',[54] another former prisoner, Chris Atkins described aspects of the series, particularly the depiction of prison officers, as 'a bit of a fantasy really'[55] that gave a misleadingly positive image. There were also disagreements about the political messages being conveyed. The Director of Prison Reform Trust saw the series as a condemnation of 'years of political neglect' and a challenge to the current government's policies,[56] while the Ministry of Justice described the series as illustrating why they were making changes including reducing and more closely supervising time out of cell for prisoners.[57] A further argument made in the popular press was that the bleak depiction of prisons: 'should prove the ultimate deterrent to would-be criminals'.[58] These different readings are often drawing upon pre-existing values and perspectives, rather than solely reflecting the content and intentions of *Time* and its makers.

Media representation is an important way in which the public understand what happens in prisons. Attempts to use television drama to advocate for social justice and reform have uncertain prospects. While there are cases where drama has contributed towards broader campaigns, including some supported by McGovern, audiences are not comprised of automatons who uncritically consume what is presented to them. Audiences draw upon their own pre-existing values and interests. It is for this reason that controversies over films have emerged, and there are conflicting and contradictory readings of *Time*. Rather than being a one-way communication channel in which audiences can be directed by film makers, popular culture is best seen as a medium in which social institutions, including prisons, are contested — a space where ideas are presented and debated.

A further argument made in the popular press was that the bleak depiction of prisons: 'should prove the ultimate deterrent to would-be criminals'.

Conclusion

The critical and popular success of *Time* generated public discussion about prisons and led to some hope that public mood was being altered in favour of progressive change. This article has attempted to offer a more considered analysis of *Time* as a case study of the ways in which popular culture can act as a form of public scrutiny by offering an authentic insight into contemporary prisons in England; assessing the system against a benchmark; influencing reform and improvement.

The discussion in this article has elucidated three ways in which popular culture and public scrutiny intersect. First, as an authentic examination of the practices and lived experiences within a specific institution at a specific time. *Time* drew upon research, real experiences, and locations and is an exemplar of how some media producers exercise care in creating representation grounded in reality. But even a series as good as this is not an unvarnished truth but is instead a

53.   Bennett, J. (2006). *I am a fugitive from a chain gang*. In *Prison Service Journal* No. 164 p. 53-56
54.   Crilly (2021) see n.2
55.   Barr, S. (2021). Ex-prisoner finds Stephen Graham's police officer in BBC drama Time 'unrealistic': 'It's a bit of a fantasy'. Metro 09 June 2021. Available at https://metro.co.uk/2021/06/09/ex-convict-finds-stephen-grahams-police-officer-in-time-unrealistic-14742126/ (accessed on 16 July 2022).
56.   McGeorge (2021) see n.3
57.   Ryan, J. (2021). How BBC prison drama Time starring Sean Bean 'helped make the Government's case for a planned crackdown in jails'. Mailonline 19 June 2021. Available at https://www.dailymail.co.uk/news/article-9704689/How-BBC-prison-drama-Time-helped-make-Governments-case-planned-crackdown-jails.html (accessed on 16 July 2022).
58.   Maloney (2021) see n.18.

creative production using narrative and aesthetic devices. Media representation of prisons offer a negotiation between reality and fiction and as such are a partial and incomplete insight into the conditions of contemporary imprisonment. Second, scrutiny involves the application of a set of defined standards, such as human rights laws and conventions, to structure evaluation. *Time* does not apply a set of legalistic standards, but does adopt a critical, evaluative approach. The narrative reflects a set of contemporary concerns about prisons including those expressed through popular, official, and academic accounts — such as violence, self-harm, mental health, and organised crime. The series translates these concerns into a digestible narrative that offers a benchmark of acceptable or unacceptable treatment. The series also develops characters that the audience can empathise with, so offering a humanistic portrait that asserts that people in prison are not 'others' but are worthy of human dignity and protection of rights. Although *Time* takes a less formal or legalistic approach compared to inspection or monitoring, it nevertheless does have embedded assumptions and evaluative judgements about aspects of contemporary penal practices in England. The series goes further by presenting an alternative approach to imprisonment based upon family, community building, and restorative justice. The narrative nurtures a hopeful vision of a better approach to imprisonment. In many ways, *Time* epitomises how popular culture can be deployed for the purposes of penal reform or advocating a particular perspective, set of expectations or values in penal practice. Third, scrutiny attempts to promote wider public understanding and action. McGovern shows great craftsmanship in his screenwriting to engage a popular audience but does so with a political purpose. The reception of *Time* shows that film and television is not received in a vacuum but instead audiences draw upon pre-existing values, beliefs, experiences and knowledge in making meaning of what they watch. The readings of *Time* vary, just as the purpose of prisons is contested in society.

Popular culture deserves to be taken seriously as a form of scrutiny as it is the only means through which most people encounter prisons. Media representation is, however, imperfect in terms of accuracy and reliability; it provides an inconsistent benchmark of standards; its impact is uncertain. *Time* is an illustration of the potential and limitations of popular culture as form of scrutiny.

Scrutinizing the prison during a pandemic and beyond: Oversight from a distance in the Philippines

Kalliopi Kambanella is senior legal advisor and **Brenda van den Bergh** is senior public health advisor at DIGNITY — Danish Institute against Torture

Abstract

This article presents how DIGNITY and its partners in the Philippines applied adaptive and creative approaches to prison oversight in light of restrictions and challenges imposed by the COVID-19 pandemic. Before the start of the pandemic, conducting effective prison oversight and engaging in constructive dialogue with prison authorities seemed highly dependent on monitors being physically present in the field. When pandemic-related restrictions were put in place, oversight bodies were unable to conduct on-site visits. This was a major challenge, especially at a time when the risk of human rights violations in prisons was heightened due to the efforts by the authorities to manage the pandemic.

Questions around how to continue to play an oversight role while the prison itself is 'out of sight' and how to continue serving a torture preventive mandate became central. The basic principles of do no harm and confidentiality needed to be respected in a totally new operational context for oversight bodies and prisons.

In this article, the authors unpack how DIGNITY and its partners in the Philippines reflected, redesigned and reframed oversight methodologies to meet these challenges. New working modalities and a creative approach to preventive oversight, namely 'remote monitoring', were developed and applied. Although the remote monitoring approach was developed specifically for the Philippines, it may hold considerable potential and resonance in other contexts where organizations are denied access to prisons temporarily or permanently. Such new ways of connecting with the field *from a distance* may prove to provide new insights into the experience of imprisonment and new avenues for torture prevention to be explored. In the longer term, the way oversight bodies adapt and respond to

challenges will re-define and further establish their role as a credible and impartial actor in torture prevention.

DIGNITY[1] is a non-governmental, rights-oriented, knowledge-based, development organization based in Denmark but working globally, through partnerships with civil society organizations and state actors, to prevent torture and alleviate its effects.

The Commission on Human Rights (CHR)[2] is the Philippines' National Human Rights Institution based on the Philippines' Constitution. The CHR is mandated to conduct investigations on human rights violations against marginalized and vulnerable sectors of the society, involving civil and political rights. The CHR has a mandate, among others, to visit places of detention including prisons and submit reports with its findings and recommendations to improve the conditions and treatment of those detained. Although the Philippines has ratified the OPCAT since 2012, it has not yet established a National Preventive Mechanism (NPM) responsible for monitoring places of detention. In response, the CHR created a specialized monitoring team, with the participation of civil society representatives, to act as an interim NPM (CHR-INPM) until the NPM is fully operationalized through relevant legislation. The CHR-INPM consists of a group of 11 regular members and a Technical Working group (TWG) of 11 substitute members. The regular members are three CHR commissioners, two lawyer-experts on human rights and six other individual experts, including a member representing civil society. The 11 substitute members also reflect the same composition, with members from the CHR, lawyers, independent experts and a civil society representative, currently from DIGNITY's partner, BALAY.

BALAY[3] is a Philippine human rights civil society organization providing psychosocial services and rehabilitation to internally displaced persons and

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1. https://www.dignity.dk/en/
2. https://chr.gov.ph/
3. https://balayph.net/

survivors of torture and organized violence. Balay has been a long-standing partner of DIGNITY in the implementation of projects related to torture prevention and rehabilitation. Balay is also a member of the CHR-INPM (as part of the Technical Working Group) and participates in undertaking monitoring visits to places of detention.

DIGNITY and BALAY implemented an EU-funded project during 2018-2021 called 'Human-rights based approaches to torture prevention in the Philippines'. During the project, DIGNITY collaborated closely with the CHR-INPM in building the capacity of the monitoring team to perform their preventive visits in prisons in the Philippines, also during the pandemic.

Introduction

The COVID-19 pandemic posed a variety of challenges within prisons around the globe in terms of preventing and managing the spread of COVID-19 as well as managing positive cases. This was mainly due to their enclosed nature combined with systemic and chronic issues such as overcrowding, limited access to healthcare services for detainees and poor material conditions. Managing prisons in such conditions also raised significant dilemmas in terms of protecting prisoners' health and overall public health, while also respecting and fulfilling the rights of detained persons.[4] In some cases, measures taken to manage the pandemic heightened the risk of torture, ill-treatment and other human rights violations. For instance, suspension of family visits and group activities (recreational, educational) limited the opportunities for maintaining ties with the outside world and socializing within the prison. In addition, preventive isolation/quarantine along with the suspension of judicial hearings, presented a risk to the implementation of basic legal safeguards, fair trial standards and the prevention of arbitrary detention.

Soon after the start of the pandemic, several international bodies published guidance and statements related to the prevention and management of COVID-19 in prisons[56789] This guidance was addressed to prison authorities regarding their approach to the pandemic in light of human rights standards. It was obvious that the pandemic was not only causing a public health crisis. It was also amplifying the risks and vulnerabilities of those in detention regarding the respect of human rights. In such a situation, independent oversight was of utmost importance to scrutinize measures applied by the prison authorities and to be able to submit relevant recommendations to address and prevent the risk of torture, ill-treatment and other human rights violations.

DIGNITY has for many years worked in the field of independent oversight of places of detention, working with the 'preventive monitoring'

> It was obvious that the pandemic was not only causing a public health crisis. It was also amplifying the risks and vulnerabilities of those in detention regarding the respect of human rights.

4. For more on managing Covid- 19 in prisons, please see: DIGNITY (2020). *Global guidance and recommendations on how to prevent and manage COVID-19 in prisons.* DIGNITY Danish Institute against Torture, Denmark, 2020 https://www.dignity.dk/wp-content/uploads/GuidanceSynthesisCOVID-19Prisons_16.07.pdf (accessed 28 November 2022).

5. OHCHR, UNAIDS, UNODC, WHO (2021). *Joint statement on Covid-19 in prisons and other closed settings.* UN Office of the High Commissioner for Human Rights, May 2021 https://www.unodc.org/documents/Advocacy-Section/20200513_PS_covid-prisons_en.pdf (accessed 1 December 2022).

6. WHO/Europe (2020). WHO *Checklist to evaluate preparedness prevention and control of COVID-19 in prisons and other places of detention.* World Health Organization Regional Office for Europe, 2020 https://www.euro.who.int/__data/assets/pdf_file/0020/438041/Covid19-PrisonsChecklist-eng.pdf (accessed 28 November 2022). WHO/Europe (2021). *WHO Interim guidance. Preparedness, prevention and control of COVID-19 in prisons and other places of detention.* World Health Organization Regional Office for Europe, Denmark, February 2021 https://apps.who.int/iris/bitstream/handle/10665/339830/WHO-EURO-2021-1405-41155-57257-eng.pdf?sequence=1&isAllowed=y (accessed 28 November 2022).

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9. CPT (2020). *CPT Statement of principles relating to the treatment of persons deprived of their liberty in the context of the COVID-19 pandemic.* European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), Council of Europe, 20 March 2020. https://rm.coe.int/16809cfa4b (accessed 28 November 2022).

approach based on the Optional Protocol to the UN Convention against Torture and Cruel, Inhuman and Degrading Treatment or Punishment. *Preventive monitoring* refers to a system of regular visits by an independent body to identify any risks or breaches of human rights, map possible causes and underlying conditions for such risks and breaches, and act proactively through submitting relevant recommendations and having a constructive dialogue on the implementation of recommended actions to prevent torture and ill-treatment. Through partnerships, DIGNITY has supported several organizations around the world to apply such a preventive monitoring approach to their visits in prisons and other detention facilities. Access to prisons for such monitoring visits is usually granted to National Human Rights Institutions, National Preventive Mechanisms[10] (NPMs) and, in some cases, also to Civil Society Organizations (CSOs).

The system of regular visits is an integral part of the preventive monitoring framework. Visits include access to all premises of the prison to observe the conditions and treatment, the power to conduct confidential interviews with detainees and staff, as well as the review of any records kept in the facility. Physical visits enable a monitor to observe and sense the conditions and treatment in a prison making use of all his or her senses, which can only be fully done when being physically present in a place. Visits also provide a unique opportunity to conduct confidential interviews with detainees and prison staff in person. These interviews often form the basis of trust-building relations between monitors, detainees and prison staff. Furthermore, the possibility of independent experts regularly visiting a prison is considered to have a deterrent and preventive effect in and of itself. This is based on the premise that the risk of violations is higher if places of detention remain closed to the outside world. The more open to independent scrutiny places of detention become, the less the risk of torture, ill-treatment and other human rights violations. Before the start of the pandemic, most oversight bodies relied almost exclusively on conducting such regular on-site visits to prisons and provided well-grounded findings and effective recommendations for improvements through their visit reports.

> The more open to independent scrutiny places of detention become, the less the risk of torture, ill-treatment and other human rights violations.

Early in the pandemic, access to prisons by visitors — including monitoring bodies — was no longer possible. And in most countries, prisons remained mostly inaccessible for a long period of time. The restrictions on visits to prisons were applied in different ways and followed different timelines, depending on how the pandemic evolved in each country. In countries where the restrictions for the general population remained quite strict (for example through movement restrictions, curfew etc) or where there were high numbers of COVID-19 cases, monitoring bodies were not able to access prisons for a long time. In other countries, the easing of restrictions in general offered the opportunity for monitoring bodies to resume their visiting activities. During this time, detention staff were facing complex challenges and those deprived of liberty were facing amplified risks of torture and ill-treatment created by the restrictive measures related to the pandemic. But the prison was 'out of sight' for monitoring bodies, who were stripped from one of their most essential powers — the power to visit prisons and other detention settings. This was an unprecedented situation, especially for NPMs which normally enjoy unfiltered access based on their relevant legislation.

These troubling circumstances posed new challenges for monitoring bodies linked to questions around access and serving their preventive role. For monitoring bodies around the globe, the COVID-19 pandemic created a risk of paralysis and irrelevancy. If monitoring bodies were not able to get 'first-hand' information and observations by being inside the prison, how could they provide well-grounded findings and recommendations? And if they were not able to serve their purpose in a way that responded to the needs on the ground during a crisis that went far beyond a health crisis, then would their legitimacy, credibility and role not be questioned?

This situation raised a set of issues and fundamental questions that required reconfiguring what 'access' could mean in the COVID-19 context and what adaptations would be necessary to continue scrutinizing the prisons effectively from the *outside*. But it was not just about adaptations in the methodology relating to visits. It was also about maintaining the

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10. National Preventive Mechanisms (NPMs) are monitoring bodies established in accordance with the *Optional Protocol to the UN Convention against Torture and other Cruel, Inhuman, or Degrading Treatment or Punishment*. United Nations Office of the High Commissioner on Human Rights, New York and Geneva, 2006 https://www.ohchr.org/en/instruments-mechanisms/instruments/optional-protocol-convention-against-torture-and-other-cruel (accessed 28 November 2022).

relations with those deprived of liberty and prison management/staff outside the usual visiting framework and ensuring that their voices were still being heard, even if 'accessed' remotely. This also required reconfiguring the spaces and the avenues for constructive interactions to ensure that monitoring bodies were receptive to the issues in prisons as they were evolving at the time, and that they continued to be perceived and positioned as a key stakeholder and an expert interlocutor throughout the pandemic, and beyond.[11]

In this article we, the authors, describe how DIGNITY was faced with such issues in its work in the Philippines and elaborate on the experiences of adaptation and innovation to respond to the challenge of scrutinizing prisons from the *outside*. We unpack this in four parts. The first part presents the impact of the pandemic on the work of DIGNITY and its partners in the Philippines. Then, we unfold the process of reflecting and adapting to the unprecedented situation created by the pandemic through describing the dilemmas and questions that DIGNITY and its partners had to respond to. In the third part, we present the chosen response — the remote monitoring framework — and its different elements, challenges and learnings. Lastly, we share our thoughts about the possible potential of the remote monitoring methodology as a complimentary approach to scrutinizing prisons, also beyond the pandemic.

Challenges in our work in the Philippines during the pandemic

At the start of the pandemic, DIGNITY was working with Balay and the Commission on Human Rights (CHR) in implementing an EU-funded project on torture prevention. This project included focus on the provision of psychosocial support in prisons by Balay, and capacity-building activities for the newly formed interim NPM team within CHR (CHR-INPM) combined with regular prison monitoring visits and submitting reports. This work was to include continuous

interactions on-site between Balay, CHR-INPM and the prison and jail authorities, as well as detainees.

The crisis, however, changed the conditions under which DIGNITY and its partners worked together. Each partner was affected in different ways.[12] For our partnerships in the Philippines, it meant that Balay was no longer able to offer support to prisoners, while the visits of the CHR-INPM were interrupted. No external visitors, including monitors, were allowed to enter prisons in the Philippines, and no one was able to predict for how long these restrictions would be in place.

This situation raised a set of challenges linked to crucial aspects of the preventive mandate of the CHR-INPM. As the CHR-INPM was not able to enter prisons, this meant that the monitoring team did not have access to detainees and to relevant records kept within the prison. There was also no way of observing the conditions and treatment on-site. Moreover, monitors had no avenues for engaging in person with prison staff and management, due to restrictions on movement and gatherings also in the public space. Not to mention that prison staff were extremely overwhelmed and overburdened with efforts to prevent and manage COVID-19 within their prisons. Therefore, the human and in-person interactions that were so central for gathering information and understanding the situation in prisons, as well as for being able to have a constructive dialogue with the prison authorities, were completely interrupted.

> Prison staff were extremely overwhelmed and overburdened with efforts to prevent and manage COVID-19 within their prisons.

Nevertheless, the CHR remained a key actor in torture prevention and human rights monitoring more broadly in the Philippines. As one of the few independent institutions with a specific mandate to scrutinize prisons and submit relevant reports, the role of the CHR was crucial during the pandemic. Therefore, it was obvious that the CHR-INPM could not just stop conducting any type of scrutiny of prisons during the pandemic, waiting for access to be permitted again.

To continue delivering its preventive mandate, it was evident that the CHR-INPM needed a new

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11.   For more on this see DIGNITY (2020) *Global guidance on preventive monitoring of places of detention during the Covid-19 pandemic- A practical tool,* by Lisa Michaelsen and Kalliopi Kambanella, DIGNITY Danish Institute against Torture, Denmark, 2020 https://www.dignity.dk/wp-content/uploads/GLOBAL-GUIDANCE-ON-PREVENTIVE-MONITORING-OF-PLACES-OF-DETENTION.pdf (accessed 5 December 2022)
12.   Jefferson A, Caracciolo G, Kørner J and Nordberg N. Amplified vulnerabilities and reconfigured relations: Covid-19, torture prevention and human rights in the Global South. State Crime, 2021, Pluto Press. https://www.scienceopen.com/hosted-document?doi=10.13169/statecrime.10.1.0147

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approach and this approach had to be designed and implemented as quickly as possible to, on the one hand, respond to the emerging risks of violations of prisoners' rights, engendered by lack of visits, lack of (food and medicine) deliveries from the outside, prolonged detention due to delays in court proceedings, and, on the other hand, respond to the risk of worsening conditions and treatment due to lack of independent oversight. It also became apparent that what was at stake here was not only the ability of the CHR-INPM to deliver their preventive mandate, but in the longer term it was about retaining — and perhaps re-enforcing — its credibility and authority as an independent oversight body. This was the moment to show that the CHR-INPM could in fact be a valuable stakeholder offering independent and expert advice to the benefit of all involved: detainees, prison staff and prison management. This was crucial for the longer-term perspective of developing into a fully operational NPM.

Reflecting and adapting

If DIGNITY and the CHR-INPM were to meet these challenges we had to jointly reflect, redesign, and reframe the oversight methodology. Our initial reflections were focused on whether there was a way of accessing information and persons from the *outside*, while access to the facilities was still impossible. Our starting point was the general guidance provided by several international and regional bodies on how monitoring bodies should approach their preventive mandate during COVID-19. These bodies were calling for a continuation of monitoring activities while respecting necessary limitations in the methodology, including legitimate restrictions currently imposed on social contact and by practicing the 'do no harm' principle and weighing it with the potential harm of lack of visits and transparency. This was, of course, easier said than done. This guidance had to be further contextualized to meet the specificities of the Philippines and our partner's capacities, as well as the needs on the ground.

It was clear that access to prisons for any kind of visit was not an option and it was assumed that this situation may continue to be the case for quite a long time, considering the high numbers of COVID-19 cases at that moment. At the same time, the CHR-INPM was determined to continue scrutinizing prisons throughout the pandemic and looked to DIGNITY for sparring and support.

DIGNITY is part of the Danish NPM, contributing with health-specific expertise in all monitoring visits. The Danish NPM, together with other oversight bodies globally, was going through similar challenges as the INPM in the Philippines. Therefore, the experiences of the Danish NPM and other oversight bodies were turned to for inspiration as to how oversight could continue in the Philippines, an approach highly appreciated by the CHR-INPM.

The Danish NPM was able to conduct some on-site thematic visits in the early stages of the pandemic but mostly conducted remote visits later. The remote visits followed a similar methodology as the on-site visits and the NPM members conducted interviews with the prison management, prisoners, and prison (health) staff through an online video platform. Prior to each remote monitoring visit, the Danish NPM requested data and other information from the prison authorities in an effort to scrutinize as much as possible the situation in the prisons and the COVID-19 specific measures that were being applied. Information obtained prior to the remote visits and information obtained during those 'virtual visits' were scrupulously triangulated.

Prior to the pandemic, DIGNITY had also worked with Civil Society Organizations (CSOs) that did not have the right to access prisons but still scrutinized them through gathering information from available sources outside prisons (for example families of detainees, ex-detainees, lawyers) and this experience was drawn on as well.

The main source of inspiration for the needed adjustments in the monitoring methodology, however, came from the methodology developed by Her Majesty's Inspectorate of Prisons for Scotland (HMIPS).[13]

> To continue delivering its preventive mandate, it was evident that the CHR-INPM needed a new approach.

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13. HMIPS (2020). *Independent prison monitoring - COVID-19 pandemic emergency remote monitoring framework.* HM Inspectorate of Prisons in Scotland, 2020. https://www.prisonsinspectoratescotland.gov.uk/sites/default/files/news_attachments/HMIPS%20-%20Independent%20Prison%20Monitoring%20-%20Remote%20Monitoring%20Framework%20-%2024%20April%202020_0.pdf (accessed 28 November 2022).

Around April 2020, the HMIPS paused its visits and decided to move to a remote monitoring system, based on the assessment that the protection from the risk of infection and spread of COVID-19 through entering prisons prevailed over the purpose of conducting prison visits. The HMIPS remote monitoring framework had four main components: collecting data from the Prison Service on a weekly basis, collecting specific details from each establishment, developing projects to inform monitoring moving forward, maintaining motivation amongst monitors and reporting.

Inspired by all these developments in relation to monitoring prisons during the pandemic, the idea of scrutinizing the prisons *from a distance* started being discussed as a potential alternative to on-site visits in the Philippines. It was agreed by DIGNITY and the CHR-INPM to use the term 'remote monitoring', as in the HMIPS framework, as a concept capturing the practice of scrutinizing the prison without physical access to its premises, that is remotely, while having an official preventive monitoring mandate. Therefore, the remote monitoring framework that was to be designed had to still apply the preventive approach, meaning that it would be looking at risks and breaches of human rights with a view to preventing further deterioration, continuation, or repetition.

However, many issues had to be addressed and contextualized to the Philippines before such an approach could be implemented. First, how could the 'do no harm' principle be applied within a remote monitoring methodology? This included analyzing risks of reprisals during information gathering for anyone who was in contact with the CHR-INPM team, as well as contemplating mitigation measures that could be applied from a distance. Second, which groups of people could be reached out to, to share experiences of prison practices and how could the reliability and credibility of information received be validated? Third, what should be the key focus areas of the monitoring? Which issues could be monitored, and which ones should be prioritized in light of the pandemic? Fourth, how to gather, organize, check and analyze all the information that would be collected? Fifth, how to perform this remote monitoring exercise without overburdening the prison administration with

requests for data at a time when they were handling a crisis, while at the same time keeping dialogue avenues open for constructive engagement on relevant recommendations.

And even if all these issues could be addressed, would the CHR-INPM in practice be able to conduct preventive monitoring without visits? Was it possible to grasp and understand the practices in everyday prison life without being in the prisons? Would the CHR-INPM be able to gather enough reliable information and make sense of it in a way that could be put in writing in the form of a report with concrete recommendations?

This reflection and adaptation process took place with our partners in the Philippines (CHR and Balay), also from a distance due to the travel restrictions during the pandemic. Online meetings and workshops were the only way we could jointly discuss these challenges and start designing a response to the situation at hand. The fact that our partnership was also evolving remotely provided ample opportunities for recognizing and addressing the complexities of building a constructive dialogue while not being able to be physically together. All these experiences and sharing led to an innovative framework for monitoring prisons remotely, designed and adjusted to the Philippines context.

> Since the remote monitoring methodology aspired to still be preventive, it needed to adhere to the same principles as any preventive monitoring of places of detention.

The remote monitoring framework in the Philippines

Based on the training programme that DIGNITY delivered for the CHR-INPM within the first year of the pandemic and our continuous dialogue about the challenges in their monitoring work, we started to jointly design a remote monitoring framework. A series of 6 online workshops were held by the authors and representatives of the CHR-INPM, including Balay, with the main aim to come to a practical, context-specific framework which would be of immediate use for the CHR-INPM. It would be based on DIGNITY's experience with remote monitoring and the knowledge of the CHR-INPM on preventive monitoring in the context of the Philippines. It aimed to provide a framework and specific guidance on remote monitoring by identifying the most important issues to monitor within places of detention in the COVID-19 context ('what to monitor'),

as well as the steps involved in the remote monitoring methodology ('how to monitor').

Since the remote monitoring methodology aspired to still be preventive, it needed to adhere to the same principles as any preventive monitoring of places of detention. The basic principles, identified as the most relevant for remote monitoring, were do no harm, respect confidentiality, exercise good judgement, seek consultation/constructive dialogue, respect detention staff and detainees, and remain credible. Monitoring issues related to COVID-19 also required the CHR-INPM to pay particular attention to vulnerable groups, including both groups that were at increased vulnerability when infected with COVID-19 and groups that were at increased vulnerability because of COVID-19 related limitations, restrictions and measures.

The remote monitoring methodology that was developed included three key steps: 1. Gathering core data from the authorities, 2. Accessing records remotely to gather additional information or cross-check information, and 3. Consulting additional sources of information, that is groups of people outside detention that may be able to provide additional information. The three steps are described in more detail below.

1. Collecting core data from authorities

During on-site visits, monitoring bodies can request and gather important data from the prison authorities. Usually, such information derives from registers and records that are kept within the prison and include for example the number of prisoners, prison capacity, disciplinary measures applied, number of violent incidents, number of staff vs. prisoners, number of health staff and other staff etc. The pandemic deprived monitoring bodies of the possibility of obtaining such information during visits. Therefore, monitoring bodies were urged to request such information remotely and at the same time, redefine the information that was deemed relevant and important. The concept of 'core data' aims to capture the fact that what is being requested is the information derived from records (not the records as such) and that this information needs to be deemed crucial for the monitoring body.

Therefore, DIGNITY together with its partners had to both rethink which information really mattered during this crisis as well as redesign the approach to collecting such information. Based on the partners' contextual analysis and empirical experience, the key issues to monitor were identified and a set of questions that the CHR-INPM would like to receive information on from authorities was developed. This information could be requested and received through written/digital communication as well as during online meetings. Depending on the context, the CHR-INPM would decide who should be the recipient of such a request, as well as how to request and receive data on an ad-hoc basis.

Requesting data in the midst of a crisis is, however, not such a straightforward task. It comes with dilemmas and limitations. Authorities were under real pressure in the efforts to manage COVID-19 in detention and a monitoring body should not be perceived as a hurdle in these efforts. On the contrary, the CHR-INPM needed to be strategic and efficient in gathering the information that was crucial for its work. In addition, collecting information remotely was expected to be much slower, so the CHR-INPM had to take that into consideration in the planning of its work. Although holding online meetings to gather information more quickly seemed promising, the challenges of holding constructive online meetings were not to be underestimated. Online meetings required thorough preparation and a strong focus from all involved. Building trust online and handling dynamics among prison staff (with a great sense of hierarchy), posed additional challenges that the monitoring body had to grapple with.

> Building trust online and handling dynamics among prison staff (with a great sense of hierarchy), posed additional challenges that the monitoring body had to grapple with.

2. Accessing records/documents remotely

Unfiltered access to records kept in prison is one of the powers of monitoring bodies, according to the OPCAT. As prisons became out of reach, so did the records that were being kept inside them. In the Philippines, many records are not digital and if they are, they are often poorly maintained and not updated. Nevertheless, reviewing records is an important element of preventive monitoring as it complements the information collected during on-site observations and interviews with detainees, management and staff. It also provides the opportunity to check whether registers and records are well-maintained and updated by the authorities. This cannot be done without having access and reviewing the actual records.

Therefore, the issue of accessing relevant records could not be left out of the remote monitoring framework. Depending on the analysis of the core data gathered from the authorities (step 1 as described above), the CHR-INPM would assess which records needed to be reviewed in order to gather more or cross-check information or to check records-keeping. The way records were to be requested and received would vary depending on the nature of the documents. Some records could be easily reviewed virtually, for example during an online meeting with officials. Other documents could be reviewed through being granted access to a specific database (if available) or by sending copies of the documents digitally or by post. Taking a contextual and needs-based approach, it was up to the CHR-INPM monitoring team to define the way in which it would access records, taking into consideration what was feasible and most efficient for everyone involved.

3. Triangulating through additional sources

Triangulation in the context of preventive monitoring can best be defined as looking into more than two sources of information on the same issue and comparing the information obtained from these sources. It is a powerful technique that facilitates validation of the information obtained through cross-verification from two or more other sources, with the purpose of increasing the *credibility* and the *validity* of the results. Triangulation is very important in the context of prison oversight, as one information source will almost never be able to provide the monitoring body with a complete picture of the situation.

In order to be able to triangulate the information received from the authorities and the records, the CHR-INPM needed to identify and track groups of people outside detention since online interviews with persons detained were not possible due to lack of connectivity and scarce resources for equipment. Therefore, triangulation could only take place through contacting persons outside detention who were able to share their experiences and to provide additional information about what was happening in prisons. The CHR-INPM had identified these key groups of people: 1. Former detainees, 2. Families of detainees, 3. Lawyers, 4. CHR staff handling complaints related to prisons, 5. CSOs/Service providers. Experiences from those outside

prisons but familiar with issues surrounding prisons would provide an alternative account of life in prison, one that would allow checking the reliability of the information gathered by the authorities. This was in no way an exhaustive list and the CHR-INPM would pursue identifying and tracking relevant groups to create a diversified pool of information based on the specificities of each place of detention.

Since gathering information from persons outside detention would still require some form of interviews to be conducted (remotely or in person), the risk of reprisals had to be analyzed to ensure the application of the do-no-harm principle. It was our joint understanding that the risk of reprisals may exist even for those that are not detained, like ex-detainees, their families, lawyers and CSOs. Therefore, it was necessary to plan and apply measures to mitigate such risks. For example, measures to talk/meet with someone discreetly, to keep communication (written/oral) confidential by using secure platforms, to assess security risks for each source of information and review such assessment frequently. Following-up on the well-being of persons that were in contact with the CHR-INPM was also considered crucial, as well as offering support in case there may be anxiety or re-traumatization caused by the information shared. It was also important to equally think about the risk of reprisals for staff of the detaining authorities in contact with the CHR-INPM. The option of holding separate meetings with specific staff members had to be applied very carefully, in order not to put them at risk of reprisals.

Thorough triangulation of the information obtained through the three steps of the remote monitoring framework allowed the CHR-INPM to assess which information was credible and usable and which was not, thus safeguarding its credibility and leading to targeted recommendations.

As part of this remote monitoring framework and to ensure easier implementation, a practical remote monitoring matrix was developed, especially tailored to the Philippines' context. The matrix consisted of seven categories of issues to monitor and included actions or questions under the three described steps of the remote monitoring framework. The seven categories of issues to monitor included 1. Addressing overcrowding, 2. Limitations and/or restrictions on the rights of

> Triangulation is very important in the context of prison oversight, as one information source will almost never be able to provide the monitoring body with a complete picture of the situation.

persons deprived of liberty, 3. Prevention and control of the spread of COVID-19, 4. Isolation and quarantine, 5. Healthcare services, 6. Measures for detention staff, and 7. Guidelines. In total, the seven categories included 22 issues to monitor which were reflected in the rows of the matrix. Under each of these issues, the matrix identified core data to be requested from the authorities, records to be reviewed, and groups or actors outside detention to consult. All these were phrased as guiding points and did not constitute an exhaustive list. Additional questions could be asked, and some issues could be looked into in more detail than others, depending on the specific challenges of each prison and the priorities of the CHR-INPM.

The matrix was created to guide the CHR-INPM in its remote monitoring work and allow for a systematic and more practical way of implementing the remote monitoring framework.

Reporting and follow-up

The pandemic had an impact on the reporting process in various ways. First, due to the fact that monitoring bodies had limited or no access to places, persons and records in detention, their credibility may be challenged if they did not ensure that their findings were based on sound information. It would be easier for authorities to disclaim their findings. Even when reports would be drafted efficiently, it would be more challenging for the monitoring body to deliver its message effectively. The dialogue with authorities was greatly impacted and therefore new ways of communicating in a strategic manner needed to be designed and implemented in order to have the desired impact.

For the CHR-INPM to maintain its credibility vis-à-vis prison authorities, it was essential to use careful language when reporting findings if it was not possible to gather all the details that would allow verification of information. In such cases, qualifying the relevant statements in the report was suggested. For example, when receiving allegations about poor conditions, the CHR-INPM needed to consider qualifying these 'remote' findings by presenting them as 'allegations' and not as findings of the CHR-INPM. This would not be the case if the CHR-INPM had been able to visit the prison and observe the conditions in person which would facilitate the CHR-INPM to make its own findings. Moreover, the

structure of reports and recommendations had to be reconsidered. Drafting long reports with several recommendations seemed not to be appropriate in a crisis situation as the COVID-19 pandemic. Therefore, the remote monitoring framework provided for reporting in a shorter format and with a higher frequency, while the CHR-INPM needed to be extremely strategic in drafting its recommendations. This meant that the monitoring team had to reflect on which kind of recommendations could be measurable, attainable and relevant within a constantly evolving situation. Not to mention the challenges of being able to keep a continuous and constructive dialogue with the authorities from a distance. In this regard, the fact that the CHR-INPM had already established a rather constructive stance towards prison authorities, proved to be very valuable in keeping the engagement going during the pandemic.

When it came to following-up on recommendations, while the CHR-INPM still had limited or no access to places of detention, it would need to return to its original sources of information. The INPM Secretariat would be responsible for exchanging formal correspondence with responsible authorities, while monitoring teams would continue to pursue the gathering of information from groups outside detention and keep monitoring information that was publicly available.

> Despite its limitations, the remote monitoring framework offered the opportunity to develop a more capacious approach to monitoring prisons, one that is not exclusively dependent on being inside prisons.

Conclusion

The remote monitoring framework, along with the remote monitoring matrix, was launched in May 2021. The CHR-INPM implemented this framework until access to prisons was made possible again. As anticipated, various challenges and limitations were encountered during its implementation. Most of them related to the very strict restrictions on movement during the pandemic in the Philippines. These restrictions made it extremely difficult to gather information and engage in dialogue both with authorities and with relevant persons outside detention. Such engagements were only possible online but were often hampered by poor connectivity and time pressure. Under such conditions, maintaining relations with authorities required additional efforts to ensure that the CHR-INPM was kept updated about the

situation in prisons in a way that allowed the team to submit findings and recommendations. The pandemic clearly demonstrated how space, time and interpersonal relations affect the potential for monitoring prisons.

Despite its limitations, the remote monitoring framework offered the opportunity to develop a more capacious approach to monitoring prisons, one that is not exclusively dependent on being *inside* prisons. This approach expanded the possibilities of understanding 'access' in a way that is not framed by a focus on *inside* and *outside*, but rather a focus on accessing multiple views and experiences that may be placed beyond prisons. Identifying and interviewing former prisoners, although challenging during a pandemic, may still serve as another entry point for monitoring bodies beyond the pandemic. Such encounters with former prisoners may hold the potential of shifting more focus to the lived experiences of imprisonment, rather than to the prison itself. Since monitoring bodies are concerned with both conditions and treatment in prisons, the stories shared by former prisoners are of value and push monitors to define and approach their work beyond spatial boundaries ('the prison'), looking at the phenomenon ('imprisonment') and the related experiences.[14]

Although the remote monitoring framework was developed in the context of the pandemic, elements of its methodology could continue to be applied and complement on-site monitoring visits. Such an approach would enrich the process of scrutinizing prisons by embracing more viewpoints and experiences from the field.

Acknowledgement

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14. A similar point is made, regarding ethnography, by Gaborit L (2019). Looking through the Prison Gate: access in the field of ethnography. *Cadernos pagu* (55), 2019:e195505 https://www.scielo.br/j/cpa/a/BmF9bJLRXZZWM6qPRbb759K/?format=pdf&lang=en (accessed 28 November 2022).

Monitors and ethnographers: A Reflection on affinities and potential synergies

Andrew M. Jefferson is senior researcher and ***Tomas Max Martin*** is senior researcher at DIGNITY — Danish Institute against Torture

Philosopher Jean-Paul Sartre, in Being and Nothingness, sketches a scene in which a man who is peeping through a keyhole, completely absorbed in looking at what he sees on the other side of the door, suddenly hears a creaking of the floorboards behind him and realizes he has been seen… Sartre calls [this] existential shame — the shame of having been caught in the act of being who you are.

Nuar Alsadir, Animal Joy, 2022

In this article we take point of departure in the idea that prison ethnographers and prison monitors have more in common than typically imagined or admitted. We question stereotypical binaries that posit rights-based monitoring as legalistic, myopic, and generalizing, and ethnography as academically aloof, overcomplicating, and particularistic. While there may be grains of truth in such caricatures their propagation detracts from the shared goal that most monitors and many ethnographers have of documenting and countering penal excess. Instead, we consider the way both actors jointly seek to put knowledge of prison life to work as they: i) approach the prison with *heavy professional baggage*; ii) apply a quite *generic toolbox*; iii) *'fashion facts'* into compelling narratives; while often iv) *struggling for access* and operating under controlled conditions characterized by mistrust.

Our account rests on over two decades of conducting prison ethnography in countries undergoing transition in the Global South. Somewhat uniquely, we have undertaken this often critical and open-ended research from within norm-driven human rights organisations, which are explicitly committed to the idea that independent monitoring is a pertinent means of preventing torture and abuses in prisons. Our tale draws on our own experiences ethnographically scrutinizing prisons and interacting with rights-based prison monitors in the field, and as our interlocutors, colleagues, and students. For one of the authors, Tomas, this interaction also included personal experiences of monitoring for the Danish National Preventive Mechanism (NPM). Our analysis points towards the idea that ongoing exploration of the complementarity of different 'styles of external scrutiny'[1] might enable scrutinizers to scrutinize prisons more reflexively. Ultimately, we posit that such (embodied) reflexivity is fundamental to any effort to properly describe and explain what actually goes on in prisons.

Our account is quite personal, and we present our perspectives in an essayistic form that is more suggestive than decisive, but we hope this also invites readers to engage in the kind of personal reflection we argue is valuable. We begin with a short vignette about Tomas' fieldwork in Uganda.

During long-term fieldwork in Ugandan prisons, I was scrutinizing the implementation of a new rights-based prison law. I followed selected prison officers around for months exploring their practical appropriation of human rights norms, standards and tools. I was eager to blend in and to get closer to the mundane everyday life of the prison, step by step. One day, the prison that I spent most time in was buzzing, when I arrived early in the morning. One of the big bosses from the head quarter in the capital had announced his arrival on an inspection visit. He was the very same senior manager, whom I had briefly met months earlier, when he sternly reviewed and skeptically (even menacingly, I thought at the time), approved my research application.

The prison in question was often quite soft around the edges in terms of procedures and

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1. See Chantraine, this edition.

orderliness, and I was intrigued to see the sleepy institution awaken as prisoners milled around weeding, painting, sweeping, and decorating. Staff were anxious and grumpy and quietly complained that this and that had to be postponed as the whole prison held its breath for the big man. The senior manager was very late. And in the end, he did not show up. But the next day he came, somewhat abruptly it seemed. I was hanging around the main entrance chatting with an old sergeant, when he suddenly marched in with the officer-in-charge and the other senior officers in tow. He was in casual civilian clothes and sandals — a sign of power vis-à-vis his painstakingly uniformed subordinates — and I did not notice him before the few officers next to me jolted into attention. He stopped in front of me, a bit puzzled, I thought, but he was quickly reminded by the officer-in-charge about the foreign researcher who had been permitted to visit the prison and study the staff. He lightened up. 'Can he stand to attention?' he joked. And I tried, or my body reacted — almost automatically, clapping my heels together and looking straight ahead. He laughed and took hold of my arms, trying to position them properly despite my awkward efforts to both keep them close by my side and hold onto my notebook. And then he walked on.

This tiny incident is telling yet profoundly ambiguous. It denotes the ways long-term fieldwork entails practices of scrutiny that enable quasi-participation in the complex and polyvalent performative spectacle of the preparation, implementation, and afterlife of an internal inspection. It also connotes the multifaceted positioning of the scrutinizer. Tomas, the prison ethnographer, was at once an intruder, a comical outsider, and a harmless insider. And he was subjected to these rather awkward roles and positions through a strange mix of his professional competence, submission to prison hierarchies, and the pre-cognitive, affective agency of his able-cum-treacherous body, contingently immersed in the social field of the prison.

Years later, while Tomas was for a short period assigned as an expert to the Danish NPM he participated in several visits to institutions depriving people of their liberty in Denmark. The Danish NPM is led by the Parliamentary Ombudsman with the assistance of the Danish Institute for Human Rights, where he worked at the time, and DIGNITY, where both of us now work. DIGNITY contributes to the NPM based on the organisation's medical expertise and capacity in prison health. As an ethnographer, Tomas had moved humbly around Ugandan prisons, listening-in and regularly declaring his open desire to learn about what was going on. At times this supple role as a harmless would-be insider generated a sense of impotence and complicity, but it also enabled a scrutiny style that offered deep insight. As an NPM-member, Tomas was able to lean actively into the slightly unfamiliar style of directed inspection and embrace the firm mandate to see and assess specific things in specific ways. The power of this came across during his first NPM visit.

> The interview was charged, but once my colleague looked the prisoner in the eye and said: 'I am a doctor. I am here to find out how you are being treated', the tension eased.

A colleague and I interviewed a visibly agitated prisoner in a special section of a prison, which, at that point in time, was the most restrictive prison regime in Denmark. The interview was charged, but once my colleague looked the prisoner in the eye and said: 'I am a doctor. I am here to find out how you are being treated', the tension eased and the prisoner began to share his story. Rapport was instant, generating a moment of trust in an adverse situation. Unlike my ethnographic efforts of 'hanging out to listen in', my NPM colleague seemed to do the contrary. She was rather 'homing in to hear out', as she forcefully activated the entrenched and authoritative trope of doctor-patient confidentiality, care, and medical objectivity.

The difference between the scrutiny styles of the ethnographer and the monitor is apparent. The monitor plays up the 'doctor-patient' constellation to circumvent the circumspection of the prisoner and the highly charged and distrustful prison environment in pursuit of immediate knowledge. From an ethnographic point of view, such firm emphasis on pre-given roles, positions and scripts risks limiting the scope of what

might be learned. An ethnographer would strive not to animate established 'scripts' but rather seek to tone down his or her positionality as, for instance, an expert, to keep the conversation open and explorative. Yet, the way that the doctor/ monitor so powerfully constructed an interactional space to reach out to this prisoner was eye-opening. Despite the differences in perspectives and aims, such experiences from the field hint at some of the affinities between monitors and ethnographers and suggest there might be much to learn from actively reflecting upon these. This is what we explore further below.

Contrasts and Affinities — an ethnographic point of view

This article is written from the point of view of two prison ethnographers, and we firstly lay out some of the most pertinent characteristics and qualities of prison ethnography.

The most valued technique employed by ethnographers is observation often through participation in the practices in which their research subjects engage or by presence in the sites they occupy. For prison ethnographers, the latter is truer than the former given the unlikeliness of participating as prisoner or full member of prison staff. Instead, prison ethnographers choose to hang out, accompanying or accompanied by staff or prisoners, sitting in wards, yards, school rooms and workshops, offices or corridors or by gates or parade grounds quietly bearing witness to the everyday unfolding of prison life.[2] Ethnographers watch, take notes, make small talk, and project versions of themselves that they believe will be conducive to forming meaningful relationships and eliciting useful tales of the field.[3] Observation is paramount, a crucial part of making the invisible visible, and the unseen seen

> An ethnographer would strive not to animate established 'scripts' but rather seek to tone down his or her positionality as, for instance, an expert, to keep the conversation open and explorative.

(though in fact, all the senses can be tuned towards registering the multiple frequencies of prison life and learning its language as recently elaborated on by Herrity et al).[4]

Ethnographers watch but they are also, like most prison actors, watched; they perceive but they are also perceived. The same is true of monitors. We have often been misperceived — or, to put it differently, perceived in ways that said more about the perspectives and life-worlds of the people scrutinizing us than it said about what we were actually doing or trying to do. For example, during immersive field work among prison officer trainees in Nigeria one of us, Andrew, was misidentified in multiple ways despite concerted efforts to introduce himself and his research in a standard form. He was variously seen as a human rights activist, a prison officer from the UK, a spy, a respectable guest, a representative of prison headquarters, or even simply a friend of the officer-in-charge. A prison officer in Tunisia was confused by the presence of Andrew and the research team. He was keen to access resources to fix the leaking workshop roof, rather than provide the insights into his everyday work practices that Andrew and the team were looking for.

Similarly, we are quite certain that prison staff generally struggle to accept and understand that we are not there to judge or criticise. Often, we are met with an attitude of suspicion and circumspection, or 'defensive concealment'[5]; our best efforts to show by our words and comportment that our aim is to understand rather than judge are quietly resisted[6]. Prisoners too project other identities onto us. In Sierra Leone prisons, as prisoners queued up to share their tales of injustice that he was in no position to address, Andrew regularly felt himself readying to defensively declare how he did not work for the Red

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2. See for example: Bandyopadhyay, M., Jefferson, A.M. and Ugelvik, T. (2013). 'Prison Spaces and beyond: The Potential of Ethnographic Zoom', *Criminal Justice Matters,* 91, 28–29; Drake, D.H., Sloan, J., & Earle, R. (2015). *The Palgrave Handbook on Prison Ethnography.* Hampshire: Palgrave; Jewkes, Yvonne (2014). 'An Introduction to "Doing Prison Research Differently"', *Qualitative Inquiry,* 20, 387–91; Liebling, A. (1999). "Doing research in prison: Breaking the silence?," *Theoretical Criminology,* 3: 147-173; Rhodes L (2001). Toward an anthropology of prisons. *Annual Review of Anthropology* 30: 65–83.
3. Identities matter and are affected. See: Drake, D.H. and Harvey, J. (2014). 'Performing the role of ethnographer: Processing and managing the emotional dimensions of prison research', *International Journal of Social Research Methodology,* 17(5): 489– 501; Phillips, C., and R. Earle (2010). 'Reading Difference Differently?: Identity, Epistemology and Prison Ethnography', *British Journal of Criminology,* 50, 360–78; Rowe, A. (2014). 'Situating the Self in Prison Research Power, Identity, and Epistemology', *Qualitative Inquiry,* 20, 404–16.
4. Herrity, K. Z., Schmidt, B. E., & Warr, J. (2020). *Sensory Penalties.* Bingley: Emerald.
5. Jefferson, A.M. and Schmidt, B.S. (2019). 'Concealment and revelation as bureaucratic and ethnographic practice: Lessons from Tunisian Prisons', *Critique of Anthropology,* 39(2): 155– 171.
6. This sometimes has to do with the fact that we are known to work for an organisation with an explicit normative agenda – to counter torture.

Cross and was not a lawyer and therefore could not help. In Uganda, Tomas was repeatedly taken for a missionary or an embassy official or more diffusely as some sort of outsider with the potential to donate things or channel complaints.

Ethnographers also typically tone down their normative commitments, suspending judgement in favour of getting to grips with the empirical realities of prion life in situ as understood by its inhabitants and employees. We have found the notion of prison climate to be a helpful guide in this regard. To talk about the climate of a prison is to talk about its atmosphere, its feel, its dynamics. It is to talk about the sense one gets of the prison as one walks through its corridors and into its cells or into the office of the Governor. To be attuned to the climate of a prison is to be attentive to the depth of prison experience, to its heaviness or weight on the body and mind, and not only its immediately apparent conditions as meets the eye.[7] Yet, a climate equally operates on a large and even somewhat abstract scale in time and space. Thus, the notion of prison climate is also attuned to the ways prisons affect and are affected by a given social, political and cultural context and history. How, in other words, a prison is part of a larger climatic system. The aspiration to approach prison life non-normatively calls for analytical terms that are less encumbered by established ideas of what prison life is and what scrutinizers should look for. We have argued that prison climates can be discerned by analysing everyday practices of 'governance' (rather than 'rule adherence' or 'management'); (im)possibilities of 'survival', (rather than 'violations'); and forms of 'transition' (rather than 'reform').[8] Governance, survival and transition offer an analytical terminology that actively invites open-ended exploration of how a given prison or prison system is, in fact, operating in practice and experienced by its population.

We strive to nurture and nuance this explorative and non-normative ethnographic approach to prison

> To be attuned to the climate of a prison is to be attentive to the depth of prison experience, to its heaviness or weight on the body and mind, and not only its immediately apparent conditions as meets the eye.

scrutiny because it is our firm belief that to change prisons in certain directions — for instance to inhibit violence and penal excess — one needs to understand prisons. And if prisons around the world are both similar and different to one another and if they are experienced differently by different people, empirically based understandings of situated prison practices must be the point of departure. A poor farmer with few resources and no access to visitors is likely to experience prison differently than an ex-politician with influential connections and money. If you want to influence prison life, you need to understand *what matters* to the people involved, not simply what is right or wrong according to universal models or best-practices.

In our general experience, a common starting point when training new monitoring teams has been the international human rights framework and the United Nations norms and standards for penal practice. This is natural enough if monitoring is conceived of primarily as an activity of checking practices against standards. To the ethnographer however this appears too narrow a focus for prison scrutiny.[9] When conducting workshops with monitors — in Tunisia, Jordan, Lebanon, Zimbabwe or in Copenhagen with a delegation from Afghanistan — we have encouraged them to be more curious about prison climates and what matter to the prison actors they encounter: who is actually in charge (when and of what)? What do people actually do to survive (sometimes with ambiguous consequences)? And what actually changes (and what refuses to change)? We have prompted monitors to reflect critically on their practices of scrutiny, not to be over-dependent on checklists, standard tools, formal procedures etc. and to openly observe what is taking place, rather than focusing on what is not happening. We have in other words encouraged prison scrutinizers not to take the basic traits and logics of prison life for granted or presume to know key themes, roles and problems in advance.

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7. See Crewe, B. (2011). 'Depth, weight, tightness: Revisiting the pains of imprisonment'. *Punishment and Society* 13(5): 509–529.
8. These dimensions are further elaborated in Martin, T.M., Jefferson, A.M., and Bandyopadhyay, M. (2014). 'Sensing Prison Climates: Governance, Survival, and Transition', *Focaal. Journal of Global and Historical Anthropology,* 3–17.
9. With regard to monitoring approaches, it is possible to distinguish between a traditional and reactive focus on compliance with human rights standards and a more forward-looking and dialogue-based focus on *preventive* monitoring, which is, in fact, more akin to the explorative and practice-oriented perspectives of ethnographers.

Despite partially contrasting points of departure, monitors and ethnographers do share affined practices of scrutinizing prison by way of their physical presence in prison settings; their common focus on observation- and interview-based qualitative inquiry; and, in turn, share a concern to act ethically and with integrity. Yet, as noted above monitors and ethnographers also have dissimilar epistemological points of departure and normative framings. Monitors typically have a commitment to universal standards, while ethnographers may be welded to some form of grounded theory[10] and a belief in the importance of attending to persons-in-practice.[11] Consequently, monitors are likely to attend to rule adherence, whereas ethnographers look for emergent meanings rooted in situated and populated everyday practices. Roughly speaking, when thinking about the prison as an institution, the ethnographer is oriented towards examining the prison as it is. The monitor, we purport, is oriented more towards how the prison *ought to be*. However, philosopher Raymond Geuss suggests this 'purported distinction' between 'is' and 'ought' is in fact a 'straightjacket' constraining thought and political practice.[12] The different epistemological positions adopted by ethnographers and monitors might be sources of tension, but also strengths and avenues for reflection. Both could be better at acknowledging some of the shared dimensions of their work — and reflecting about how they manage (with) them. It is to four such shared dimensions that we now turn.

Unpacking complementary dimensions of scrutiny

Carrying baggage

People, who scrutinize prisons, all come to this task with some baggage in terms of position and privilege, formal mandates and authority, professional and personal motives, competencies, experiences, and identities. There are clear differences between the professional baggage of ethnographers and monitors in terms of their distinct briefs to do either basic research or human rights monitoring, and, in turn, their respective anchorage in academic practice and theory, and legal mandates and best practices. Yet, there are significant resonances between the ways both types of scrutinizer carry their baggage, apply it and potentially reflect on it.

In addition to the formally displayed and acknowledged professional baggage, it goes without saying that all prison scrutinizers bring to the prisons they scrutinize their own assumptions and preconceptions as well as their particular positions in hierarchies of class, gender, race, sexuality and so on. Assumptions and preconceptions can be reflected in forms of speech and comportment as can consciousness — or lack thereof — about relative positions. This complex baggage is constantly in play when scrutinizers encounter prison life and prison actors. There are at least two main sets of actors with whom the scrutinizer has dealings: prisoners and staff (be the latter uniformed or non-uniformed). Often such encounters take the form of a 'dance of concealment and revelation'[13] — a performance of respective and intermingling identities and interests. The scrutinizers show up with their formal credentials and official display of authority, but they will also likely project or wear that authority (or lack thereof) in informal, implicit or pre-cognitive ways. Scrutinizers may knock on the prison gate in a self-assured, confident fashion or by the adoption of an aura of humility. Sentries in turn might greet the scrutinizing guest with a self-conscious air, conveying their own sense of authority, or with a studied form of insolence and suspicion. They might be fresh-faced or battle-scarred — as might the scrutinizer.

Comportment and appearance betray social position and carry symbolic weight. A photograph hangs in Andrew's office where the ethnographer (Andrew) is more or less indistinguishable from the prison officers standing alongside — black cap, black trousers, black jacket. All that is missing is the insignia

> The different epistemological positions adopted by ethnographers and monitors might be sources of tension, but also strengths and avenues for reflection.

10. Strauss, A. and Corbin, J. (1998). *Basics of Qualitative Research. Techniques and procedures for developing grounded theory.* Sage.
11. Jefferson, A. M., & Huniche, L. (2009). "(Re)Searching for Persons in Practice: Field-Based Methods for Critical Psychological Practice Research", *Qualitative Research in Psychology,* 6(1-2): 12–27.
12. Geuss, R. (2008). *Philosophy and Real Politics.* Princeton University Press. p.17.
13. Jefferson, A.M. and Schmidt, B.S. (2019). Concealment and revelation as bureaucratic and ethnographic practice: Lessons from Tunisian Prisons, *Critique of Anthropology,* 39(2): 155– 171.

of the Tunisian Correctional Services. This photo has an ambiguous status on the office wall. It is a relatively rare record portraying quite proudly a singular moment of unique access in a period of prison fieldwork. But how proud should one be of inadvertently coming to resemble the subjects of one's research? And how appropriate was this really. The point here is we carry and wear and display our respective baggage and we can do so more or less consciously.

Often in initial encounters, for example in the office of the Prison Director, that is a common shared starting point for both ethnographers and monitors, words are carefully chosen to establish credibility and earn legitimacy. One lesson the prison ethnographer quickly learns — that monitors are also aware of — is that legitimacy and credibility are not granted once and for all but must be earned time and time again — also with the different people one meets in the prison.

For ethnographers and monitors alike the baggage they carry into the prison affords authority, legitimacy and integrity, but it may also be a source of exactly the opposite to some people, at certain times or places or under certain conditions. Our point is simply to acknowledge that the meaning and consequences of this baggage is unavoidably politically charged. Scrutinizers may work with this social fact of prison scrutiny more or less skillfully and consciously and factor this insight into the practice of scrutinizing and the analysis of scraps of knowledge gleaned (Cf editorial, this edition).[14]

Applying tools

What do scrutinizers look at or for? Are they in search of imagined well-hidden secrets, watchdogs following a scent in pursuit of a catch, or 'detectives' piecing together clues from a wide range of possibly contradictory sources? And how do they then do it? Monitors and ethnographers use broadly similar tools. Prison scrutiny involves observation, note-taking, record-keeping, more or less structured forms of questioning as well as the review of documents. In a state bureaucracy, official records are important sources indeed, but so are overheard conversations, graffiti on cell walls, staff announcements posted on boards, dripping taps, toxic odors and other more or less innocuous signs and symbols. Clues as to actors' state of mind and relative sense of humanity can be observed and 'read off' of situations by tooling up the scrutinizers' senses. Similarly clues to the relative disillusionment and demoralization of prison staff can also be ascertained by observing them arriving and leaving the prison, interacting and doing their routine tasks. Careful 'appreciative' questioning about what staff are most proud of in their working lives is typically quite telling (and surprising).[15] It is equally rewarding to approach prison staff as whole persons, beyond their designated roles, and ask what they are most proud of in their lives in general. This helps to understand how they are embedded in wider ('climatic') struggles and aspirations, and how that, in turn, affects their work.

> Scrutinizers, by virtue of their sentience, are receivers of impressions. The sensing body of the scrutinizer is in theory the instrument, the filter and refractor of penal reality.

Scrutinizers, by virtue of their sentience, are receivers of impressions. The sensing body of the scrutinizer is in theory the instrument, the filter and refractor of the penal reality. Ethnographers are hyper conscious of the idea that the ethnographer him/herself is the primary research tool. This is drilled into students of ethnography accordingly. Monitors of course also have and reflect on their embodied experiences of scrutinizing prison, but they might rather seek to factor out their most personalized sensations to emphasise their explicit mandate to assess certain defined practices in terms of specific objectified criteria. While ethnographers and monitors operate on the basis of contrasting epistemologies (interpretive, constructionist, 'meaning-seeking' as opposed to positivist, fact-oriented, 'truth-seeking') both seek to 'know' the prison and to put words to the prison experience in ways that are as systematic, exhaustive and comprehensive as necessary for the task at hand or as possible under the given constraints (more on this below).

Apart from the apparent methodological tools of interviewing and observing, scrutinizers also learn to use more abstract tools. Time and timing and the

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14. See also Bennett, J. (2015). Insider Ethnography or the Tale of the Prison Governor's New Clothes. In Drake, D.H., Sloan, J., & Earle, R. *The Palgrave Handbook on Prison Ethnography.* Hampshire: Palgrave.

15. Liebling, A., Price, D. and Elliott, C. (1999). "Appreciative inquiry and relationships in prison," *Punishment and Society,* 1: 71-98.

practices of staying and coming back are good examples. The idea of unannounced and follow-up visits illustrates this. Some legally mandated monitoring allows for unannounced visits, a means of taking the authorities unawares. Ethnographers also like to show up unexpectedly and at different times in a similar attempt to see things 'as they really are'.

Ethnographers typically have more time at their disposal than monitors though not always. Monitoring practices vary. Some agencies make single, rare visits to prisons, others spend days intensively auditing prison procedures and practices, perhaps with a thematic focus, for example health provision, or disciplinary practices. Ethnographers might engage with a specific prison or set of prisons for months at a time while monitors are likely to have less time in single institutions but potentially have greater scope and regularity, and easier access to a range of prisons. Prison scrutinizers are aware of time as a tool. They know that prison routines vary, and prisons are more or less lively at different times of the day or night. They know the power of staying long enough for the immediate dust of the initial encounter between scrutinizer and prison to settle and allow habitual routines and practices to resume. They also know the power of coming back to check up and learn what changed and did not change and to use that knowledge actively in dialogue with prison actors.

In sum, the tools of prison scrutiny are to a great extent common, but applied from different points of departure and in different directions. Reflection about the strengths and weaknesses of these tools and the craftmanship it takes to wield them, should, however, be common concern and a topic of ongoing conversation among ethnographers and monitors.

Fashioning facts into narrative

Both monitors and ethnographers are engaged in crafting and telling stories. This activity often takes the form of writing-up findings, recommendations, policy briefs, peer-reviewed articles, lectures, books etc. with often quite different audiences. In standard versions of independent prison monitoring the visit begins with a briefing with the Prison Director and ends with a debriefing where first impressions/initial findings are shared, concerns raised and where urgent actions may even be recommended. All the inputs of a day or days' interactions with people, practices, procedures, material things, technologies and so on and all the associated sensations and emotions that they engender are converted into a few usually diplomatically phrased reflections. Subsequently a more detailed report, including recommendations, is usually made and shared. Sometimes such reports are made public, sometimes they remain confidential. Ethnographers also have key encounters with gatekeepers to whom they are accountable — often on arrival and departure even if only for the sake of courtesy. In our experience, such exchanges are often superficial and formulaic reflecting how difficult it can be to collect, process and transform impressions into meaningful narratives in a short time within the highly charged atmosphere of a prison.

The narratives later created by monitors and ethnographers are substantially different from each other. Monitors typically draft evaluative reports assessing conditions and treatment often against human rights standards and making concrete recommendations. Such recommendations are often quite predictable, but they can nevertheless be potent. Monitoring reports are typically framed in legal language and strive to be authoritative, actionable and probative, which can make it hard for power holders to simply disregard them. Still, the practices and politics of denying such reporting are of course also widespread among state actors.[16]

Ethnographers, on the other hand, collate accounts or narratives that speak to a research question that has practical, methodological or conceptual significance. The audience is rarely the prison authorities and most often fellow scholars or students. Where the monitors' report will be specific and directed towards concrete action the ethnographers' narrative will most likely be particular and seek to establish a general pattern that may push the scholarship on prison life further on. Where the monitor seeks to construct a narrative that holds a mirror up to the prison authorities in order to promote specific changes, the ethnographer is concerned with developing a narrative that illuminates prison practice and generates new knowledge that others can learn from and operationalize.

> The tools of prison scrutiny are to a great extent common, but applied from different points of departure and in different directions.

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16. Cohen, S. (2001). *States of Denial. Knowing About Atrocities and Suffering,* Polity Press, Cambridge, 2001, 344 p.

Prison Service Journal

Anthropologist of human rights, Ken Maclean, convincingly argues that human rights facts are not simply found but fashioned.[17] Facts are constructed by people, in context, with certain aims and through certain genres that impinge on their form and character. Similar points are raised in the critical scholarship on human rights indicators and human rights reporting.[18] This does not mean that the facts fashioned to represent prison practice can be written off as subjective or false. But it does remind us that critical reflection on the limits and consequences of the processes of fashioning facts and of constructing the narratives to present them is warranted for all scrutinizers of prison life.

Struggling for access

Prisons do not present 'ideal' conditions for academic freedom or the freedom of expression of the monitor. They are more opaque than transparent. The pain delivery at the punitive heart of imprisonment is hidden by design. Access is often limited, restricted or controlled — often in the name of security and risk. And limits are often placed on what can be made public. Prison authorities display a vested interest in concealment, a defensiveness attributable to their function and their perceptions of outsiders as people out to expose them.

Anyone with an interest in prison scrutiny be they monitors, researchers, journalists, human rights advocates, film makers or whatever is aware that getting the necessary access can be a tall order. The relative opacity of prisons signified by their walls and fences is not necessarily overcome by an official mandate or a letter granting permission. Micro-resistances can be met around every corner of the

> Prisons do not present 'ideal' conditions for academic freedom or freedom of expression for the monitor. They are more opaque that transparent.

prison. These might take the form of a busy governor resenting the intrusion, a nervy staff group inconvenienced and hostile, a family member obliged to wait while the scrutinizer is processed through security, a prisoner unwilling to talk for fear of either reprisals or of not being properly heard,[19] or a generalised suspicion of outsiders, both of what they demand and what they can deliver.

In our experience acquiring access is an iterative process, something that has to be achieved again and again[20]. It is not only about getting through the gate — that is only the first step. Some monitors may feel better placed than ethnographers if they have a legal mandate for their activities. Ethnographers' permissions to enter and conduct their research are often flimsier and more contingent than monitors'. Ethnographers may consequently tend to be more cautious about giving offence and potentially made more complicit. But while legal mandates might give monitors a sense of unassailable authority and a formal right to access, their access can still be thwarted, for example by delaying tactics or efforts to block access to certain areas, activities or documents — if only partially and temporarily.[21]

Ethnographers may too insist on their right to be present by virtue of producing research based knowledge. Yet, rather than invoking an external authority to underwrite their presence, legitimacy, and credibility, ethnographers conducting fieldwork will probably tend to cajole and negotiate in their efforts to insert themselves in as many ways as possible into the life-worlds of prisoners and prison officers. That is at least what we have done. Scrutiny done well, we suggest, is always ultimately a negotiated practice.

The conditions, strategies and aims of accessing prisons might be somewhat different for ethnographers

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17. MacLean, K. (2022). Crimes in Archival Form: Human Rights, Fact Production, and Myanmar. Los Angeles: University of California Press.18. Merry, S. E. (2011). Measuring the World: Indicators, Human Rights, and Global Governance. *Current Anthropology,* 52(S3), 83-95; Dudai, R. (2006). Advocacy with Footnotes: The Human Rights Report as a Literary Genre. *Human Rights Quarterly,* 28(3), 783-795; Riles, A. (1998). Infinity within the Brackets. *American Anthropologist,* 25(3), 378-398.

19. See Van Der Valk & Rogan, this edition.

20. Gaborit, L.S. (2019). 'Looking through the prison gate: Access in the field of ethnography', *Cadernos Pagu*, 55; Jefferson, A.M. (2015). 'Performing ethnography: Infiltrating prison spaces', in D.H. Drake, R. Earle and J. Sloan (eds) *Palgrave Handbook of Prison Ethnography,* Houndmills, Basingstoke: Palgrave Macmillan; Martin T.M. (2015). Accessing and witnessing prison practice in Uganda. In: Drake D.H., Earle R. and Sloan J. (eds) *The Palgrave Handbook of Prison Ethnography.* Houndmills, Basingstoke: Palgrave Macmillan; Martin T.M. (2017). Scrutinizing the Embrace of Human Rights in Ugandan Prisons. *Journal of Human Rights practice* 9(2): 247–267; Martin, T.M. (2019). 'The ethnographer as accomplice: Edifying qualms of bureaucratic fieldwork in Kafka's penal colony', *Critique of Anthropology,* 39(2): 139–154; Reiter, K. (2014). 'Making Windows in Walls: Strategies for Prison Research', *Qualitative Inquiry,* 20, 417–28.

21. In our experience, monitors from civil society groups often have more tenuous mandates and less solid guarantees of access than those associated with human rights bodies or mechanisms, creating additional pressure on them to be skilled and patient negotiators as well as skilled monitors.

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and monitors, but we posit that both actors are likely to experience access as a process that is inherently challenging, messy, ambiguous and iterative. As such, access is not just something to overcome, but a form of learning about the openings and closures of prison life and as such a central point of joint reflection for all scrutinizers.

Conclusion

To be seen seeing induces a sense of existential shame, says Sartre, as referenced in our opening quote.[22] Being caught looking through the keyhole absorbed by what one sees turns the tables, making the observer the object of scrutiny rather than the 'subject with agency'.[23] The thrust of our argument, while concerned with the same dynamic, namely the relation between the seer and the seen, expresses a slightly different sentiment. To be caught in the act of scrutinizing, while 'being who you are'[24] or doing what you do, is inevitable — those subject to scrutiny will almost always look back. But what we are hinting at is that as well as being caught watching others we can also catch ourselves. We are proposing that to catch oneself in the act of scrutinizing via a practice of self-conscious, embodied reflexivity is a core professional competence, a mark of honour, and a source of cautious integrity for the ethnographer and the monitor.

Reflexivity generally means to actively explore and explicate how researchers' social positions may influence their knowledge claims as a constitutive part of reasoning and of making possible the encounter with the 'other'.[25] Reflexivity is sometimes expressed as researcher self-declaration in prefaces to academic texts or more or less intricate descriptions of what the ethnographer did, felt and thought in the field. To declare positions mechanically or to become too absorbed in the researchers' own personal experience are seldom fruitful or interesting in and of themselves. But when subject to sustained analysis, experiences, emotions and sensations can be harnessed to enhance the way scrutinizers act in prisons, the way they process their findings, and represent their results. Learning the 'language(s)' of prisons, reading them, and telling their stories, is about more than vocabulary and rules of grammar; it is also about nuance, subtlety, semantics and meaning-in-use. Effective scrutiny also involves paying attention to one's own mis-steps and the serendipitous encounters that might teach as much as any preconceived plans of action.[26] Being conscious and methodologically and analytically alert about how we as monitors or ethnographers come to interpret a given event or experience in a given prison is integral to the validity and quality of the knowledge our scrutiny practices are able to generate.

In this semi-confessional article, we have illustrated how both monitors and ethnographers bring with them sets of baggage and tools and fashion facts into narratives under conditions that are not always (not often) conducive to easily bringing the baggage into play or using the tools as intended. Both operate in non-ideal contexts sometimes compelling the prison scrutinizer towards feats of extraordinary balance.[27] We have sought to deconstruct any sense that monitors and ethnographers may be at odds with one another. We have highlighted affinities and pointed to the potential benefits of reflexivity. These affinities imply that it would be worth exploring further the potential to pursue synergies in more practical terms: what might a team of prison scrutinizers comprising monitors and ethnographers achieve together?[28] Our final gesture is to flag this article as an invitation to prison monitors to join forces with ethnographers and seek out concrete opportunities to scrutinize specific prisons (and prison climates!) together — and to reflect self-consciously and mutually on that practice. This, we believe, might help to promote acceptance of more radically pluralist practices of scrutiny that would enhance the effectiveness of scrutiny efforts and contribute meaningfully to the eradication of penal excess.

22. Sartre, J-P (2957). *Being and Nothingness,* trans. Hazel Barnes, New York: Philosophical Lib. p322.
23. Alsadir, N. (2022). *Animal Joy A book of laughter and resuscitation,* London: Fitzcarraldo Editions p32.
24. Ibid.
25. Lichterman, P. (2017). Interpretive reflexivity in ethnography. *Ethnography,* 18(1), 35–45
26. *Ibid.*; Martin, T. M. (2019). The ethnographer as accomplice—Edifying qualms of bureaucratic fieldwork in Kafka's penal colony. *Critique of Anthropology,* 39(2), 139-154.
27. Rutherford D. (2012). Kinky empiricism. *Cultural Anthropology* 27(3): 465–479; Jefferson, A.M. (2022). Prison reform and torture prevention under 'compromised circumstances.' *Criminology & Criminal Justice,* 0(0).
28. For an account of such an 'experiment' see Bennett, J. (2014). Resisting the Audit Explosion: The Art of Prison Inspection. *The Howard Journal of Crime and Justice.* Vol 53 issue 5.

Barriers to engagement: Scrutiny gaps in Irish prisons

Sophie van der Valk is a postdoctoral researcher and *Mary Rogan* is an Associate Professor of Law at Trinity College Dublin, Ireland

Abstract
Prisons in Ireland and across the world are subject to a growing range of scrutiny bodies. However, even as such bodies strive to develop best practices there remain inherent challenges related to how best to generate meaningful knowledge about the prison experience. Through analysis of interviews with prisoners in Ireland, this paper explores the barriers to engagement which prisoners face when choosing (or not) to interact with prison oversight mechanisms. These barriers include low expectations of prisons and the ability of prisons to change, low awareness and trust in oversight bodies and their role in protecting prisoners' rights, as well as concerns about the consequences of speaking up and what is worth speaking up about. This final barrier termed wasted agency, can place a limit on when and what prisoners are willing to speak to bodies about and what is considered worth taking a risk for. Recognizing the role these barriers play in who and what is referred to prison oversight bodies can shine a light on scrutiny gaps which may arise and differences in communication between oversight bodies and those they are intended to protect.

Introduction

There has been a growth globally in scrutiny in prisons. One form of scrutiny which will be discussed in this paper is that of prison inspection and monitoring. Inspection and monitoring bodies are designed to protect the rights of those in prison through gathering information on the current situation in prison and scrutinising treatment and conditions according to domestic and international legislation and rules – often based on human rights law and standards.[1] This paper explores some of the factors which shape prisoners' awareness and expectations of these bodies, as well as the experiences they had with them. Specifically, it will identify barriers to engaging with inspection and monitoring bodies due to factors inherent to the prison environment, such as prison culture. In particular, relationships and trust building in prison, as well as expectations of the prison among the prisoner population will be explored. As outlined by Merry, 'in order for human rights to be effective … they need to be translated into local terms and situated within local contexts of power and meaning.'[2] This paper sets out the context in which human rights protection in prison operates. Additionally, this paper explores the factors which can create barriers to accessing the inspection processes and limit the awareness of rights protecting bodies among prisoners. The increasing bureaucracy of monitoring and inspection bodies can act as a barrier to those who have had negative past experiences with authorities or who may not be able to engage due to literacy issues.[3] Key to this paper is the idea that inspection and monitoring bodies should be accessible to those in prison.

Ireland

Ireland is a member state of the Council of Europe and the United Nations, which both have rules for the treatment of prisoners.[4] Ireland has a prison population of 4,148, with prisoners held in 12 prisons across the country.[5] Ireland has several different bodies which carry out visits to Irish prisons. Each prison has a Visiting Committee, which consists of 6 to 12 members of the community who can visit prisons regularly, write annual reports and listen to prisoners' complaints.[6] Additionally, Ireland established on a statutory basis in

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1. For example, the European Prison Rules 2020 and the UN Mandela Rules.
2. Sally Engle Merry, *Human rights and gender violence: Translating international law into local justice* (University of Chicago Press 2009) 1.
3. Christopher Hood, Oliver James, George Jones, Colin Scott and Tony Travers, *Regulation inside government: Waste watchers, quality police, and sleaze-busters* (Oxford University Press 1999); Ben Crewe, 'Depth, weight, tightness: Revisiting the pains of imprisonment' (2011) 13(5) Punishment & Society 509.
4. European Prison Rules 2020; the UN Mandela Rules.
5. Irish Prison Service, Daily Prison Population 1st July 2022 available at: https://www.irishprisons.ie/wp-content/uploads/documents_pdf/01-July-2022.pdf
6. Prisons (Visiting Committees) Act 1925.

2007 an Inspector of Prisons. The Inspector of Prisons is responsible for inspecting all the prisons in Ireland, writing annual and thematic reports, investigating deaths in custody and has oversight of the complaint procedure. Ireland is also subject to visits by the Committee for the Prevention of Torture and Inhuman and Degrading Treatment or Punishment (CPT) of the Council of Europe. Work is also underway to ratify the UN Optional Protocol to the Convention against Torture and establishing a National Preventative Mechanism.

Study

The present paper draws on a broader study which examines the experiences of people in prison of oversight through complaints, inspection and monitoring, and the courts. The analysis presented here examines the barriers to engaging with inspection and monitoring bodies in Ireland.

The study consisted of interviews with 45 prisoners, located in three prisons in Ireland. Participants were male, currently serving a sentence, and had been in custody for at least one month at the time of the research. Participants were randomly selected from those serving a sentence on the first day the researcher arrived at the prison. This involved randomly generating numbers based on the number of people in custody and matching these to the list of those individuals. Those identified were approached by the researcher and informed of the study. An information sheet was provided, as well as an opportunity to ask questions. Potential participants were given a minimum of 24 hours to consider whether they would like to participate, and then approached for a second time for interview. The data was gathered and transcribed by the first author, with frequent meetings and discussions with the second author during the analysis stage, to discuss and review the codebook and themes in the data. The interviews for this paper were analysed thematically using NVivo software.

> The present paper draws on a broader study which examines the experiences of people in prison of oversight through complaints, inspection and monitoring, and the courts.

Findings

The study shows that the prison environment and penal culture can create barriers to engaging with inspection and monitoring bodies. While some prisoners may deliberately choose not to engage with inspection and monitoring bodies, due to the fact that at times they were viewed as another arm of the prison service or a layer of bureaucracy to prevent prisoners from accessing decision makers, others were simply not aware of the existence of bodies to protect their rights, or what their rights even were.[7] Previous research published from this study highlighted low levels of awareness and familiarity with these bodies among certain groups of prisoners.[8]

Three key findings are considered here. Firstly, prisoners' expectations of prison life and how this shapes their identification of problems and engagement with monitoring and inspection bodies. Secondly, barriers to engagement as a result of aspects of prison culture, such as reliance on key relationships which can hinder prisoners seeking to access rights protection. Finally, the concept of trust (or lack thereof) in the prison context will be discussed and how low trust environments, combined with low awareness of the existence and activities of monitoring and inspection bodies, can in turn limit the opportunities to engage with those bodies. These findings drawn together highlight a disconnect between those in prison and the objectives of those scrutinising prisons.

What Matters in Prison: Expectations

Prisoners' expectations of their rights and treatment in prison can have significant implications for how prisoners' engage with monitoring and inspection bodies. Participants in the current study had low expectations of their rights, as well as low expectations of prison conditions and in some cases a low sense of being worthy of rights. In prison, while the concept of

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7.   Sophie van der Valk and Mary Rogan, Experiencing human rights protections in prisons: The case of prison monitoring in Ireland (2021) *European Journal of Criminology,* 18(1), 101–119.
8.   Sophie van der Valk, Eva Aizpurua and Mary Rogan, Towards a typology of prisoners' awareness of and familiarity with prison inspection and monitoring bodies (2021) European Journal of Criminology, 0(0). https://doi.org/10.1177/1477370821998940. In particular, awareness and familiarity was higher among Irish nationals, while those serving shorter sentences were less likely to know about the bodies. Additionally, those with lower confidence in staff had higher awareness and familiarity with some of inspection bodies and those who considered rights in prison were respected had higher awareness of the bodies. Finally, having used the complaint system was linked to awareness and familiarity with the inspection and monitoring bodies.

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rights may be visible in the legal framework and official guidelines of the organisation, the permeability of these concepts into the everyday life of both staff and prisoners may differ. However, as was clear in the current study, the scope of rights and right protection in prison was limited among the majority of participants.

Prison involves infringement on a vast range of rights beyond loss of liberty due to the interdependent nature of many rights. As noted by one participant, the range of rights which are impacted by imprisonment is beyond many people's imagination until they experience it:

if you have never been in prison before you would have no reason to ever have those thoughts or to even imagine what it is like really in prison you become aware of how your rights can just be completely taken away…

Participant 01

As demonstrated by this quote, many rights are taken for granted on the outside which come into sharp focus in prison, where a prisoner is heavily reliant on staff for daily needs and has little control over basic decision making such as contacting family members or even, in the case of prisons without in-cell showers, when to go for a shower. This sense of reliance or lack of autonomy and sharp deprivation of rights upon imprisonment is emphasised in international research[9] and was experienced by many prisoners in this study. This can lead to infantilisation of prisoners as decisions they may have been making for years are taken out of their hands and can have an impact on their sense of self. The degree to which prisoners accepted those decisions varied and some prisoners outrightly resisted prison control over their decision making, while others took small actions to exercise agency over their daily lives, such as closing their own door a few minutes before evening lock up. Other participants spoke about collectively complaining about issues or being persistent in speaking up to staff members about their needs.

Prisoners in the current study often felt they had no rights in prison: *'No rights, I haven't got any rights.'* (Participant 07), while others had a very limited view: *'You have a right to your hour of exercise, that's all you have really'* (Participant 06). There was also a sense that

> Prison involves infringement on a vast range of rights beyond loss of liberty due to the interdependent nature of many rights.

rights could be easily taken away and were seen as privileges which the prison had full control over, as illustrated by Participant 06:

[T]he only thing they can't take off you is your hour exercise and your meals. Everything else they can. You can get everything but then everything can be taken away from you and the only thing they can't take away from you is the food and your hour of exercise basically, so you kind of have to work from basic up to enhanced.

This sense of having no rights or the ability of the prison to take away rights is a sharp contrast to the significant reform of prison policy and legislation concerning the treatment of prisoners which has taken place in recent years. In general, and as with Karamalidou's research,[10] prisoners did not see rights in prison as legally protected beyond a narrow conception such as an hour of exercise and the meeting of basic needs such as food and hygiene. Additionally, many participants did not feel that rights were respected in prison and asserting rights in prison is not something participants felt able to do. This suggested that rights expectations among prisoners are low and there can be challenges in speaking about rights when information about their entitlements to them is lacking. Some felt that the institution was unwilling to share information about rights and rights protecting bodies and that looking for information on these from staff was a waste of time and could draw unwanted attention.

Some participants expressed a lack of control over their own circumstances and what they received while in custody leading to a sense of frustration, which may contribute to disengagement. This feeling is exemplified by the following quote:

No rights, I haven't got any rights…. I don't even look at anything like that I just … I just do what do be asked of me, it is better that way, you know what I mean. If you are having problems, it is better than roaring and shouting at them yeah or snapping or … sometimes you feel like doing it but there is

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9.   Ben Crewe, *The Prisoner Society: Power, adaptation and social life in an English prison* (Oxford University Press 2009).
10.   Anastasia Karamalidou, *Embedding Human Rights in Prison: English and Dutch Perspectives* (Palgrave Macmillan 2017).

no point in it, you are not going to get anywhere doing that, you know.

Participant 7

This participant also highlights some of the concerns prisoners had about speaking up and being vocal about their rights.

Additionally, there was a lack of clarity about rights in prison among participants and, in the case of some participants, they relied more on a sense that something 'felt wrong', rather than having concrete information on his rights. Participant 29 noted that he did not *'want to get too deep into it'*, which suggests that reflecting on what goes wrong in prison can be difficult for a prisoner to deal with, especially when there is no hope of changes being made or being successful in resolving problems. This corresponds with Jewkes' work, which describes how prisons are hypermasculine environments where surviving prison is about having a tough front.[11] Being asked to lift this front, even temporarily, to reflect on your experiences and identify issues can be a difficult task.

This study shows that the expectations prisoners have of prison can impact on what information they feel is necessary to share with an inspector or what they might see as worth complaining about, as emphasised by Participant 40:

> *I think prisons is meant to be bad like, so you won't come back... I think this is the best we are ever going to get, you know, we have a toilet now like. I remember when we were in the old jail everyone was urinating and faeces into a bucket, yeah and cleaning it out like that was bad like and that was only a few year ago. Now we have toilet, shower, like we are allowed X-boxes if you are on the enhanced wing. What more can you get like. I don't think you can get anymore...*

As is evident from the final line of this quote, and in line with Sexton's research on penal consciousness,[12] prisoners' expectations are based on prior experience and their perceptions of what prison should be like.

Meeting the basic needs of those in prison was seen by this participant and others as all that could be achieved in prison. The wider rehabilitative mandate of prisons evident in the international and domestic frameworks, as well as the standards of the inspection and monitoring bodies, was not reflected in all participants' mindsets of what they expected of prison. As emphasised by Sexton, prisoners' expectations are shaped by subjective experiences and thus their identification of issues in prison are shaped by those expectations.[13] These minimal expectations of what prison was supposed to be like, could limit the interactions between prisoners and monitoring bodies. This could in turn have implications for what monitoring and inspection bodies may in fact be able to identify as problems in prisons, given the key role of prisoner engagement in shaping reports.

> **Prisoners' expectations are shaped by subjective experiences and thus their identification of issues in prison are shaped by those expectations.**

These findings suggest a disconnect between how those in prison expect and accept prison to be and the rhetoric and concerns of those carrying out prison inspections. Prisoners may not be concerned with the same matters as inspectors, with a strong focus in interviews on specific problems such as family visits or access to healthcare rather than matters pertaining to prisoners' specific needs or compliance with human rights norms in general. This is expanded on below when discussing wasted agency and the situations which those in prison felt were worth using their limited agency on. A lack of awareness and clarity around how inspection is supposed to work created a sense of pointlessness to engaging with inspection bodies. As discussed by one participant, he felt that the Inspector, who he had met, made unrealistic promises when speaking to prisoners and the lack of follow up created a sense of distrust in the office more broadly and possible future engagements:

> *[The inspection body] made promises, [they] did make promises to us that [they] would get this stuff sorted out, but they didn't.*

Participant 09.

As will be explored further below, engaging with those who come into prisons may in itself be

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11.   Yvonne Jewkes 'Men Behind Bars: "Doing" Masculinity as an Adaptation to Imprisonment' (2005) 8(1) Men and Masculinities 44.
12.   Lori Sexton, 'Penal subjectivities: Developing a theoretical framework for penal consciousness' (2015) 17(1) Punishment & Society 114.
13.   Lori Sexton, 'Penal subjectivities: Developing a theoretical framework for penal consciousness' (2015) 17(1) Punishment & Society 114.

challenging and seen as taboo. The environment is such that experiences of relevant and positive change is close to non-existent.

Prison Culture: a lack of trust and dependent relationships

Prison culture was a recurring theme in the interviews in relation to prisoners' attitudes to oversight and potential concerns about the consequences of speaking up. This was linked to the low trust nature of the environment, relationships in prison, as well as survival tactics. Previous research highlights prisons as low trust environments.[14] This can make it difficult for prisoners to build relationships and they may also be less likely to risk engaging with authorities or monitoring and inspection bodies, especially when they know little about them. Hardin notes that

'[p]eople who are rarely trusted do not have the opportunity to develop trustworthiness, and cannot be expected to respond with alacrity when trust is offered to them. This is one of the damaging elements of suffering from long-term distrust: in such an environment, it makes little sense to develop traits of trustworthiness, if these will go unrecognized. This in turn makes the habitually distrusted harder to trust, and the downward spiral continues.'

Prisoners may also lack self-trust, whereby they are unsure whether to trust their own judgement in placing trust in others.[15] Prior experiences of trusting others may have been misplaced and thus created a vacuum of trust for the prisoner. Hawley discusses the challenges of trusting for those who have not been trusted themselves in the past, noting that those in 'positions of privilege may find it easier to take a chance with trusting, simply because the risks and stakes are lower'.[16] As emphasised by Calavita and Jenness, prisons are high stakes environments, therefore the cost

of misplaced trust can be high and prisoners have scarce resources they are keen not to lose.[17][18] As highlighted by Participant 21

'I suppose you could get a prisoner to do it [speak to inspection bodies] yeah but I wouldn't have nothing to do with it cuz they wouldn't listen to me. That's the truth.'

His prison experiences made him feel that speaking to an inspection body would not be worthwhile, as he would not be heard. While this participant did not feel as though he would be perceived as worth listening to, other participants suggested that certain groups of prisoners, such as those serving life sentences would have a lot to say and might be perceived as more legitimate. This demonstrated a sense that some prisoners were perceived as more worthy of voicing their experiences than others.

Participants in the current study spoke about the lack of trust they had in prison as a result of prior experiences or their experience with authorities more broadly. As noted by Participant 20: *'I wouldn't trust anyone in here to be honest.'* Another participant noted the importance of clear independence in building trust and the fundamental need to trust a body when providing them with sensitive information such as a complaint:

It's very hard to trust people now in a prison system … because this fella could be all nice but then you know he's going back to this person and you know things could be [said differently]. I don't know like, you want to be able to trust someone you know like, people in prison don't really trust, you know what I mean. It's very hard to trust someone you know that kind of way like because you have seen it all before like, people charging this fella and sending him to a different jail, you know things like that, it's very hard.

Participant 45

> Prisons are high stakes environments, therefore the cost of misplaced trust can be high and prisoners have scarce resources they are keen not to lose.

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14. Ben Crewe *The Prisoner Society: Power, adaptation and social life in an English prison* (Oxford University Press 2009).
15. Russell Hardin, 'Trustworthiness' (1996) 107(1) Ethics 26.
16. Katerine Hawley, Trust: *A very short introduction* (Oxford University Press 2012) 18.
17. Kitty Calavita and Valeria Jenness, *Appealing to Justice: Prisoner Grievances, Rights and Carceral Logic* (University of California Press 2015).
18. Katerine Hawley, *Trust: A very short introduction* (Oxford University Press 2012) 19.

A lack of trust can create a barrier to speaking to external bodies, especially when there is limited information on them or, as in the case of some of the monitoring and inspection bodies, they are not perceived as independent from the prison service itself.[19] Despite this, some participants were willing to engage with some inspection bodies, even where they knew little about them and had limited expectations about what they could actually achieve. The cost benefit analysis of the risk involved in seeking out and choosing to engage with inspection bodies was altered in this case and some may be willing, on a one off basis at least, to forego the knowledge usually necessary to make this assessment, especially if a pressing issue was concerned.

A key feature of relationships in prison is the prisoner code of not telling on other prisoners, referred to as "ratting" by some participants. Given the heavy reliance on relationships in prison and the complications that may arise from damaging a relationship, it is unsurprising that seeking out information on and engaging with monitoring bodies is low on the list of priorities for prisoners. Carrabine states that imprisonment consists of a situation where 'prisoners are confined against their will, with people they would normally not choose to be with, in circumstances they can do little to change and are governed by custodians who police practically every aspect of their daily life.'[20] This feeling of powerlessness and reliance is clearly evident in the prison culture and informs the willingness to seek out information. A willingness to seek out information and to complain depended on what was at stake, with family visits frequently mentioned as a trigger for when action needed to be taken.

In addition to relationships with staff, prisoners are reliant on one another to survive prison life and relationships with other prisoners can mediate some of 'the pains of imprisonment' as outlined by Sykes. Speaking to external bodies was viewed by some participants as suspicious behaviour that might make

> A key feature of relationships in prison was the prisoner code of not telling on other prisoners, referred to as "ratting".

other prisoners distrust you or think that the complaint was about them and could bring trouble. Given the importance of these relationships, prisoners may take this into account when considering engaging with monitoring bodies. Is the risk of engaging worth damaging a vital prison relationship? Those who used the complaint system were not always viewed kindly by other prisoners, referred to by Participant 38 as "*little weasel people*" and some may be suspicious of what a prisoner is complaining about.

Speaking to external bodies was seen by some as counter to strategies of survival in prison of keeping one's head down. Previous prison research, such as that conducted by Jewkes, discusses how prisoners adapt to the prison environment to survive[21] and some of these adaptation techniques can act as barriers to engaging with rights protecting bodies. This theme was also present in the current research. For example, Participant 13 explained that:

….in prison you have to have your wires around you like, you know, you have to …. watch what you are saying.

As highlighted by this participant, he survived prison by avoiding disclosing information about himself, especially to those he did not trust. This practice of self-protection may be difficult to set aside, even momentarily, in favour of willingly and actively disclosing vulnerabilities to monitoring and inspection bodies. Keeping your head down was seen by the majority of participants as the best way to do your time. This idea of keeping your head down was also found in Behan's research and his discussions with prisoners on engaging with oversight bodies.[22] As discussed by Behan, prisons were about creating 'compliant prisoners' rather than active citizens, through encouraging obedience, conforming to norms and patterns of behaviour.[23] Prisons were focused on achieving compliance 'where individuals do not act or do as they felt, and 'choices suppressed or pacified lead only to organisationally determined identities; one becomes what the environment dictates.'[24] For

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19.   Sophie van der Valk, Eva Aizpurua and Mary Rogan, Towards a typology of prisoners' awareness of and familiarity with prison inspection and monitoring bodies (2021) *European Journal of Criminology* 0(0) https://doi.org/10.1177/1477370821998940.
20.   Eamonn Carrabine, 'Prison Riots, Social Order and the Problem of Legitimacy' (2005) 45(6) British Journal of Criminology 896, 897.
21.   Yvonne Jewkes, 'Men Behind Bars: "Doing" Masculinity as an Adaptation to Imprisonment' (2005) 8(1) Men and Masculinities 44.
22.   Cormac Behan, *Citizen convicts: Prisoners, politics* and the vote (Manchester University Press 2016).
23.   Cormac Behan, *Citizen convicts: Prisoners,* politics and the vote (Manchester University Press 2016) 173.
24.   Cormac Behan, *Citizen convicts: Prisoners,* politics and the vote (Manchester University Press 2016) 173.

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participants in the current study, by limiting interactions with others – especially outsiders – they were engaging in self-preservation strategies to protect themselves from unwanted attention and avoiding unintentionally aggravating staff, for example as highlighted by Participant 39 *'Just get a job, keep the head down and keep doing what you're doing.'*

Prisoners spoke about keeping their head down as a way of managing prison and maintaining relationships with staff members. As noted by one participant: '*They do their thing, I do mine*' (Participant 7) when he was asked whether he would engage with the inspector if he came into the prison. The challenge in being heard and getting your point across is evident in other areas of research, including a study conducted by Crewe, who notes that issues in prison may be seen as small things outside of the prison context.[25] It is important for oversight bodies to understand the significant restrictions placed on those in custody and the relevance – also symbolically – of even more minor incidences (as seen from the outside). In the current study, privacy and door banging was referred to by some participants as a way of staff to either show respect or as a form of reprisals against those they had issues with. This can be seen in the quote below:

There are certain times you would say to yourself this is wrong or like you feel like (complaining), but I haven't done it, you know. …. You could make trouble for yourself in here and to me the quietest way is the best normally.

Participant 29

Despite limited awareness and personal interactions with monitoring and inspection bodies, participants were sceptical of the inspection process and how inspections were carried out. There was also a sense amongst participants that limited changes were possible in the Irish Prison Service and that the service was unwilling to act on recommendations, especially in the absence of enforcement powers. Despite the growing push for oversight in prisons, the practical benefits to participants was not always clear. Some questioned the utility of a body who could not assist with individual cases, or lacked enforcement powers to make changes. There was a sense that discussions about inspections in prisons (by inspecting bodies) were at times far removed from the reality of prison life and the need for immediate action for individuals in their experiences was not reflected in the timelines evidenced in inspection reports. Prisoners were unlikely to speak about rights as a collective or general problem or using the language of rights, instead they use examples of concrete experiences of where they felt wronged. The impact this has on how they would engage or bring issues to the attention of an oversight body needs to be considered and building trust with those in prison. This could be achieved through providing easier access to inspectorate reports, visibility of inspection teams in key areas and allowing prisoners to focus on themes which are of concern to them such as family visits. Through building a clear understanding of the mandate of inspection bodies and the work of the body, frustrations and distrust with the bodies could be addressed.

Some felt that inspection was a fruitless exercise which would result in limited changes within the prison, or at least changes that would be long lasting and have a deep impact on the system. Painting the walls and sweeping the floors were described as a quick facelift but one unlikely to deal with the longer-term concerns prisoners faced. As emphasised by Participant 31 physical repairs were not necessarily the problems prisoners were concerned with:

Well they can listen to them but sure who is going to complain about a broken window. When someone comes in, when them windows are closed, them cells are like saunas. So you would want a hole in your window.

There was a sense amongst some prisoners that inspection bodies would not be able to understand the environment and issues which prisoners may have. As highlighted above, broken windows, which may on the surface seem like something that needs to be fixed, was actually something that some prisoners welcomed. Including the voice of the prisoners much more

> Prisoners were unlikely to speak about rights as a collective or general problem or using the language of rights, instead they use examples of concrete experiences of where they felt wronged.

25. Ben Crewe, *The Prisoner Society: Power, adaptation and social life in an English prison* (Oxford University Press 2009).

explicitly in inspection practices and reporting to try to get a fuller understanding of the environment is important to ensure that inspectors' recommendations will not only benefit those in custody, but also avoid negatively impacting their everyday lives. As noted by one participant (38) in response to the question as to whether inspections could make prisons better:

'They probably could yeah. They could probably make them worse than as well.

Researcher: Okay, why do you think that?

I don't know, just they could change something that no one wants changed, do you get me.'

This participant was sceptical of the inspection process and whether the changes that they might eventually bring about would be something that would actually benefit them in prison. This is linked to the findings previously discussed that monitors or inspectors might not actually understand the prison and the problems which prisoners face due to their lack of lived experience and distance from the prison. Prisoners definitely have that experience, which obviously dampens their motivation to engage.

Implications on Engagement: Wasted Agency

As noted by Behan, 'imprisonment confines, restricts and prevents an individual from the freedom of choice necessary for agency, building trust, developing social capital and engaging in networks of engagement essential for robust citizenship.'[26] Similarly, participants in the current study experienced challenges in building trust and had limitations placed on their agency. As discussed by Crewe, these restrictions increase the significance of staff prisoner relationships in accessing services available in prison.[27] These limitations can create challenges in engaging with monitoring and inspection bodies, especially in instances such as those set out above, where prisoners have limited information on the existence of monitoring and inspection bodies and how they operate. In situations where people have limited agency and concerns about exercising the little agency they retain, care will be taken in deciding when to use it. Prisoners may prioritise interactions where they have a clear understanding of the benefits and risks of engaging or if they have serious concerns about specific issues, which have increased significance for them. As noted by Participant 19, '*I try push the line as far as I can with the visits and stuff'*. Family contact was a key area where participants were more likely to speak up or complain when a problem arose, indicating that this issue is clearly important to those in prison. Additionally, there was a sense that family visits and contact were something which the prison should not overly intrude on as family members had not done anything wrong and therefore were worthy of protection. As with, concerns about healthcare this was at times about preserving life outside of the prison walls. This may result in issues raised by the inspector as being perceived as minor or not as important being overlooked or not perceived as worth wasting agency on.

The concept of 'wasted agency' therefore is based on the underlying concerns of those in prison and the perception of how far you can push the line or exercise your agency before the risk of reprisals increases beyond what is acceptable to the prisoner for the right at issue or one's energy is burnt out. Additionally, due to the disconnect between the everyday experiences of prison and the focus on standards in prison inspection and monitoring, prisoners have little incentive to engage and no faith in the system to give them what they want. They perceive of it as a waste of their energies. Not speaking up is also a form of self-protection from being repeatedly refused one's request or feeling that one's sense of worth is being undermined. As set out above, when choosing to engage with monitoring and inspection bodies, having relevant and actionable information on the risks and benefits of interacting are key especially for those in low trust environments. However, in the case of participants in this study there was limited information on the various bodies and how they operated, and

> Family contact was a key area where participants were more likely to speak up or complain when a problem arose, indicating that this issue is clearly important to those in prison.

26. Cormac Behan, 'No longer a 'collateral consequence': Imprisonment and the reframing of citizenship' (2020) European Journal of Criminology 1, 11.
27. Ben Crewe, The Prisoner Society: Power, adaptation and social life in an English prison (Oxford University Press 2009).

participants therefore found it difficult to assess the benefits of an interaction. As noted by Participant 31 '*I would only go to him if I know … if I had a good chance of winning my case*.' Speaking to someone who you did not know much about or about an issue that you perceived as minor could be felt as a waste of time and resources in a limiting context such as a prison. Prisoners may not want to waste an opportunity to speak up, when the benefit is unclear and especially in light of the perceived risk to relationships deemed crucial for survival and risks of other forms of reprisal from, for instance, the staff. These concerns are also evident in the literature, as noted by Stanley, 'rights are … about relationships with people.'[28] This was evident in the current research from discussions with prisoners who learnt who to approach for help or had certain officers they avoided asking for anything. Relationships with other prisoners and staff in prison were seen as key to accessing rights and receiving information on rights.

This reiterates the importance of ensuring those in prison have a clear understanding of the bodies' mandates and how they operate in deciding whether to use their limited agency on an interaction with a monitoring or inspection body. Drawing on Behan's work, this highlights the finding that if trust decreases, either through misconceptions – on both sides - or lack of knowledge to engage, engagement decreases resulting in a drop in legitimacy as prisoners' views are not perceived as being heard in the inspection and monitoring processes.[29] Prisoners make calculations in deciding when to act and, in the absence of clear knowledge of these bodies, this assessment is done based on prior experiences or information available to prisoners. These findings clearly reveal the risks of engaging with different monitoring and inspection bodies.

Conclusion

Inspection and monitoring in the prison context face a range of challenges. These findings highlight the potential disconnect between those in prisons and the goals of inspection and monitoring. The expectations of what prison life is and ought to be can differ significantly between those in prison and the standards set in legislation and by inspection and monitoring bodies. Drawing on their own expectations, creates a barrier in seeking to engage and communicate with inspection and monitoring bodies. Prisoners may perceive situations as good as they expected and almost impossible to better - due to their own perceptions of

what prison can and should be like, as well as their understanding of their rights in custody. This has implications for the topics which prisoners may perceive as necessary to bring to the attention of inspection and monitoring bodies. In addition to this, those who perceive prison as their home may be unwilling to jeopardise their sense of a self-place for matters which may be perceived as minor or too risky to draw attention to. Therefore, it is important that inspection and monitoring bodies play a role in building awareness of rights in prison and address concerns about reprisals when carrying out their work. This could be achieved through recruiting those with custodial experience to inspection bodies or having open discussion groups with those in prison when carrying out inspections to allow space for issues which may not be on inspection agendas.

Engaging with inspection bodies and speaking up about rights can be perceived as an antithesis to prison culture and the need to keep your head down and stay out of trouble. This is particularly the case when those in prison are unsure about the role of the bodies and have limited information on who they are being asked to engage with. Providing information to prisoners throughout their time in prison on bodies can help to ensure that knowledge on these bodies is retained. Additionally, as discussed by Participant 36 in the study having access to reports made an impact on how he saw the Inspector.

> '… the Inspector did spot a few things in [the prison] that needed sorting out like, you know and he included it in his report like, which I thought made a big difference.'

While prisoners are not necessarily the target audience for reports by inspection and monitoring bodies, providing access to the report may help promote legitimacy of the process among the prison population and dispel perceptions that the process is guided by the prison service and only interacts with certain prisoners or areas within the prison. Providing a short, accessible summary is one means of building knowledge of the role and work of the inspector and ensuring prisoners feel heard by the process. In scrutinising the prison, it is important to include the experiences of a diverse range of individuals who are present in the environment on a daily basis. The potential gaps set out in this paper, highlight the challenges of scrutinising an environment of low trust, low rights expectations and awareness and with a challenging culture.

28.　Elizabeth Stanley, *Human rights and prisons: A review to the Human Rights Commission* (Human Rights Commission Auckland 2011) 26.
29.　Cormac Behan, Citizen convicts: Prisoners, politics and the vote (Manchester University Press 2016) 172.

Security, discipline, resistance: Deciphering prison scrutiny styles in France

Gilles Chantraine is senior researcher at CLERSE-CNRS/University of Lille

CLERSE (UMR 8019 CNRS) — CNRS / Université de Lille

gilles.chantraine@univ-lille.fr

Unless prisons assume a social function of pure neutralization, they generally present themselves also as institutions dedicated to prisoner correction and normalization.[1] This disciplinary intention is intrinsically linked to the specific actions of the professionals employed in them: psychologists, criminologists, educators, probation officers and others. The action of these professionals take shape in a security-based framework which, for its part, embodies neutralization objectives, and which, through surveillance and the grid of prison space, aims to reduce internal disorder and foil escape attempts.[2] Depending on the historical time, national contexts, and even the target population within an individual prison system, this security-based framework can be more or less totalitarian, more or less technological and more or less constrained by requirements to respect the prisoners' rights.

The notion of scrutiny, as constructed in this article, will help us grasp the *intertwined relation* between the monitoring devoted to correction — the disciplinary gaze — and the surveillance devoted to controlling bodies and gestures — the security gaze. Its specific security organization, built around a specific penological and correctionalist objective, gives the prison its singular scrutiny style. In their editorial, Martin and Jefferson point out that prior to becoming a progressive accountability practice — looking into the prison for the sake of the prisoner's rights —, scrutinizing was, and is always, a way to govern, an act of power: scrutinizing the prisoner for the sake of the prison's goals. This is the sense I give to the notion of scrutiny, even though, as we shall see, it also provides a lens for seeing certain forms of internal control in detention. One more word on the notion of 'style'.

Foucault uses the notion of 'penal style' to draw a distinction between the torture of the Ancient Régime and the modern prison.[3] I've appropriated this notion of style somewhat freely in order to identify specific sub-styles of scrutiny in prisons. In this article, I describe two such styles: the 'neo-disciplinary' and the 'warlike'. Furthermore, as the notion of style also reflects the semantic universe of the 'art of government'[4], I have preferred this to the more classical notion of 'type' or 'ideal type'.

First, from a theoretical point of view, I pin down the notion of scrutiny and the interest it holds for a sociology of the prison. I then give two examples of prison scrutiny styles, in an analysis based on two studies that deployed similar qualitative methodologies. The case studies, conducted within the French prison system are 'prisons for minors' (PM) and 'radicalization assessment units' (RAU). Although these two prison units are different with respect to their organization and their target population, they nevertheless share common features, making their comparison all the more useful.

Prison scrutiny style: a tentative definition

The notion of scrutiny is not to be conflated with either of two other notions: first, that of 'discipline', that is correction and normalization practices — studied first by Michel Foucault in Discipline and Punish[5] and then more widely debated; secondly that of 'surveillance', that is, daily practices to produce order, which has been extensively analysed by sociologists and criminologists studying prisons, especially by deciphering the prison officer/prisoner relationship.[6] The notion of scrutiny, I describe here, is found at the intersection of these two types of practices. It serves to

1. Foucault, M., (1975), *Surveiller et Punir,* Paris, Gallimard.
2. Sykes, G. M. (1958). *The society of captives: A study of a maximum security prison.* Princeton University Press; Martin, T., Chantraine, G. (Eds.), (2018), *Prisons Breaks. Toward a Sociology of Escape,* Palgrave.
3. Foucault, M., (1975), *Surveiller et Punir,* Paris, Gallimard.
4. Foucault, M. (2004). « Qu'est-ce que la critique? (critique et *Aufklärung*) », *Bulletin de la Société française de philosophie,* 84, 2, 35-63.
5. Foucault, M., (1975), Surveiller et Punir, Paris, Gallimard.
6. For the French case, see for example Chauvenet, A. (1994). *Le monde des surveillants de prison.* Paris. PUF.

understand 'from bottom up' the vague coupling between disciplinary order and security-based order, and the way that each prison scrutiny style, via the dynamics of interactions, participates in objectifying and subjectifying the prisoners, and thus represents an essential dimension in the exercise of power and 'the conduct of conduct' — that is governmentality — in prisons.[7]

Furthermore, as power and resistance are co-extensive,[8] the analysis of one necessarily implies analysis of the other. Understanding how forms of resistance are organized makes it easier to describe both the effect of each scrutiny style — especially on prisoner subjectivities — and also what eludes the scrutiny, both materially and symbolically. In this area, two comments are important for the analysis. First, that the *prisoners' resistance* is not organized solely around the security-based dimension of the institution — which has been studied extensively — but also in reaction to its disciplinary dimension — something that has been the object of fewer studies. In other words, prisoners' daily forms of resistance are also shaped by the vague coupling between security order and disciplinary order: their resistance is towards prison scrutiny altogether. Secondly, daily resistance in detention is not restricted to the prisoners alone, but can also be observed in *professional resistance*, for instance, denouncing the actions of other professionals as mediocre or even scandalous, or trying to adopt a different way of considering the prisoners and calling into question how the institution treats them, or even repeated absences, investing as little effort as possible, going on sick-leave or resigning vociferously. In short, in order to analyse a specific prison scrutiny style, we must pay attention not only to the interweaving between the disciplinary and security gazes which shape the interactions between prisoners and professionals, but also to the forms of resistance adopted by prisoners and professionals alike, which are occasioned by this interweaving.

In order to explain and illustrate this general proposal, I will refer to two case studies, based on surveys conducted in two specific French prison units: first, in 'prisons for minors' (PM) and then in 'radicalization assessment units' (RAU). It is important here to stress the fact that the notion of scrutiny is observed at an institutional level, both meso- and micro-sociological. Obviously, the principles guiding professionals' actions are also expressions of macro-sociological dynamics and penal policies. The two examples I have chosen concern, on the one hand, transformations in the thinking and rationale on education within the juvenile justice system[9] and, on the other, the gradual establishment of the fight against radicalization in France.[10] My aim is to understand these transformations through the way they articulate and conflict with the very logics of the total institution and its relational microcosm, which can only be seen 'from bottom up'[11], through qualitative methodologies with a focus as close as possible to concrete practices and interactions. Furthermore, an ethnographic type of approach also makes it possible to identify the informal, discreet, even hidden dimensions of a prison scrutiny style — and this is one of the priceless contributions of the ethnographic approach.

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Two case studies

A comparison of the scrutiny style prevailing in the PMs and the dominant style in the RAU seems to be especially pertinent insofar as they are both part of the same national prison system, both relatively recent and

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7. A more global study of prison governmentality would call for a broader and more systematic analysis of the whole strategic apparatus that gives it shape: architecture, legal system, theories on punishment, internal regulations, scientific statements, penal and administrative measures, etc. (Foucault, M., (1994), « Le jeu de Michel Foucault » *in* Foucault M., *Dits et Écrits,* Paris, Gallimard, pp. 298-329). The notion of scrutiny catches an important dimension of prison governmentality, without reducing it to just that.
8. Foucault, M., (1976), *Histoire de la sexualité, 1. La volonté de savoir,* Gallimard, Paris.
9. Sallée, N., (2014), Les mineurs délinquants sous éducation contrainte: Responsabilisation, discipline et retour de l'utopie républicaine dans la justice française des mineurs, *Déviance et Société,* 38, 77-101.
10. Sèze, R., (2019), *Prévenir la violence djihadiste. Les paradoxes d'un modèle sécuritaire,* Paris, Seuil.
11. Chantraine, G., Scheer, D., Beunas, C. (2022). Sociology and Radicalization. For a « bottom-up » approach to the institutional effects of the fight against radicalization, *Déviance et Société,* 46, 273-287.

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both also marked by the will to adopt a multidisciplinary approach towards the prison population. Furthermore, both reflect the growing complexity in the way power is exercised in prison: the prison officers, especially, now more than ever must contend and collaborate with other professionals. Another significant point in common is that the PM and the RAU have both been in the limelight of the media and they represent 'showcases' for the prison administration. This said, the security and disciplinary gazes are articulated quite differently in each type of unit, with the result that highly distinct scrutiny styles emerge.

This comparison is all the more justified because the sociological studies I have conducted and directed in the PM and RAU were spawned by similar questions, with interest as much in the daily work of each professional as in the subjective experiences of the prisoners.[12] The methods deployed are also quite similar: ethnographic immersion over a long period, coupled with several semi-directive interviews with professionals — both professionals in the field and management — and with non-directive interviews, of a biographical type, with prisoners. For lack of space, this article will not discuss the methodological or empirical details of the enquiries, but I refer the reader to other publications.[13] I will limit myself here to a summary of the 'essence' of the scrutiny style in each unit, before showing how forms of resistance are organized and enacted by professionals and prisoners.

> The methods deployed are also quite similar: ethnographic immersion over a long period, coupled with several semi-directive interviews with professionals.

Prisons for minors: a *neo-disciplinary* scrutiny style

Creation of the PM both reflected and reinforced the intense public controversies in France regarding transformations in juvenile justice. For their defenders, the PM represented a major step forward, the installation of an educational logic in the prison, introducing useful activities instead of sterile idleness. However, their detractors saw the PMs as naturalising the incarceration of minors and a symbol of a society that increasingly criminalized its youth. In fact, historically, the Judicial Youth Protection Service (JYPS) largely built its identity founded on opposition to its big brother, the prison. The idea that education was incompatible with detention was one that prevailed in the JYPS since the 1970s; with the opening of the PM and the massive arrival of JYPS educators in the prisons, neutralization of young men and women through the prison and education in the prison took shape and gave rise to a scrutiny style of its own.

The progressive opening of the PMs in 2007-2008 thus reflects the will to transform incarceration areas reserved for youths aged 13-18 into 'educational spaces', and to do so in order to address the lack of socio-educational follow-up experienced by minors held in the 'juvenile units' of adult prisons. Since 2007, the PMs have only gradually and partially replaced the former juvenile units in prisons. On 1 January 2022, out of the 655 minors incarcerated in French prisons[14], approximately one third were held in these new facilities and two-thirds were still hosted in the older juvenile units. In political and institutional discourses, the juvenile units are seen as a counter-model for the PMs. Briefly stated, thanks to the novelty of the PMs, the unhealthy idleness that reigned in the juvenile units has been replaced by a precisely timed hyperactivity in the PM; the single one-on-one contact between the prisoners and the prison officers is replaced by a multiplication of interactions with a wider range of professionals in the

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12. The first PM survey took place in 2009-2011, and I have had regular opportunities to update the data and analysis produced. The RAU survey took place in 2017-2018.

13. On the PM, see Chantraine, G., Scheer, D., Milhaud, O. (2012). Space and Surveillance in a Prison for Minors, *Politix*, 97, 125-148; Chantraine, G., Sallée, N., (2013). Educate and Punish: Educational Work, Security and Discipline in Prisons for Minors. *Revue Française de Sociologie,* 54(3), 437–461; Chantraine, G., Sallée, N., (2015), « Ethnography of Writings in Prison: Professional Power Struggles Surrounding a Digital Notebook in a Prison for Minors », in Drake D., Earle R., Sloan J., (Eds), *The Palgrave Handbook of Prison Ethnography,* Palgrave Macmillan, Studies in Prison, London, pp. 99-123. On the RAU, see Chantraine, G., Scheer, D. (2021). Performing the enemy? No-risk logic and the assessment of prisoners in 'radicalization assessment units' in French prisons. *Punishment & Society,* 23(2), 260–280; Chantraine, G., Scheer, D. (2022). Surveillance, Radicalization, and Prison Change Self-Analysis of an Ethnographic Survey Under Tension. *Journal of Contemporary Ethnography,* 51(2), 171–196; Chantraine, G., Scheer, D. (2022). What the Fight Against Radicalization Does to the Prison Officer Profession », *Champ pénal/Penal field*, http://journals.openedition.org/champpenal/13838; Chantraine, G. Scheer, D. (2022c). Strategies, Tricks and Dissembling in the 'Radicalization Assessment Units' (RAU) – France ». *Déviance et Société,* 46, 375-407; Scheer, D., Chantraine, G., (2022), Intelligence and radicalization in French prisons: Sociological analysis bottom-up. *Security Dialogue,* 53(2), 112–129.

14. Minors in prison represent slightly less than 1% of the prison population in France, which numbered 72350 prisoners as of 1 October 2022.

PM; the long periods spent alone locked in a cell is replaced by a collective life and socialization organized around different focus areas: health, schooling, sports, daily living where the young prisoners take their meals together, and so on. In fact, one particularity of the PM is the co-existence of staff from four different administrations: the prison administration, of course, but also teachers from the national education system, educators from the JYPS, and healthcare staff — who report to the regional hospital and are thus also independent from the prison administration. Without calling into question the primacy of the prison administration, this 'A-team' of professionals are supposed to work together, based on new buzz-words like 'comprehensive management' and 'multidisciplinarity', especially through regular meetings assembling the representatives of each administration to discuss each individual case.

The ethnographic survey, associated with semi-directive interviews with each category of prison actors made it possible to objectify the 'comprehensive management' project as a scrutiny style that I term 'neo-disciplinary'. In order to grasp the nature of this style, we need to examine how it articulates the vague coupling of security and disciplinary gazes.

The security gaze that prevails in the PM is the result of a skilful mixture of surveillance technologies — cameras, software for entering, written observation notes, etc. — and close-up personal surveillance techniques, since the prisoners move solely under escort. Therefore, as in the large majority of prisons, the PM security system remains central and predominant. Yet it is nevertheless somewhat euphemized and, especially, it is utilised for an intensive behavioural socialization that is at the heart of the PM's penological goal. The surveillance and observation practices are organized around the method for assigning the prisoners to the different living units. Each PM is composed of five 'living units', along with an 'arrival unit' and a 'disciplinary unit', and the internal regulations accord greater or less autonomy depending on the young prisoner's behaviour. With the exception of prisoners subject to specific sentences, the youths spend most of their time outside their cells and have their meals together, in small groups, in their living units. As such, assignment practices are interconnected with security and disciplinary considerations: to be eligible for transfer to a unit with a more lenient regime, the prisoner must at the same time pose no problems for daily order in the prison and also show

that they are willing to prepare for their integration into society. More broadly, this disciplinary gaze consists in multiplying the spheres of intervention: the job is to care for, educate, re-school the young prisoners and inculcate in them a sense of 'penal responsibility', all this during a short period of incarceration — as youths stay an average of two and a half months in prison.

The general layout of the PM facilities thus mirrors the tension between security grid of space and the will to create spaces for socialization, in which the prison administration controls the who, what, where, when and why. The requirement for multidisciplinarity, diversification of professionals, the attempt to enclose each dimension of a person in a precisely timed daily routine with an ultra-saturated schedule are all signs of a sophisticated disciplinary gaze. The neo-disciplinary scrutiny style in the PM is the fruit of an apparent paradox. The aim for a de-totalitarization of the institution, intending to better understand the social complexity of deviant adolescence and instil dominant social norms by means other than coercion, is paradoxically echoed by a form of re-totalitarization of the institution, grounded in the need to enable 'comprehensive management', to know and control the prisoners' every act and gesture, thought and plan.

Each scrutiny style, whether explicitly or implicitly, tends to produce different forms of subjectivity, ranging from enrolment to resistance. In the context of the PMs, the prisoner who is a good 'subject', with the 'right profile', in the eyes of the professionals, is primarily one who is, I quote, 'somewhat at ease in prison, but not too much'; it is also the one whose parents are 'cooperative but not overprotective'. And then again it is the young prisoner who gets involved in the activities proposed without being too reluctant and who accepts, as a condition for the quality of their 'comprehensive management', not only to be observed by different staff members but also to 'be open' and 'bare' parts of who they are in all transparency; it is the youth who is 'genuine' and 'honest' and who acknowledges the 'need for an educator' who is valued or idealized. Lastly and more globally, it is the prisoner who is receptive to the process of 'learning responsibility' and who realizes it is their personal responsibility to get by in life. In the PM, deviations from this 'good prisoner' image are subject to further injunctions and reinforced management: they are required to participate more, demonstrate more transparency and authenticity, be more cooperative and so on.

> The general layout of the PM facilities thus mirrors the tension between security grid of space and the will to create spaces for socialization…

Forms of resistance by professionals and prisoners alike shed light not only on certain facets of this scrutiny style but also on what it fails to achieve. On the side of the professionals, it is striking to see the misgivings that some hold towards injunctions for 'multidisciplinarity' and 'comprehensive management'. This can be illustrated by three short examples. First: the healthcare staff evoke medical confidentiality to better defend their professional autonomy and affirm that any health issues at stake must be separated from criminological issues; they refuse to divulge too many details on pathologies that some youths suffer from. Beyond the legal imperative to respect medical confidentiality, they justify their reservations by pointing to a risk of stigma — from the professionals as well as from the other prisoners. Second example: many teachers employed by the public education system refuse — or try to refuse — to let the prison officers have a say in regulating disciplinary problems that occur in the prison schoolrooms. Third example: many educators lament the security management of disorderly conduct in prison — for example a youth who too frequently disturbs an activity is liable, based on a unilateral decision by the prison administration, to be transferred to another prison even though these disturbances are potentially an interesting base for educational work with the youths. These different forms of professional critique and resistance thus illustrate both the scrutiny style prevailing in the PM, but also its deficiencies. These expressions of resistance reflect the professionals' will to take advantage of the educational benefit of a range of intersecting professional views, but all the while resisting the injunction for total and constant transparency that would lead the institution once again down the path towards totalitarianism.

The resistance and critiques of the young prisoners are themselves quite instructive. Most of the prisoners, in fact, appreciate not being locked up in their cell day and night and being able to take advantage of a fairly wide range of school, sports and educational activities. Nonetheless, other prisoners, on the contrary, denigrate the PM compared with the juvenile units where, paradoxically, they felt they enjoyed a certain autonomy in their cells. In other words, the PM's neo-disciplinary style is so intrusive that some prefer the isolation and desolation of the juvenile units. In any case, as they have no choice, they must put up with incarceration and adapt themselves. The youths adjust some of their behaviours, and sometimes, even their very 'role' depending on the different spaces they frequent and the many professionals they meet there. While on occasion they may be completely open about themselves, especially among fellow prisoners or in private conversations with the sociologist, in general they are under constant observation by others and therefore feel the need to 'wear a mask' and if they cannot 'show themselves in their best light' at least try to 'open up a bit' (behaviourally and/or biographically) to the professionals they encounter. The interviews with the youths brought out an opposition between 'daytime', which is described as playing one long theatre role, and the 'night' where the youths are obviously locked in their cells, but describe verbal exchanges from one cell to another as 'times for truthfulness'.

The neo-disciplinary scrutiny style of the PM, that is, the ambition for integral transparency, meets with resistance from certain professionals in addition to efforts by the young prisoners to make their way, as described by Goffman[15], through the cracks in the total institution. This 'way' requires both playing with the cracks in the security and disciplinary gazes and foiling it, by adopting 'masks' to undermine the artificiality of the behavioural socialization orchestrated by the institution.

Radicalization assessment units: a warlike scrutiny style

In France, the series of terror attacks starting from January 2015 amplified the intense political controversies surrounding the fight against terrorism and the role of the prison: traditionally it has been held up as the incontrovertible solution for neutralizing terrorists, but it is also suspected to be a place that fosters the radicalization process. In an atmosphere of panic over national security, the prison administration thus questioned the ways it needed to detect, assess and manage radicalization.

> These different forms of professional critique and resistance thus illustrate both the scrutiny sytle prevailing in the PM, but also its deficiences.

15. Goffman, E., (1961), *Asylums: essays on the social situation of mental patients and other inmates,* New York, Anchor Books.

In this context, the 'radicalization assessment units' [RAU] are units to which 'radicalized' prisoners[16] are temporarily assigned for assessment purposes. Three initial RAUs opened in 2016, and there are seven in January 2022. Groups of a dozen prisoners, already incarcerated in ordinary detention, considered to be radicalized — and for some, accused of terrorist offences — are transferred to the RAU for assessment by a series of professionals — prison officers, educators, psychologists and probation officers — over a period of four months. Meetings organized bi-monthly are supposed to enable the professionals to discuss each individual case, compare their points of view and gradually prepare their assessments with a view to guide the prisoners' later assignment to other prison sections.

The ethnographic survey, drawing from the methodology previously implemented in the PMs — direct observation, semi-directive interviews with each category of prison actor, biographical interviews — enabled us to identify what I call a 'warlike scrutiny style'. This style is characterized by the fact that the security and the disciplinary gazes are governed by the presumed danger posed by the prisoners incarcerated in the RAU, prisoners who above all are seen as 'enemies of the nation'. In other words, while the disciplinary gaze is organized officially around the objective of an assessment whose results will guide the prisoner's future management, this disciplinary gaze is overtaken and skewed by a security logic to avoid all risks along with a will to neutralize that prevails over any other action logic.

The first key dimension of the RAU is that of an extremely sophisticated and extremely restrictive security system that places total constraints on the prisoners' bodies and gestures. Doors are opened to be immediately shut again, movements are minimal and efficient and extremely protocol-based. Cell doors are opened by a team of three prison officers, the prisoners are regularly frisked and no prisoner can leave his cell until the others are in a secured place. We are far from the aim of 'behavioural socialization' that we described in the PMs. Here it is just the opposite: curtail all forms of socialization, which is considered a source of danger

> The first key dimension of the RAU is that of an extremely sophisticated and extremely restrictive security system that places total constraints on the prisoners' bodies and gestures.

among this specific population. Consequently, the only times the prisoners find themselves together — in small groups of three, transferred there one by one — are during the daily courtyard walk. And during this time a camera observes the prisoners, a measure motivated by concern that something may be in the planning (recruitment, planning an aggression, etc.). The prison officers are constantly on the alert, believing that each prisoner, at any time, might commit a violent aggression. The prison officers make a distinction between the 'ordinary' prisoners and the 'terros', in virtue of their presumed harmfulness: 'ordinary' prisoners are described as 'thugs' while the terrorist prisoners are the 'enemies of the nation'.

In this climate that is warlike, in the literal — not merely figurative — sense of the term, the RAU's official mission is assessment of the prisoners by a multidisciplinary team. The prison officers are responsible for daily observation; the probation officers, educators and psychologists are responsible for individual interviews. All these professionals meet regularly in order to reach a synthesis for the individual assessment of each prisoner. Lacking the space for a detailed description of this processual logic, here is a brief synthesis of the essentials: the assessment professionals are trapped in a circular logic. If the prisoners are assigned to this type of unit, it is indeed because they are suspected of radicalization by the very people who decided to assign them to the RAU — that is both by officials of the Mission to Fight Violent Radicalization (MLRV) and management of the prison intelligence services. And, if they are suspected of radicalization it is advisable for the assessment work to find the elements to confirm the original hypothesis. This confirmation effort is all the more pervasive when it is a matter of protecting oneself from potentially disastrous professional risks: if the assessment of a prisoner concludes lack of radicalization or presenting no danger, and then in the future this person commits a terrorist offence — whether in prison or on the outside, it is not only the professional who will be severely called into question, but more largely the whole system of managing radicalized prisoners, and

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16. The Department of Justice defines 'violent radicalization' as the 'process of personal or collective identification with extreme political or politico-religious ideas that can lead to the will to transform society through violence' (Jean-Jacques Urvoas, Ministry of Justice, October 25, 2016, http://www.justice.gouv.fr/publication/securite_penitentiaire_et_action_contre_la_radicalisation_violente.pdf).

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even more broadly the whole prison administration. The professionals are thus under enormous pressure and, as we described elsewhere[17], their attempts to impede 'dissimulation' by the prisoners entail that the assessors themselves are always at risk of being ensnared in their own trap; they are no longer able to discern those who do not represent any danger: someone who presents himself as radicalized is considered as such, and someone who tries to behave normally is considered as a dissimulator, who tries to hide his radicalization. This bias tends to be more acute during the final meetings, where recommendations are overdetermined by the imperative to take no risks, leading the management to doubt a professional's assessment occasionally deemed as too 'flattering' (Ibid).

This warlike scrutiny style confers value for many professionals. The prison officers, in particular, frequently feel that their professional skills have now become more meaningful: they are no longer mere 'turnkeys' — one of the least gratifying roles in prison — they are also 'protectors of the nation': the mission to neutralize terrorist prisoners takes on meaning not only in the prison microcosm, but more widely in the overall political action to fight radicalization. Nonetheless, some professionals do adopt forms of resistance to this warlike scrutiny style. Some prison officers try to de-emphasize the warlike nature of the interactions through attempts to establish a religious and/or geopolitical 'dialogue' with the prisoners, the aim being to instil 'peace among religions'. The probation officers occasionally refuse the warlike view of the prisoners assigned to the RAU, by attempting to render their work more normal: they see their job as one of 'working with the human (dimension)' — with fellow humans whose defects and qualities form a sound basis for the work to be accomplished in the RAU. They thus affirm that the counselling with RAU prisoners is similar, or should be similar to the interactions they have in ordinary detention. Along these lines, the psychologists and educators regularly criticize the pressure weighing on them. One such tension is quite illustrative of their intervention : although they can rely on their knowledge, diplomas and personal skills to affirm a solid professional identity, this identity is undermined

by the system and temporality specific to the RAU with its need for 'rapid' assessments, which goes against their professional ethics. More generally, they find it unfortunate that the obsession with the fight against dissimulators hinders them from doing a good job. The high turnover rate and massive resignation of these professionals, who were hired on temporary and precarious contracts, denote an 'exit' as a frequent option for expressing discontent (Hirschman, 1970).

Forms of resistance on the prisoners' side are equally revealing. They are reacting as much to the security gaze — resisting the material constraints and restrictions in the unit — as they are to the disciplinary gaze — resisting the assessment. For instance, the prisoners employ multiple techniques to elude the controls and surveillance: exchanging mobile phones, sharing handwritten copies of prohibited texts during the courtyard walk and other collective periods, keeping watch and warning the others during the guard rounds, and so on. Some prisoners participate in (co)producing a warlike atmosphere in the unit: geopolitical issues and power plays as well as various group allegiances (Daesh, Al Nosra, Al Qaïda, etc.) have found their way into the RAU and partly shape the affinity and rivalry among prisoners as well as their relationships with the prison officers.

The prisoners also adapt themselves to the assessment process itself. Most accept to play along and participate in the interview sessions with the professionals. This displayed willingness to be sincere and authentic nevertheless comes up against the RAU's structural functions, where there is always the risk that 'information' turns into 'evidence', the fruit of a conscious or unconscious work of overinterpretation by the scrutinising assessors. Consequently, almost all the prisoners describe how impossible it is to be sincere in a context where every little gesture is spied on, where each word is picked apart and analysed, and also suspected to be a false bait or a lie. The prisoners describe what they see as an aberration in the very existence of a system to assess radicalization, when the vast majority of the prisoners in the RAU are still in preventive detention and thus, in theory, presumed innocent. The prisoners thus develop strategies to

> Almost all the prisoners describe how impossible it is to be sincere in a context where every little gesture is spied on, where each word is picked apart and analysed.

17. Chantraine, G., Scheer, D. (2021). Performing the enemy? No-risk logic and the assessment of prisoners in 'radicalization assessment units' in French prisons. *Punishment & Society,* 23(2), 260–280.

present themselves in the best light, for example by avoiding sexist or homophobic remarks, in order to avoid saying anything that could enter in a realm of meaning associated with a process of radicalization.

Conclusion

An approach to the prison in terms of its scrutiny style, together, in turn, with a comparison of different prison scrutiny styles, in my view, provides a triple benefit. Firstly, it serves to illustrate the extent to which the security system, in the PM and in the RAU, renders social interactions in prison highly artificial: structurally, in such a microcosm, false semblance abounds and the ability to actually inculcate social norms in meaningful ways is doubtful, if not non-existent. Secondly, it helps avoid a double pitfall. The first consists in observing the prisoners' adaptations and resistance merely as reactions to the security-based system and the pains of imprisonment. Quite the contrary; these adaptations and resistance should be seen equally as targeting the correctionalist objective implemented in the prison. The second pitfall, typical of policy-oriented criminology, consists in abstract thinking or evaluation of the effectiveness of a penological project or the 'scientific' validity of a criminological tool — such as a quantitative risk evaluation tool, a penological or educational concept, etc. — without taking into account the reality in which these projects and tools will be implemented in a security-based system that overdetermines the real use and concrete application of these tools and concepts. The only approach that is able to grasp this intertwining of security and discipline, specific to the prison world, is one of a meso- and micro-sociological nature, grounded in an ethnographic method. Lastly, an analysis of scrutiny styles makes it possible to see that the professionals' forms of resistance are far from insignificant and that a professional's opinion of other professionals at least helps to abate the arbitrary nature of things in prison; the more the professionals are diversified, the greater a search for a minimal respect of different professional ethics is in fact pursued, the more the risk of totalitarianism may be lessened. As such, while many articles in this special issue have analysed the forms of scrutiny from outside and into the institution, my own contribution provides a complementary view of the forms, limited yet quite real, of scrutiny inside the prison itself.

Scrutinizing prisons through art, activism, and academic critique

*An interview with **Mina Ibrahim** about the work and recent history of the **MENA Prison Forum***

In this piece Mina Ibrahim, project manager at the Middle East and North Africa (MENA) Prison Forum, a project of UMAM Documentation and Research, is interviewed by Andrew M. Jefferson (senior researcher at DIGNITY — Danish Institute against Torture) about the Forum's cutting-edge work in advocating and facilitating a multidisciplinary engagement with 'the prison' and the experience of imprisonment in the region.

AMJ: Good morning and thanks for agreeing to meet for an interview about MPF. As briefed, I imagine this as a kind of open conversation. I thought we could organise it around three main themes. Firstly, aims: what's the purpose of the forum; second a bit about origins: how did it all begin; and third about the achievements of the forum: what is generated by the activities of MPF. But obviously since the theme of the SI is scrutiny, I also have my eye on how the work of MPF might be construed as a form of scrutiny and whether it is helpful at all to think in such terms. The special issue aims at capturing the way scrutiny can take multiple forms. I believe MPF is one such — possibly alternative — form. But let's see… Why don't you start by talking about what MPF does and what the scope and purpose is…

MI: I'll also touch on origins since that is very connected to what we are doing. After the 2011 uprisings in different countries in the MENA region, discussions around prison and imprisonment started to grow in these countries. Even as undergraduates at that time we started to write papers about prisons, to think about prisons, though at that time I didn't know anything about UMAM Documentation and Research (UMAM D&R) the organization that later formed MPF in 2018. Monika Borgmann and Lokman Slim founded UMAM D&R in 2005 in Beirut, Lebanon. UMAM D&R is an archival and research centre that seeks to inform the future by dealing with the past. In 2008 Monika and Lokman undertook a project on the missing and forcibly disappeared in Lebanon, which led them to the *Association for Lebanese Detainees in Syrian Prisons,* a group of Lebanese who had been taken from Lebanon and imprisoned in Syria, and some of whom were later released. With this group Monika and Lokman made the film *Tadmor* in 2016 based on former prisoners' testimonies about life in Tadmor prison in Syria. At this point in time, carceral experiences in the region had, as I mentioned, been growing in attention in the MENA

region and in Lebanon and Syria specifically: many Syrians started to flee to Lebanon after the uprisings in 2011, and at the same time many Syrians in Syria or elsewhere were writing about prisons or started to be louder about prisons. So, there's no doubt really that the uprisings contributed to give people agency and courage to speak about their prison experiences and publish their memoirs or analysis about prison. And the cultural production about prisons began to increase. There are dozens of books published after the uprisings by Syrians, Egyptians, Tunisians and so on.

After the production of the film *Tadmor* and the increased production of carceral-related works in the region, the centrality of the topic of prison in the region became ever clearer. After conceptualizing and formulating an approach to address these dynamics, the MENA Prison Forum was established in 2018 by Monika and Lokman, at which point I joined the project. This is why the origins are important. It was an intentional creation of a space for work and dialogue between activists, artists, and researchers, to speak about their different projects and exchange their ideas and compare their different ways of speaking about prisons. The MPF engages with research, artistic, and advocacy work all in conversation with one another. We do artistic cultural production with an eye that it should have an impact on the world and that the voices of the people included in these productions should be heard. We are bringing art, academia, activism — these people — together and putting their outputs in conversation.

AMJ: So it began with a desire to scrutinize the past but it's developed into an activity to scrutinize the present? Or what is the relation between past and present in the work?

MI: Past and present here play a big role because if we want to really talk about justice and accountability, and if we want to move on we need to study what happened in the past. For example, it would not make sense to talk about prisons in Egypt without connecting it with previous times, even if you want to go back to the early modern times (19c begin 20c). That's why doing historical research even while talking about the current conditions of prisons in Egypt is very important. Let me give an example: At MPF we have started a new section called MPF Collections where we store magazines, publications etc. especially official government publications. In our search we found this magazine called al-Soujun in Egypt. It was published

during the 50s and 60s during Gamal Abdel Nasser's regime. If you look at this magazine it speaks a lot to the current propaganda videos produced by the current regime in Egypt about how the situation in prisons is great and how the prisoners are getting the best food and the best care. The same language is still used, though expressed in a different media. It's about propaganda and how prisons are represented by the state. If we want to emphasize the propaganda of the current regime, we need to get back and look at how this propaganda machine has been functioning for many years. The past is a very important way through which to understand, to examine the present… The focus of the work is carceral practice, detention as a process, a practice of everyday life, or even the everyday life of the state itself.

AMJ: the way you put it confirms my assumption that this really is a project about scrutiny, in one sense about scrutinizing the state in a very deliberate fashion, in another about turning a critical gaze onto the prison, and I find it particularly interesting this idea of comparing the way the state acted in the past and today. So, you observe, find, trace, and conduct deliberate analytic scrutiny to make sense of these things that occurred at different times but look very similar… You also talked about cultural production. I noticed that a lot of MPF's events and activities put an emphasis on the voices of incarcerated or former incarcerated people. Is this a conscious decision to put the spotlight on what we might call first person-perspectives?

MI: Yeah, of course, like for example this talk we had on the psychological and social impact of imprisonment in November it featured psychiatrists and physicians working with prisoners after release but they themselves are often former prisoners.[1] We also had this other project called the *Impossible Stage* which is a podcast series, a dramatic treatment of testimonies of prisoner experiences in Syria towards the end of the 1980s.[2] The people contributing to the podcast are not professional actors, they are former prisoners who were trained to record their voices. We believe these cultural productions — or if we are hosting a zoom talk — we believe that priority should be given to first-hand accounts not only because they tell us 'what happened' without any second layers of analysis (though of course they can provide layers) but they can tell us *directly* what happened, also about co-inmates.

We also believe this is important if you want to contribute to processes of justice and accountability, because many people who are victims of injustice don't

get the chance to meet human rights activists maybe because of geographical distance, maybe because of language barriers, so here comes the 'forum' part of MPF to try to invite human rights activists or researchers, even artists to meet with former prisoners or detainees. Often even after talks and events we get requests from journalists, by human rights activists who want to talk further to these people, so we put them in touch and try to build a network so, kind of enabling scrutiny by making connections and building networks and facilitating these conversations between different actors.

AMJ: So, you enable scrutiny by other actors such as journalists and human rights activists. I also noticed that you have quite a focus on prison writings or prison literature as one specific form of cultural production. Do you also feature more graphic forms of art?

MI: It's on our agenda: We have produced publications for the past four years, mainly in Arabic, also three books about Syria and Egypt mainly. But what we are trying to do now is to convert these texts into graphic novels or comic stories.

AMJ: This is what is quite unusual about MPF, it's not just a bunch of researchers or human rights activists creating reports and doing advocacy etc. in a traditional way. I think the cultural production side of what you do is extremely valuable.

MI: We are trying as much as possible to see how we can appeal to different audiences. I'm always starting with my family members. How can I tell them the stories about what I am doing: something that cannot be traumatic, cannot be too heavy, can be accessible. That's why for example the *Impossible Stage* was so appealing to people who don't like to read or attend talks for 90 minutes; the podcast series is accessible while driving or cooking and we have this radio culture in the Middle East, we love to listen, so that was really appealing and what we are trying to do through the graphic stories is to take books which are personal testimonies and sometimes also human rights reports and turn them into graphic stories. For example, we are supporting a project to publish a book form of the *Branch 251* podcast that focused on the Koblenz trials in Germany of members of the Syrian regime, to make these forms of scrutiny more inclusive by making the information and data more accessible.[3]

AMJ: When I was preparing these questions I was also thinking more abstractly about the relationship between scrutiny and representation, which is why I am asking about the different forms of representation. There's another paper in the

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1. https://www.menaprisonforum.org/outreach_detail/111/
2. https://www.menaprisonforum.org/radio_detail/54/
3. https://branch-251.captivate.fm/

Special Issue by Jamie Bennett about a TV series. where he discusses issues of representation and authenticity, which is concerned similarly with how prison life is mediated through cultural production… Do you think art or cultural production is scrutiny or representation or is it both. Or put another way is it about looking or showing?

MI: I don't know really: as a person always doing fieldwork and starting with grounded vernacular terms, doing the *Impossible Stage,* or these graphic stories, or collecting testimonies like on the website, this is representing their voices, but at the same time you cannot separate the representation from the examination, so producing art or text is always both a representation of the interlocutor's perspective and your examination of what is happening.

AMJ: Yes, that is a cool response — you mentioned your family as ideal audience — who are the stakeholders of the forum?

MI: A primary audience is former prisoners but also researchers and activists concerned with justice and accountability who can make use of our work to pursue those processes. For example, I was recently contacted by a lawyer from abroad who is filing a case against a regime in the region, and he told me he is using our site to collect evidence for his case which made me very proud of our website. Of course, the audience is also the public, people who know that prisons exist but don't really understand the mysteriousness of prisons, the things that are unseen, the everyday happenings. So, to make people believe that there are violations, there is torture, there are deaths inside prisons we are trying to create snapshots or traces of what is happening. But even we don't know everything, even former prisoners tell us they don't know everything, they cannot describe everything. What we are really trying to do as much as we can is to find language, to find words. Sometimes what is happening in prisons is beyond description, is wordless, you cannot find the words to describe it. So, the MPF is about trying to find words, either in existing language or even to make new language, that is specific to and captures prison experiences.

AMJ: I'd actually anticipated some of the things you might say, and I had formulated a question based on the fact that you do have an incredibly impressive website that is a means through which to allow others to scrutinize prisons, like the lawyer you mentioned, and journalists and human rights actors… And you mentioned the representations you make available: talks, reports, reviews, webinars, blogs etc. So, I guess you would agree that MPF has an enabling role? I've also noticed that you are not shy of attending to matters of religion or faith,

matters that I think some scholars and activists shy away from. I attended the very thought-provoking conversation on carceral theology not so long ago.[4] **How come this focus?**

MI. Yeah, again it's a good example of how we try to engage with elements related to the carceral situation in the region that are overlooked in other forms of writing. We've heard that in the Tadmor prison, for example, prisoners were 'welcomed' into the prison with the sentence 'Welcome to Tadmor, where God cannot enter without the permission of President Hafez al-Assad.' Here we see that religion and faith was a focus of the carceral treatment. These are not just invented things, these are people's experiences. But of course, as you mentioned, people are shy about it because usually the violations usually talked about are torture or physical manifestations of violence. People will not speak about how they lost their faith, for example, as an impact of being in prison or about how they were 'traumatized in God' because they were there. They thought that God would help them. They were waiting for a miracle that didn't happen. These are impacts of detention that are not usually mentioned in court sessions, or human rights reports because there is a need for empirical evidence. As described by Darius Rejali in his book *Torture and Democracy,* stealth torture that leaves no marks on bodies causes lawyers and courts a problem. So, this is also a torture technique, to make you lose what you have been brought up with, to question your ultimate foundations through mockery and humiliation: like if they say 'If your God really exists how come you are here?'

We are talking about countries in the MENA region, whose prisoners and regimes are religious or assume that they are religious or are religious along varying degrees. So, these forms of torture targeting people's religiosity or faith do impact people. I mean it's something, even if unseen. So, it is something very important to deal with. If we dismiss these things we lose a lot, even in the pursuit of justice because religion and religious practices and people's relationship with God can be a main pillar in people's lives.

AMJ: A lot of readers might not be familiar with the acronym MENA (Middle East and North Africa). Are there specific countries that you target. Or do you cover all the countries in the Middle East and North Africa?

MI: For the last years, we were intentionally focusing mostly on the Arab countries of the MENA region. We were not really covering Turkey, Iran, or Afghanistan which some people also include in the region, but we were covering the North African countries such as Algeria, Tunisia, Morocco. We tried as well to cover Mauritania somehow.

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4.   https://www.menaprisonforum.org/outreach_detail/117/.

AMJ: How many people in your team?

MI: There's a core team of eight, but we have friends based throughout the specific countries. We are trying to expand to Turkey and Iran because of Syria, especially with regard to how parts of it are controlled by Turkey and because what's happening in Iran has an impact on Syria and Lebanon and Iraq of course. So, we discovered that it doesn't always make sense to consider countries in isolation from their neighbours. At the end of January 2023 in Berlin we had a film screening and discussion about prisons in Iran and that's something new. But to be honest the main countries that we have been focusing on are Tunisia, Lebanon, Syria, Egypt, and Morocco. This year, we did good work in Iraq and in Sudan. But the Gulf needs more work. Of course, Yemen needs a lot of work. It depends on many things — even logistics prevent us sometimes from doing what we want to do in some countries.

AMJ: It strikes me that another way in which your work might be a bit unique is the breadth, it's extremely broad. I mean you talked about how taking the presence or absence of God seriously was partly about recognising the person in all their wholeness given all their experience, but you are also attuned to the societal or political. The backdrop for your activities is often a set of political and historical conflicts. It's definitely not a narrow focus on just the prison and what goes on there. It is the prison in context. Is that an accurate portrayal?... You're not narrow. You have a broad scope. You take history and society seriously, you're very open?

MI: We are very open, yes. And sometimes, of course, it's a problem because sometimes, for instance, like when the trials happened in Germany, at that time we intended to focus on something else in Iraq, but sometimes because prison issues are really fluid, we have to be responsive. New things are happening every day. So, we moved quickly to organize an event about the trials and about the verdict when it was issued in January 2022. So that's why this year we are continuing our work of observing what's happening in the carceral scenes across the region every day. We are aiming to grow our team to do field work, media reviews, and observations about everyday developments in the field of prisons. We are also aiming to take this monitoring to another level to try to write statements on developments and share with other NGO's and human rights organizations or organize a campaign about it, and then to produce databases and metadata about what's happening in the region.

In the last years we have been both producing and advocating in our work, and this will continue. This year additionally we will make use of what we have produced already to make these campaigns and make these statements, but also to produce an archive for future research, or future cultural productions. But for this year, we want to continue and increase this kind of database. But when should we focus on what? That's really a big question that every day we are grappling with because there are so many things happening all over the region.

AMJ: This gives us more clues about the breadth of the work and the level of ambition — it's admirable. I know you already touched on origins. And you mentioned Monika and Lokman. Could you say a little bit about who Monika and Lokman are? Also, the relation between the MPF and UMAM.

MI: Lokman Slim is a late Lebanese writer, scholar, and filmmaker who studied in France and then returned to Lebanon in late 1989. At the end of the Civil War in Lebanon he was faced with the absence of archives, with the absence of memory. In Lebanon, the school syllabuses don't deal with the Civil War. So, Lokman's passion was to produce this archive to really open up conversations about what happened. And how should Lebanese society speak about it? He also aimed to produce written works, as he co-founded the publishing house Dar al-Jadeed with his sister Rasha Al-Ameer. He met Monika Borgmann, I think, in the early 2000s and they produced their first film together, *Massaker*. *Massaker* is a film about the perpetrators of the Sabra and Shatila massacre in Lebanon during the 1980s. In 2005 they established the UMAM Documentation and Research where they started with projects that are mainly concerned with Lebanese and later Syrian memories. This involved continuing the collection of archives of old newspapers from Lebanon in particular, but also the Middle East in general. The story continues with the film *Tadmor* that I told you about. And then in 2018, the MPF, was established as an initiative of UMAM documentation and research. MPF is connected to UMAM D&R, it's one of the initiatives of UMAM D&R. Its work has the same idea of talking about memory, justice, accountability but mainly concerned with prisons — really concerned with the histories and cultures of incarceration in the region in general.

AMJ: So some shared sources of inspiration, emphasis and focus but narrower in a sense. I don't know if it's even possible for you to answer this next question: is there a way to say in general or specific terms what prisons are like in the region? I mean in principle I'm against 'photofit' overgeneralized accounts of what prisons look like but are there any common characteristics or common qualities that you can identify? And here I'm thinking of our readers who probably don't know so much about prisons in the region. What are they like?

MI: OK. Look. I was struck by something that I was working on last year. It's also one of our last talks in December.[5] It's a recent report about prison reforms, about what prison reform means in the region and what different actors mean by prison reform.[6] The first part is mainly about how and when the first prison reforms were introduced and whether one is talking about the war on terrorism, or even the time after the Second World War, like when do regimes in the region speak about prison reforms…? And part two, which will be produced soon, is mainly about programmes and agendas, it's mainly what did the regimes do by way of prison reform and why they are talking about prison reform at all. But the reason I'm talking about prison reform is because prisons in the region are — and that's maybe something common to other regions too — are very central to understanding the politics of the countries and of the regimes. So, prisons are not only places for reforming people, of making them good citizens, or not even that at all. To fully understand prisons it's important also to understand how opposition to the regimes is being formed inside prisons, how ideologies are being formed inside prisons, how even killing and practices of getting rid of this opposition also happens inside prisons. And that's not to mention detention centres that are unknown to most people, that are unknown to us, and as we clearly state in the report, we don't know everything happening in the carceral scene. We might know about prisons or at least their empirical location but maybe there are other sites of detention, of incarceration, that we don't know anything about. So, as I usually say about this, talking about scrutiny as well, like the examination, it's as if you are, as Lokman used to say, taking a scissor and using it to cut through a forest entangled with trees and undergrowth. You cannot make easy headway. You don't have the tools. What we are trying to do in the MPF is to try as much as possible to find the tools and the language. But what we are doing is just scratching the surface of what could be known about prisons in the region. It's just one or two layers. You know, there are many things we don't know.

That's why MPF is a project where you cannot really tell when it will end, or if you will ever reach an idea of what prisons really are like. It's more about how prisons are working, or operating or how we as people, researchers, activists, artists who are interested in or who are concerned with justice, accountability, ending of impunity, and this process need to understand prisons by looking at how they operate and at their effects. But how the prisons in the region look, it's really difficult to answer. But what I can assure you, and assure maybe the readers as well, is that it's very important to understand not only the past, as we have been talking about, but the future as well, but also to think about the future of the regimes in the countries and the future of the people. The past is embedded in people's memories in the region. And it's embedded in the practices of the authoritarian rulers, the dictators, and the dictatorial practices of the regimes in the regions.

AMJ: It strikes me you do this work with a lot of integrity. It sounds great, but what do you hope for in the long term?

MI: Sustainability, of course, for the projects. I'm always saying this but we're working on a topic in a region that is very unstable, that is very random, it's very mysterious as I said, full of mysteries and things that you don't know. What we are doing now is to further develop our approach. We have a new office now in Berlin, for example. So that's something really important that we try to develop this office, but without leaving or without forgetting that our project is deeply tied to the Middle East and North Africa. We also have our headquarters in Beirut and we are trying to develop partnerships in Tunisia and in countries where we can do this kind of work. So that's the first thing. And the second thing is to expand a bit to other regions, to try to learn from other regions. We began that already. I talked about Guantanamo in November — with Lisa Hajjar about her new book.[7] We believe that things are connected. So, in her book she wrote about how some of the prisoners of Guantanamo were sent by the CIA to Egypt, to Libya, to Syria, during the 2000s after 9/11. We believe even that it's not off limits to speak about Guantanamo at the MPF or to speak about even the Stasi regime. There are historical connections to the region. So, two long term aims: sustainability, but also try to learn from other regions and other people who are working on these topics.

AMJ: Thank you so much for all these great insights. I wonder if we could just finally come back to the topic of scrutiny. What do you think — now that we have had this conversation — about my initial hunch that one productive way to think about the work of MPF is through the idea of scrutiny? Could you maybe sum up for us the different means through which MPF scrutinizes prisons and politics in the MENA region?

MI: Yeah, I think it makes sense to think of what we do as scrutiny. MPF scrutinizes the everyday lives and affairs of prisons via monitoring media outlets and through the daily work of human rights activists and researchers. We also examine prisons' archives and historical records together with cultural and artistic productions that are produced by official, governmental agencies or former detainees. In sum, we seek to put all these elements in conversation to search for innovative and influential ways to further examine cultures and histories of incarceration in the MENA region.

5.   https://www.menaprisonforum.org/outr-each_detail/116/.
6.   https://www.menaprisonfourm.org/observer_detail/11/
7.   https://www.menaprisonforum.org/outreach_detail/112/

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