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Flores, Joseph Antonio, "Controlling Wickedness: The Journey to Penal Reform and the First Prison Systems in New York and Pennsylvania from 1820-1840" (2021). *UReCA: The NCHC Journal of Undergraduate Research & Creative Activity*. 85.

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Controlling Wickedness: The Journey to Penal Reform and the First Prison Systems in New York and Pennsylvania from 1820-1840

Joseph Antonio Flores

Abstract

This research examines discipline methods and architectural design in New York and Pennsylvania prisons from 1820 to 1840. Jean-Jacques Rousseau and Cesare Beccaria discussed Enlightenment-era punishments. Benjamin Rush and William Bradford framed prison discussions through American ideals. After New York and Pennsylvania replaced most capital punishment with hard labor and solitary confinement, legislatures erected their first prison systems. New York constructed the Auburn and Sing Sing Penitentiaries, and Pennsylvania established the Eastern and Western Penitentiaries. The two systems embodied the principles of European and American reformers. Both instilled discipline and control. Auburn Penitentiary's Warden, Elam Lynds, believed corporal punishment, silence, and labor enforced discipline. In Philadelphia, John Haviland's prison design, rooted in Jeremy Bentham's Panopticon, maintained constant surveillance to impose discipline and gave inmates a chance to interact with God. This paper examines how prison systems emerged from religious and philosophical ideologies that intended to control the criminal humanely.

In 1842, Frederick Packard wrote to the Philadelphia Society for the Alleviation of the Miseries of Public Prisons after examining the Auburn Penitentiary in New York. Packard highlighted the treatment of a prisoner accused of fighting. Two guards grabbed the young man, restrained him to a large wooden box by his arms and legs, and drenched his head with thirteen pails of ice-cold water. He “[cried] out” in pain “like a bubbling boy” after the guards poured the last bucket of water. Packard, appalled by the “very cruel and excess severity” of punishment in the Auburn prison, observed how guards and wardens ruthlessly tortured prisoners into submission. Of all the discipline methods Packard witnessed, he believed that the “infliction of stripes is a species of punishment which cannot well fail, of itself, lead to cruelty.”¹

Packard was concerned with the fact that although New York replaced corporal punishment with solitary confinement and hard labor in 1796, the state continued to torture its inmates.² New York’s codes replicated those found in Pennsylvania, a state whose legislature instituted solitary confinement in 1786.³ These revolutionary codes stipulated that inmates labored in solitude rather than be punished publicly; meanwhile, guards would surveil the criminals within a penitentiary. Reformers in New York and Pennsylvania wanted to overhaul how Americans punished disobedience. Note, however, that the creation of the modern prison system in New York and Pennsylvania was not limited to pieces of legislation or some axiomatic premise that the new nation ought to treat criminals with an endowed respect. These prisons were influenced by their surrounding societies and reformers who wholeheartedly believed that the criminal could be disciplined, reformed, and returned to the community. Even more ambitiously, the discipline would transform the inmate into a virtuous individual.

Reformers and legislators from both states argued that rehabilitation was possible if the government imposed morally right laws that were founded on Christian values. If lawmakers granted criminals the ability to seek God, then the inmate could repent and leave behind their wicked behaviors. Reformers argued that this new form of punishment lowered recidivism rates and was more humane. So, New York and Pennsylvania legislatures abolished most criminal codes that allowed for corporal punishment and transitioned to hard labor and solitary confinement within a state-funded building.⁴

When met with the practicalities of running a prison, however, both systems aimed to maintain control and order, effectively forgetting their original goal of benefitting the criminal. Pennsylvania relied on its prisons’ architectural design and solitary confinement to induce control. New York resorted to hard labor, the rule of silence, and corporal punishment to actualize its means of discipline. Rather than focus on the prisoner’s morality, the jail merely became a place to house inmates while they served their sentence.

The Enlightenment Thinkers on Punishment and the Prison

For centuries, states punished criminals publicly to deter crime. A ruler’s extravagant and gruesome execution showcased government strength. The most common punishment was a public spectacle, where the king or aristocracy executed criminals in a common area like a town square. A notable example was that of Robert-François Damiens, who was drawn and

quartered after the French government found him guilty of attempted regicide in 1757. Damiens was the last person executed by this form of punishment in France, and he was burned to ashes at the steps of Notre-Dame de Paris.⁵ Punishment in front of a crowd usually meant death, and anything less severe was a benevolent action. Damiens' execution illustrates the means of punishment common before the widespread adoption of the formal prison system globally. The government sought to instill fear, and the executioner did just that.

Across the Atlantic, until a few years after American independence, colonies/states generally subjected criminals to two forms of punishment: corporal or humiliation. They believed corporal punishment, such as "the whipping post, branding and maiming, gags, and a device known as the ducking stool," deterred crime by inflicting pain.⁶ In the same category was capital punishment, where the colonies/states defined around 160 crimes that deserved a capital sentence.⁷ Humiliation, a more passive form of deterrence, consisted of "public penance, the stocks, the pillory, and the scarlet letter."⁸ Regardless of the means for discipline, the state sent a message to the community and made an example of the perpetrator. These three methods thrived especially on smaller populations because they effectively communicated to citizens the government's strong presence in punishment. If someone received the scarlet letter or was scheduled to be beaten, almost everyone knew of their disobedience throughout the town. For early America, the means of punishment relied on public, sometimes subtle displays of government force.

Furthermore, punishment was a heavily disputed topic among a few Enlightenment thinkers. They cogitated its moral permissibility and sparked broader conversations on capital punishment and its role in the government during the 18th century. In proposition for its continuation, Genevan philosopher Jean-Jacques Rousseau, in *The Social Contract: or, Principles of Political Rights* in 1762, argues that capital punishment is justified. Under Rousseau's framework, because citizens are bound to the law, the establishment of criminal law is necessary. Within the framework of the "social treaty" between the people and the government, if an individual breaks the law, they become "less as a citizen than as an enemy."⁹ One who violates the law "makes war with the state," is no longer a law-abiding citizen, and subjects themselves to potentially "death as a public enemy."¹⁰ Rousseau maintains, however, that the ruler has no place in punishment. Ultimately, because the social contract derives power from the citizens and not a monarch, only an individual's peers should determine their sentence.

Opposed to Rousseau was an Italian politician and criminologist, Cesare Beccaria.

Beccaria, who wrote *An Essay on Crimes and Punishments* in 1764, outlined a framework that rejected capital punishment and advocated for "perpetual [slavery]."¹¹ According to Beccaria, life sentencing is a "continued example of a man deprived of his liberty" and deters criminal behavior more than death because public executions are a "momentary [spectacle]."¹²

Concerning whether capital punishment is just, Beccaria argues that punishment is justified not because of its proportionality to the crime but rather the degree to which it could deter others

from committing a crime. The alternative, “[perpetual slavery],” performed “in chains and fetters, in an iron cage,” could deter the “most hardened and determined” criminal more than capital punishment.¹ Prolonged punishment and suffering are harsher and more effective at preventing crime than a public execution, according to Beccaria. For both thinkers, their ideas of capital punishment rested on whether it optimally deterred crime and was just practice.

The Political and Religious Ideologies of the American Reformers

The goals of the American reformers from the Early Republic Period paralleled most criminologists before them. They aimed to establish a humane form of punishment, rehabilitate the criminal, and lower recidivism rates. Here, humane meant that the government treated criminals like citizens who could be reformed rather than inmates who should be suppressed.

American thinkers, especially Dr. Benjamin Rush and William Bradford, aligned their arguments with the ideas proposed by Rousseau and Beccaria. However, they interpreted the discussion to their political likings and religious views and shaped conversation towards commonly held American ideologies.

Dr. Benjamin Rush, a politician and physician renowned throughout the American east coast, believed that capital punishment and public executions were nothing more than a public spectacle. Executions were problematic because they were an “offering” to a king or ruler; Instead of an effective means of deterrence, it was merely a boastful display of power.¹⁴ Dr. Rush, a signer of the Declaration, contended that kings dissolved the social contract. Because of the unalienable right to life, the government “cannot commit power over any body of men” insofar as men themselves “[have] no right to dispose of [their] own life.”¹⁵ The religious Dr.

Rush, who many of his peers thought “would have been canonized, [and] viewed as a saint,” argued for solitary confinement and hard labor because it could rehabilitate the criminal and “restore man to his God-to society-and to himself.”¹⁶ Like Rousseau, Dr. Rush contended that a social contract between the government and citizens necessitated a set of criminal codes. Dr.

Rush delivered his arguments on prison reform to Benjamin Franklin in 1787, arguably the most influential thinker in Pennsylvania.¹⁷ Living in a time when Christian principles guided most political thought, Dr. Rush maintained that only God could decide matters of life and death. While Dr. Rush focused primarily on abolishing capital punishment, he furthered discourse on the use of penitentiaries.

Around six years after Dr. Rush assessed capital punishment, Philadelphian William Bradford circulated the pamphlet entitled, “An Enquiry How Far the Punishment of Death is Necessary in Pennsylvania.”¹⁸ Bradford agreed with Beccaria’s goals and Dr. Rush’s solvency and insisted that hard labor and solitary confinement were the most humane method of punishment. This method’s effectiveness relied on the deeply rooted principle of egalitarianism in America, “where every man is or may be a proprietor.”¹⁹ According to Bradford, Americans would be less likely to commit a crime resulting in perpetual labor because they have a chance of

being “bountifully rewarded” in a country where “existence is a blessing.”²⁰ Worse than capital or corporal punishment, for Bradford, was a prolonged sentence where the government steals a person’s future that may contain a chance of earning a fortune. He juxtaposed his message to other impoverished nations, where there was “great inequality established between the citizens,” so “the prospect of death can be no restraint to the wretch whose life is of so little account.”²¹ Bradford’s position differed from Dr. Rush’s; however, he still argued that jails and life sentences deterred criminals more effectively.

Enlightenment thinkers influenced the American reformers who sought to establish prisons and abolish corporal punishment. Rousseau, Beccaria, Dr. Rush, and Bradford agreed that the government should replace most capital punishment laws with a classification scheme that contained clearly defined offenses. Dr. Rush contended that governments should not focus purely on deterrence and instead aim to rehabilitate the inmate. Simply put, Dr. Rush’s arguments were grounded in anti-monarchy and religious sentiment and Bradford’s in American egalitarianism.

These Americans reflected the ideas circulated in the time of newfound independence and further progressed the radical prison reform movement. The prison was not an entirely new concept for Pennsylvania by the 1800s. However, new criminal codes transitioned their first “jail” into a formal institution that disciplined inmates. Through a set of laws in 1789, 1790, 1791, and 1794, the Pennsylvania legislature transitioned the Walnut Street Jail, a place for those who committed religious offenses or had outstanding debts, into a state penitentiary.²² Although the jail allowed for solitary confinement, it was a “complete disaster,” according to Harry Elmer Barnes.²³ The prison was marred by overpopulation and the inability to “administer the institution in a scientific or effective manner.”²⁴

In 1821, Pennsylvania passed legislation that established the Eastern Penitentiary at Cherry Hill and the Western Penitentiary at Pittsburgh.²⁵ Pennsylvania did not initially incorporate solitary confinement into the jails’ schematics. However, the state legislature listened to concerns posed by the Philadelphia Society for Alleviating the Miseries of Public Prisons, a group that advocated for solitary confinement. The early reformer’s goals actualized after the reconstruction of the prison in 1829. The new retrofitted institution embodied the previous thinkers’ ideas on punishment.

The establishment of the New York Penitentiary system replicated Pennsylvania’s. The Philadelphia Society was led primarily by members of the Society of Friends (Quakers), especially father-son duo Roberts and Richard Vaux and Thomas Eddy. The Philadelphia Society’s non-Quaker members included Benjamin Franklin and William Bradford.²⁶ Eddy, who was born in Philadelphia and raised in New York, shared the beliefs championed in Pennsylvania. Eddy “had strong affiliations” with the Philadelphia Society and “began a crusade in New York” in the 1790s for prison reform.²⁷ The New York criminal code of 1796 that replaced corporal punishment with hard labor and solitary confinement also allowed for the construction of two prisons modeled after Pennsylvania’s Walnut Street Jail.²⁸ When the New

York legislature initially only allocated funds for one prison, Eddy designed the Newgate prison at Greenwich Village and served as its Warden.²⁹ Although Eddy was “a skillful administrator and a dedicated reformer,” his prison had two fatal defects: poor architectural design and overcrowding.³⁰ New York reflected on its failures at Greenwich Village and passed legislation for the Auburn Penitentiary in 1816.³¹ The Auburn prison opened in 1825. In the same year, New York enacted another bill that established a new prison at Mount Pleasant (Sing Sing) that replaced Eddy’s poorly designed jail.³² By May of 1828, Auburn and Sing Sing were established and occupied.

Putting Ideology into Practice: The Pennsylvania and New York Systems

Enter then, the reformers and organizers of the prisons who implemented their beliefs and held some of the same ideologies and goals of Dr. Rush and Bradford. The Pennsylvania system, led by Roberts Vaux, Edward Livingston, and John Haviland, aimed to reform and control inmates through architecture and solitary confinement. The New York System, led by Elam Lynds, and observed by Gershom Powers and Frederick Packard, relied on silence, the congregate system, and corporal punishment.

Solving the two problems that rendered the Walnut Street Jail useless—overcrowding and uprisings—naturally was prioritized by Pennsylvania. So, legislators looked towards architecture for solvency. John Haviland, a Philadelphian, submitted an award-winning design that granted him the ability to build the Eastern Penitentiary.³³ After William Strickland’s construction of the

Western Penitentiary was “disastrous,” Haviland was also given the task to reconstruct Strickland’s faulty prison.³⁴ Haviland’s plan was “radical” compared to other prisons of the time in America because it “[consisted] of a rotunda from which radiated seven one-story wings containing cells, to each of which was attached an individual exercise yard.”³⁵ Haviland’s “intelligently laid design” provided enough room between each cell that prevented all communication, allowed for easy observation by a minimal amount of guards, and ensured that there was enough light in each cell for the prisoner to labor.³⁶

Haviland’s prison design drew inspiration from Jeremy Bentham’s panopticon. Bentham, the father of utilitarianism, showcased around Europe in the 18th century the panopticon—a prison intended to induce perfect control and surveillance.³⁷ Foucault describes the panopticon as such:

We know the principle on which it was based: at the periphery, an annular building; at the [center], a tower; this tower is pierced with wide windows that open onto the inner side of the ring; the peripheric building is divided into cells, each of which extends the whole width of the building; they have two windows, one on the inside, corresponding to the windows of the tower; the other, on the outside, allows the light to cross the cell from one end to the other. All that is needed, then, is to place a supervisor in a central tower and to shut up in each cell a madman... by the effect of backlighting, one can observe from the tower, standing out precisely

against the light, the small captive shadows in the cells of the periphery. They are like so many cages, so many small theatres, in which each actor is alone, perfectly individualized, and constantly visible.³⁸

Although the Pennsylvania prison systems' architecture did not precisely resemble Bentham's layout, Haviland's design instituted the panopticon's core principle: constant surveillance.³⁹ The most passive form of control, architecture, was the only method of discipline for the system. Their newfound strategy ensured that the prisoner did not know if a guard watched them.

However, the prisoner always felt they were being watched. Foucault coins this effect as "panopticism," where architecture "[induces] in the inmate a state of conscious and permanent visibility that assures... that the inmates should be caught up in a power situation of which they themselves are bearers."⁴⁰

On that, the essence of discipline must be explored. According to Michel Foucault, in *Discipline and Punish*, "disciplines" are "the meticulous control of the operations of the body, which assured the constant subjection of its forces and imposed upon them a relation of docility-utility."⁴¹ For Foucault, constant surveillance, which induces "subtle coercion... at the level of the mechanism itself—movements, gestures, [and] attitudes," is the mechanism that employs discipline through architecture.⁴² If the prison's architecture controlled the body, then discipline could be achieved passively, subtly, and without force.

Haviland originally intended the central rotunda to "house cells, a laundry, bakehouse, and below these, a series of dungeons each with a private entrance."⁴³ However, he opted to carve out "an open inspection hall of [the] center building, a nerve center for the prison from which vantage point guards could view all the corridors of the prison."⁴⁴ To prevent prisoners from escaping, "he placed a tower atop the central rotunda from which a guard had an unobstructed view of all the roofs, exercise yards, and open spaces of the prison."⁴⁵ Haviland's design also solved the overcrowding problem because the Eastern Penitentiary provided for 650 solitary confinement cells.⁴⁶ The jail's sheer size did not prevent prison officials from maintaining control because the architecture allowed them to surveil each wing continually.

Additionally, the prisoners' inability to communicate diminished the potential for an insurrection. The first line of discipline—surveillance—was instilled because the officials could not control the chaotic Walnut Street Jail. Now, at least on paper, Haviland's design solved the former prison's problem of overcrowding and uprisings. In contrast, New York's penitentiaries aggressively controlled inmates. At the Auburn prison, 550 cells were spread apart in two wings.⁴⁷ Guards walked along a passageway and monitored the criminals. Unlike the Pennsylvania system, both New York prisons lacked a central point that viewed each cell.⁴⁸ In 1826, Gershom Powers wrote to the former New York Governor, George Clinton, and detailed "the congregate system."⁴⁹ The congregate system entailed sustained silence at all times, the prisons' fundamental rule. Auburn inmates "labored diligently in silence" during the day, slept in solitary confinement at night, and only spoke when spoken to by "officers of the institution

with deference.”⁵⁰ The prison allowed visitors; however, the inmate and visitor “could not speak to [sic] no convict... nor indulge in any general conversation.”⁵¹ The Auburn prison strictly enforced continuous silence, and its guards suppressed anything which resembled communication.

Although there is “no clear evidence” of who created the congregate system, Auburn’s Warden, Elam Lynds, is considered by many scholars to be “the major creative force.” Known for his “dubious past,” Lynds gained social and political favor in New York because he had friends within Martin Van Buren’s political machine.⁵² Lynds believed the prison was a place to fear. He sought to create an environment that “[broke] a convict’s spirit” and diminished their being to “a silent and insulated working machine.”⁵³ Lynd’s “standing rule” also forced inmates to always stand in their cell unless guards told them that they could sleep.

Because the New York prison system had ideological roots like the Pennsylvania system, Christian principles may have influenced the rule of silence. The Quakers believed that silence helped the inmates find the inward light; the person who gave their undivided attention to God could hear his words and feel his presence. These principles, however, mattered little to the person who had power and was not focused on benefitting the convict, like that of Lynds. It seems as if religious principles that may have been in place were trumped by Lynds, who believed the convict’s character was “immaterial” so long as they were obedient.⁵⁴ Continued silence, a principle of the Auburn prison, lacks a clear motivation. Note, however, that some evidence supports that Quaker ideologies initially influenced the New York system. Nevertheless, in New York, maintained silence eventually became another form of discipline intended for suppression.

The New York system implemented religious services as a means for the inmate to self-reflect, cultivate virtue, and build a relationship with God. Prison officials at the Auburn Penitentiary provided each convict with a Bible, and they instructed the inmates to read and study the scriptures. The state allotted the prisons the funding to pay for three clergymen of different Christian denominations.⁵⁵ Every Sunday at Auburn, prisoners attended a service at the chapel. Most lessons focused on repentance.⁵⁶ Convicts were supposed to develop an “abiding sense of moral and religious obligation” which then reformed their character.⁵⁷

In Pennsylvania, solitary confinement was considered the vehicle for repentance and salvation. Roberts Vaux, a member of the Philadelphia Society, asserted that solitary confinement allowed the criminal “every opportunity which Christian duty enjoins” and restored their “path of virtue” because “seclusion [was] believed to be an essential ingredient in moral treatment.”⁵⁸ A chaplain, who was “in special charge of [the inmates] moral reformation,” visited each prisoner once a week.⁵⁹ Every cell had a Bible as well as “sometimes tracts containing edifying anecdotes.”⁶⁰ After their famous visit to America, Gustave de Beaumont and Alexis de Tocqueville argued that Christianity and solitary confinement led the individual to “reflection to

remorse, through religion to hope,” making it the most “powerful” means for reformation.⁶¹ The Pennsylvania system offered prisoners the means, a Bible and chaplain, to reform themselves.

The two states affirmed that wickedness and ignorance caused criminal activity. This argument maintained that God brought salvation to all people. According to Roberts Vaux, solitary confinement “restored” criminals who could not control their “wicked passions and propensities.”⁶² Officials at the Auburn jail believed that “ignorance” of the law and upright morals “[were] a fruitful source of depravity and crime.”⁶³ For Christians, Ezekiel teaches that the person who commits a crime is “wicked.”⁶⁴ However, if a criminal “turns from his sin and does what is right” and “walks in the statutes of life, ... none of their sins” will be remembered.⁶⁵ The fundamental principle here—forgiveness and redemption—was achievable through righteous action. Both institutions induced religion, whether New York actively with services or passively in Pennsylvania with books and weekly visits from clergy.

The “levels of ignorance,” defined by age and race, dictated a criminal’s treatment and social class within the New York system. For instance, at Auburn, male inmates 25 years and younger were considered the most ignorant among white inmates. Considered to be “grossly ignorant,” was a young Indian who prison officials regularly accused of lying and stealing. When asked to accept their God and partake in their religious practices, he denounced their religion and refused to participate.⁶⁶ Ideally, for both prison systems, Christian teachings restored the

This story is one of the few accounts in the literature that suggests that there were non-white criminals within the prison. Often, writers of this time did not include narratives or facts of Native Americans, Blacks, and Women. Wickedness was, to an extent, believed to be a corruption of the individual’s character and morals. In the administration’s view, ignorance created a wicked person.

Both prisons instituted some form of labor. Prison officials in Pennsylvania implemented labor into the prison schedule so the inmate could pass the time. Reformers also argued that labor prevented the degradation of the inmate’s mind during solitary confinement. Inmates worked at their discretion, and most of them enjoyed it. According to Beaumont and Tocqueville, when they interviewed prisoners about their thoughts on labor in their cells, “there was not a single [prisoner] who did not speak of labor with a kind of gratitude, and who did not express the idea that without the relief of constant occupation, life would be insufferable.”⁶⁷ When the Pennsylvania legislature provided Haviland the funds to renovate their penitentiaries with solitary cells, they evidently championed reform. Pennsylvania was not concerned with whether their cells were financially practical, according to Matthew Meskell.⁶⁸ Indeed, isolated cells required more space and material per inmate. Pennsylvania’s prisons lost money each year, and profits from the small amount of labor did not offset building costs.⁶⁹

In contrast, the Auburn and Sing Sing prisons in New York were profit driven. Each prison negotiated contracts with entrepreneurs that outsourced their workers. Essentially, companies provided the prisons with the material, and the prison provided the labor. When

Beaumont and Tocqueville interviewed Auburn's inmates, they found that "labor, instead of being a comfort to the prisoners, is, in their eyes, a painful task, which they would be glad to get rid of."⁷⁰

Inmates labored in shops that resembled factories. They worked "bodies together" but "souls separated" while being surveilled by guards.⁷¹ The women at Auburn resided in the south wing's attic, and they were tasked with "picking wool, knitting, and spooling."⁷² Men specialized as coopers, blacksmiths, shoemakers, toolmakers, and weavers.⁷³ Prisoners earned one to two cents a day. Despite their earnings, inmates still loathed the strenuous and cumbersome work.

How "Reformed" Prisons Became Retributive

Torture was immanent for disobedient inmates. In New York, if prisoners refused to labor, maintain silence, or comply with orders, guards were authorized to use corporal punishment. Guards often justified their beatings without merit or evidence. "An irreverent look or a sign of intelligence" almost guaranteed the prisoner would be punished into submission.⁷⁴ Edward Livingston was horrified by the guards' unchecked ability to "apply the whip" on prisoners.⁷⁵ In one instance, Livingston witnessed an inmate who made a hand signal to another. Upon being spotted by the guard, the man was whipped until he confessed.

Francis Lieber, the translator of Beaumont and Tocqueville's *On The Penitentiary System in the United States and its Application in France*, justified the two Frenchman's lack of discussion on women in prisons. Although men committed crimes at a disproportionate rate, women, according to Lieber, "[act] more in contradiction to her whole moral organization... "which therefore makes them "more depraved, as they must have sunk already deeper than a man." The woman who commits a crime is "impossible" to reclaim by the system, especially prostitutes, considered one of the lowest criminals in both systems. Very few documents from this time discuss women to the same extent as men. The relationship between women and the penitentiary was almost non-existent, simply because, at the time, reforming a woman seemed unnecessary; hence, Lieber's logic.

When Beaumont and Tocqueville asked Lynds if corporal punishment was necessary to maintain order, the Warden stated that "chastisement by the whip" was the "most efficient" and "most humane" form of punishment.⁷⁶ Lynds believed it was "impossible to govern a prison without a whip." In response to the reformers who argued that corporal punishment was unnecessary and inhumane, Lynds replied that they only "know human nature from books."⁷⁷ Guards also used their power to torture the inmates. Prison officials believed torture was the only realistic way to force inmates to comply with orders.

The New York System sustained control through corporal punishment. As mentioned earlier, governments employed punishment as a public spectacle to deter crime instead of benefitting the law-breaking citizen. No longer performed in public, torture by guards in the prisons was

not a form of discipline. They punished inmates to enforce their rules. Punishment was a means to profit. Whether it was a torture contraption or the whip, prison officials controlled their inmates through force and suppression. Despite efforts from reformers, their contribution in New York was that they took the execution in front of the Notre-Dame and instead placed it in four dreary walls. Evidently, no form of corporal punishment was intended by the state to benefit the lawbreaker.

Reformers such as Roberts Vaux argued that guards and inmates should have a mutual level of respect for each other. While the inmates tried to find God, the guards provided oversight. This was not the case in New York. Often, one guard was assigned to watch fifty to sixty inmates.⁷⁸ Silence throughout the prison, especially during work, was almost impossible to maintain. The human, a social creature, was bound to interact with another. At the Sing Sing prison, the superintendent delegated punishment power to all guards. At Auburn, only the superintendent could punish; however, if the guards believed that force was “absolutely necessary,” they could punish.⁷⁹ In both New York prisons, the poorly defined policy of when and how a guard could punish led to lawlessness.

Although both systems diverged after 1840, they eventually found themselves in the same position. Pennsylvania’s model, which relied upon solitary confinement, did not spread outside of the state. In contrast, the New York prison system became the paradigm for new prisons in the nineteenth century. Other states favored the New York model because it was less expensive to maintain and build. Profit offset costs and brought revenue to the state. This new market—contract prison labor—was the primary reason state legislatures adopted this model.⁸⁰ From 1828 to 1833, the Auburn prison extracted over \$25,000. By 1852, the New York system housed 254 more convicts than cells; the state legislature refused to fund more space for its new laborers.⁸¹ The Eastern Penitentiary eventually adopted the congregate system like that of Auburn in 1913. At the point in which both systems championed profit and labor over reform, “penitentiaries were little more than holding bins for the dregs of society.”⁸² The state transitioned criminals from rehabilitative subjects into laborers. The system was then retributive.

Looking back at Frederick Packard’s notices in the introduction, where the young inmate suffered through the cold-water bath at the hands of the guards, the inmate’s treatment signaled more than just a cruel means of punishment. Packard’s words emphasized that the work of previous reformers, like Dr. Rush and Bradford, who fought to dissolve corporal punishment from the government, did not solve all the issues they hoped to eradicate. Although Auburn prison officials believed that silence and continuous labor were an effective and humane means of discipline, these methods accompanied corporal punishment.

Furthermore, corporal punishment cemented a hierarchy within the prison. The primary question the reformers and wardens struggled with was whether corporal punishment was necessary to maintain order. Initially, the guard was supposed to facilitate discipline, not necessarily enforce it. Because guards merely maintained oversight, solitary confinement hypothetically imposed discipline. This oversight, however, is the hierarchy. Consider the

Eastern Penitentiary's ability to maintain surveillance throughout the prison. Insofar as surveillance creates a distinction between the surveillant and the subject, the idea of egalitarianism, and a prison system, cannot coexist. While the early penal reformers believed that corporal and capital punishment were the only variables that created a hierarchy in the prison system, they did not foresee the use of strategic architecture and extensive corporal punishment.

Surveillance created a hierarchy and allowed officials to abuse the system. When prison employees were given the power to supervise and punish in the New York system, cruelty subsequently arose.² The system granted the warden and guards power, and they assumed the role of the cruel surveillant. Although the Eastern Penitentiary initially detested corporal punishment, they had an embedded opportunity, architecture, to further suppress inmates.

Individuals, even potentially with the purest of hearts, when given the position to maintain and hold power over another, like that of the corrections officer, do, without a doubt, have the propensity to subject themselves to morals conducive to committing abuse.

Principles and practical application blurred when human nature took over. When New York and Pennsylvania established their first prisons, Newgate and Walnut Street, the jails' failures encapsulated the discussion. The states aimed to prevent failure, even if it required that they rejected Dr. Rush and Bradford's ideas. John Haviland's architectural design subtly induced control in Pennsylvania's Eastern and Western Penitentiaries. The New York system preferred an active display of power through corporal punishment, the rule of silence, and contract labor. New York believed that a dominated inmate was a disciplined one. Prison officials, especially Lynds, argued that it was impossible to run a prison without corporal punishment and force. Both states concluded that the mechanism for order depended on an implemented hierarchy. The institutions eventually paraded the power of the surveillant. A problem with human nature is then the temptation to hold power over another to create order.

Champions of reform, like Philadelphians Roberts Vaux and Livingston, are rare in a society that favors economic gain and order. Forced labor seemed like a just practice to the prison officials and state legislators who forgot the intentions of those before them. Maintained control of inmates who were viewed as a threat to the social order, and profiting off them, ultimately created a desirable end for the state. It is not the thinkers like Beccaria and Dr. Rush who punish, but instead, individuals like Lynds. Elam Lynds is not the ruthless organizer and infamous Warden without the whip. Pennsylvania does not instill a dichotomy between the surveillant and subject without John Haviland's skillful touch. Although citizens are afraid of the criminal, the power of those who run the jails should spark a weariness and skeptical attitude as well. As the whip, in practice, is just as powerful as the pen.

Acknowledgments

The author acknowledges the mentorship provided by their two advisors on the project, Dr. James Seymour and Dr. Amy Larsen. They also thank other faculty and staff at the Lone Star College – CyFair Honors College, especially Professor Laura Taggett, Professor Esther Robinson, Dr. Mark Thorsby, and Professor Kimberly Mori.

End Notes

1 Frederick A. Packard, Memorandum of a Late Visit to the Auburn Penitentiary (Prepared for the Philadelphia Society for the Alleviation of the Miseries of Public Prisons.) (Philadelphia, PA: J. Harding, Printer., 1842), 5.

2 Matthew W. Meskell, "An American Resolution: The History of Prisons in the United States from 1777 to 1877." *Stanford Law Review*, 845.

3 Meskell, 845.

4 Arthur A. Ekirch, "Thomas Eddy and the Beginnings of Prison Reform in New York," *New York History* 24, no. 3 (July 1943): pp. 376-391, <https://doi.org/https://www.jstor.org/stable/23135106>, 380; Leonard H. Roberts, "The Historic Roots of American Prison Reform: A Story of Progress and Failure," *Journal of Correctional Education* 36, no. 3 (1985): pp. 106-109, <https://doi.org/http://www.jstor.org/stable/41970789>, 107.

5 Michel Foucault, *Discipline and Punish: The Birth of the Prison* (New York, NY: Vintage Books, 1995), 1.

6 Meskell, 842; The ducking stool, as explained by Meskell, is a "chair connected to a pulley system... where [individuals] were restrained and then repeatedly plunged into a convenient body of water."

7 Meskell, 842.

8 Meskell, 842.

9 Rousseau, 50.

10 Rousseau, 50.

11 Cesare Beccaria, *An Essay on Crimes and Punishment* (London: J. Almon, 1778), 108.

12 Beccaria, 105.

13 Beccaria, 108.

14 Rush, 53.

15 Benjamin Rush, "On Punishing Murder by Death," in *The Selected Writings of Benjamin Rush* (New York, NY: Philosophical Library, 1947), 35.

16 Rush, 52; Donald J. D'Elia, "Benjamin Rush: Philosopher of the American Revolution," *Transactions of the American Philosophical Society* 64, no. 5 (1974): 8.

17 Meskell, 844.

18 William Bradford, "An Enquiry How Far the Punishment of Death Is Necessary in Pennsylvania," *The American Journal of Legal History* 12, no. 2 (1968): 129.

19 Bradford, 129.

20 Bradford, 129.

21 Bradford, 129.

22 Harry Barnes, "The Historical Origin of the Prison System in America." *Journal of the American Institute of Criminal Law and Criminology* 12, no. 1 (1921), 48.

23 Barnes, 48. Barnes points out that Strickland's design proved faulty because "almost no light could enter the cells, guards could not readily observe prisoners, and the peculiar layout of the sewer pipes allowed inmates to communicate through gratings."

24 Barnes, 48.

25 Meskell, 854.

26 Barnes, 48.

27 Meskell, 848.

28 Meskell, 848.

29 Meskell, 848.

30 Barnes, 52; Meskell, 848.

31 Meskell, 853.

32 Barnes, 55.

33 Johnston, "John Haviland, Jailor to the World," 101.

34 Johnston, "John Haviland, Jailor to the World," 101.

35 Johnston, "John Haviland, Jailor to the World," 101.

36 Meskell, 854.

37 Foucault, 200; Meskell, 853.

38 Foucault, 200.

39 Norman B. Johnston, "John Haviland, Jailor to the World," *Journal of the Society of Architectural Historians* 23, no. 2 (1964), 101.

40 Foucault, 201.

41 Foucault, 137.

42 Foucault, 137.

43 Norman B. Johnston, "Pioneers in Criminology. V. John Haviland (1792-1852)," *The Journal of Criminal Law, Criminology, and Police Science* 45, no. 5 (1955), 514.

44 Johnston, "Pioneers in Criminology. V. John Haviland (1792-1852)," 514.

45 Johnston, "Pioneers in Criminology. V. John Haviland (1792-1852)," 514.

46 Meskell, 854.

47 Meskell, 853.

48 Meskell, 853.

49 Meskell, 855; Gershom Powers, *A Brief Account of the Construction, Management, and Discipline & C. &C. of the New-York State Prison at Auburn*, (Auburn, NY: U.F. Doubleday, 1826), 17.

50 Powers, 3.

51 Powers, 10.

52 Jennifer Graber, "The Furnace at Sing Sing, 1828-1839," in *The Furnace of Affliction: Prisons and Religion in Antebellum America*, (Chapel Hill: University of North Carolina Press, 2011), 106.

53 Meskell, 856.

54 Meskell, 856.

55 Powers, 20; Only about 50-60 percent of the prisoners in Auburn were literate.

56 Powers, 20.

57 Powers, 20.

58 Roberts Vaux, Letter on the Penitentiary System of Pennsylvania. (Philadelphia, PA: Jesper Harding, 1827), 10.

59 Gustave de Beaumont and Alexis de Tocqueville, On the Penitentiary System in the United States and Its Application in France; With an Appendix on Penal Colonies, and Also, Statistical Notes. (Philadelphia, PA: Carey, Lea & Blanchard, 1833), 51.

60 Beaumont and Tocqueville, 51.

61 Beaumont and Tocqueville, 51.

62 Vaux, Letter on the Penitentiary System of Pennsylvania, 9.

63 Powers, 20.

64 Ezekiel, 33:13.

65 Ezekiel, 33:16.

66 Powers, 21.

67 Beaumont and Tocqueville, 23.

68 Meskell, 858.

69 Meskell, 858.

70 Beaumont and Tocqueville, 25.

71 Beaumont and Tocqueville, 24; Meskell, 857.

72 Powers, 15.

73 Powers, 25-29.

74 Livingston, 10.

75 Edward Livingston, Letter From Edward Livingston, Esq. to Roberts Vaux, on the Advantages of the Pennsylvania System of Prison Discipline for the Application of Which the New Penitentiary Has Been Constructed Near Philadelphia, & C. & C. (Philadelphia, PA: Jesper Harding, 1828), 9.

76 Beaumont and Tocqueville, 201.

77 Beaumont and Tocqueville, 201.

78 Meskell, 857.

79 Beaumont and Tocqueville, 43.

80 Meskell, 862.

81 Meskell, 862.

82 Meskell, 862.

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