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Shai Gortler

FOUCAULT AND THE PRISONS INFORMATION GROUP'S COUNTER-SUBJECTIVATION

ABSTRACT
Between February 1971 and December 1972, Michel Foucault co-founded and was an active member of the Prisons Information Group (*Groupe d'Information sur les Prisons*, hereafter GIP). Through demonstrations, direct action, and publications, the GIP sought to intervene in France's carceral regime and the set of systems, ideas, and practices that sustained it, in order to bring about its transformation. The goal of Foucault and the GIP was not simply to improve prison conditions but to disrupt the constitutive conditions of the institution. The archival material that Foucault's involvement with the GIP left to society, alongside his lectures and publications, invites scholars to consider a rearticulation of our understanding of subjectivity. Reading Foucault's tracing of the genealogy of the category "guilty" and the GIP's analyses of prison uprisings facilitates a thicker understanding of "counter-subjectivation." In opposition to the structures of carceral subjectivity wherein incarcerated people could never hope to influence the standards according to which prisons seek to "rehabilitate" them, the GIP calls our attention to a more democratic work of subject formation.

KEYWORDS
Foucault, Prisons Information Group, counter-subjectivation, abolition, subjectification

"They are building new prisons!"
(Victor Hugo)

"We have to imagine and to build up what we could be ..."
(Michel Foucault)

Shai Gortler: Visiting Scholar, Department of History of Consciousness, University of California, Santa Cruz, email: shai.gortler@gmail.com

Introduction

"None of us is sure to escape prison." Michel Foucault (cited in Elden 2013) uttered these words to the world's press outside the Saint-Bernard de Montparnasse Chapel in Paris after the successful end of a hunger strike by Maoist activists. With this opening sentence of the founding statement of the Prisons Information Group (*Groupe d'Information sur les Prisons*, hereafter GIP) in February 8, 1971, Foucault did not only mean to acknowledge that every citizen could potentially be imprisoned. While the Maoist activists did, indeed, experience this first-hand when the French government outlawed their political organization, the *Gauche prolétarienne* (GP), in the aftermath of May '68, the subsequent sentences of Foucault's statement show he aimed elsewhere: "Today less than ever. Police control (*quadrillage*) over day-to-day life is tightening: in city streets and roads; over foreigners and young people; it is once more an offence to express opinions; anti-drug measures increase arbitrarily. We are kept under 'close observation.' [...] They tell us that prisons are over-populated. But what if it was the population that was being over-imprisoned?" (ibid). Foucault, alongside GIP founding members Pierre Vidal-Naquet, Jean-Marie Domenach, and Daniel Defert, told the audience outside the chapel that the prison-form was a symbol for other forms of control that were growing more powerful and affected everyone. Yet, possibly in a certain tension with the Maoists whose successful hunger strike had just improved imprisonment conditions (even if only for those considered "political prisoners"), Foucault's framing of the GIP's activity raises a different question: What does it mean to live a life that resists not only the prison but the prison-form per se? This question is democratic at its core: to resist the prison-form is to refuse carceral subjectivity, wherein incarcerated people can never hope to influence the standards according to which prisons seek to "rehabilitate" them.

Foucault's involvement with the GIP, alongside his Collège de France lectures and *Discipline and Punish*, unpacks this question on three levels: moral, sociopolitical, and that of subjectivity. The GIP texts and Foucault's activities with the GIP offer unusual clarity on the practical dimensions of Foucault's theoretical project. Indeed, Foucault's work with the GIP offers a unique contribution to our theoretical understanding of practices of self-transformation that I discuss through the lens of "counter-subjectivation." I apply this term to refer to the process whereby people transform themselves in a way that is not tied to a transcendental (which would set limits on said transformation). This, then, is the link between carceral subjectivity and counter-subjectivation. As a modality of power in which one can transform oneself in a manner *not* tied to a transcendental, counter-subjectivation offers an antidote to the workings of carceral subjectivity, wherein incarcerated individuals have no influence over the norms that prisons impose to define their "rehabilitation."

The GIP published five booklets and several pieces in the French press before its self-dissolution in December 1972 in favor of a prisoner-led organization (GIP 2021). Together, these texts demonstrate counter-subjectivation and

contain an important reminder, namely, that prisons are not solely intended to *repress* through civil and social death (Defert 2003; Zurn and Dilts 2015). They are also designed to *produce* a certain living subject: disciplined, obedient, civilized, straightened-up, and one that knows its place. For all that a prison might offer better possibilities for incarcerated people to be active, it would, nevertheless, remain merely a more sophisticated form of control (Gortler 2022).

According to Gilles Deleuze, a fellow GIP member, to Foucault, the GIP was "an experiment in thinking" (Deleuze 1986). The question of the prison-form and the practices of self-transformation that would undo it sat at the heart of the GIP experiment. According to Foucault, Jean-Paul Sartre and the Maoists, under Sartre's influence, sought to take over institutions of justice such as courts (and thus to repurpose them from "class justice" to "popular justice"). Yet, to Foucault, from its very inception, the court-form was meant to serve as an instrument of domination: it was set up by the bourgeoisie precisely to further their control in the aftermath of the French Revolution and therefore could never be repurposed. The same could be said of the prison.[1] The GIP did not set out in pursuit of a "people's prison," an "equal prison," or, in sum, an "ideal prison." Rather, the goal of its interventions was "to question the social and moral distinction between the innocent and guilty" (Foucault 1977b: 227). If the creation of our subjectivities according to allegedly objective social and moral categories such as *innocent* and *guilty* is, indeed, an instrument of control, then undoing these subjectivities would afford us greater freedom. Reading about the GIP's interventions through their own words provides pointers for achieving counter-subjectivation. And the group's interventions provide carceral insights into potential practices of freedom outside of prison walls.

The GIP sought to unsettle the structures of subjectification in our daily lives – structures exemplified, inter alia, by the prison-form. The epigraph from Victor Hugo ("They are building new prisons!"), quoted in one of the GIP's booklets, references the building of the notorious Parisian prison La Santé in the 1860s (where, a century later, the hunger strikes by Algerian prisoners were part of the backdrop to the GIP's founding) (GIP 2013: 94). The reference is a reminder that, despite the common imagery of the prison as dark and repressive, it is actually a creation of the Enlightenment. But both the GIP's texts and Foucault's writings serve as a reminder that this specific institution was not created to support equality and can never serve it.

This article is not an attempt to tell the history of prison activism in France in 1971–72. Nor does it seek to arrive at a conclusive abolition theory, or a universal theory or substantive vision of freedom. Rather, it aims to read Foucault's involvement with the GIP as laying clues to counter-subjectivation. Counter-intuitively, the GIP's unique articulations remind us that the prison-form and our modern subjectivities are, themselves, outcomes of abolition.

1 For a contribution that uses the GIP's resources to discuss why feminist approaches should avoid the carceral pitfall, see Terwiel (2019).

Methodologically, my exegesis builds on texts that are a result of archival work at the GIP collection of the Institut Mémoires de l'édition contemporaine (IMEC), the Foucault files at the Bibliothèque nationale de France (BnF) and the Elie Kagan collection at La Contemporaine (formerly the Bibliothèque de documentation internationale contemporaine). In the following sections, I start by reading the GIP texts as a practical endeavor on the part of Foucault to question "the social and moral distinction between the innocent and guilty" in order to move beyond our carceral selves (Foucault 1977b: 227). I then turn to reading the GIP's project and Foucault's lectures to propose that a further-reaching abolition includes the reworking of subjectivities. Thereafter, I briefly outline the difference between counter-subjectivation, the concept I suggest for this process, and Foucault's use of "counter-conduct" and "subjectivation." Finally, in the conclusion, I tie this project to the broader Foucauldian project and the possibilities of reworking the self.

The Prisons Information Group's Counter-subjectivation

The texts that Foucault wrote as part of his involvement with the GIP, as well as other GIP texts, paint a clear picture of the active role that one can play in pursuing processes of counter-subjectivation against carceral logics. By "carceral logics," I mean governmental control (not only of a state apparatus but also of theories, institutions, and practices) achieved through subjectification tied to a transcendental: constituting obedient and civilized subjects who know their place. The different handwritten drafts of the GIP texts enable us – despite the GIP's attempt to challenge regimes of the seeable and say-able by using a collective voice – to attribute most of the GIP texts to specific authors (Luxon 2016). More importantly, the GIP collection also exposes us to the changes made to progressive drafts of the GIP texts and, through these modifications, to the evolving thought process that guided the GIP's work. These texts hint at a counter-subjectivation that is the active possibility of subjects to exercise freedom in resisting various forms of limitations within the carceral setting. Such limitations include being rendered non-agents, treated as slaves, expected to trade freedom for one's sense of self in parole processes, being assigned books in disciplining educational processes, or, in sum, having to tolerate the carceral self.

The first point to note is that the GIP texts remind us that the work of counter-subjectivation begins with an acting subject. The first step toward moving beyond the Western conceptualization of subjectivity, in place since the time of Roman law, is to challenge society's perception that a subject is sovereign when they decide to relinquish, to a sovereign, their right to rule themselves (Foucault 1977b: 221). The changes made by Foucault to one GIP pamphlet stress this point. Jean-Marie Domenach, one of the founders of the GIP and the editor of the leftist–Catholic review *Esprit*, had written the first draft of this pamphlet to accompany a questionnaire that the GIP members distributed in front of prison entrances to gather information. His first draft included the

following sentences: “The situation inside the prisons is intolerable. They treat the prisoners like dogs. What few rights they have are not respected. We want to bring this scandal to the light of day.”[2] However, Foucault’s second draft of this pamphlet replaced the sentence “they treat the prisoners like dogs” with “they render the prisoner’s life a life unworthy of a human being.”[3] Why did Foucault replace the comparison to dogs? Could the reason be that, in this context, a dog has no ability to exercise power or act politically and can neither express nor change its subjectivity? But, while a dog is not able to do so, human beings *are* – and should be – able to change their realities and themselves.[4] Dogs might be over-incarcerated; dogs might be treated with cruelty; but the figure of the dog is not one we would associate with political action that changes reality.[5] As Foucault would later argue: “The problem, you see, is one for the subject who acts – the subject of action through which the real is transformed” (Foucault 2000: 236). The question of subjectivity is not only one of numbers – “we are human beings, not numbers”[6] – and the question of mass incarceration is not the only one we should be asking vis-à-vis the prison.

Second, the GIP texts develop counter-subjectivation as a refusal of both subjection and subjectification. George Jackson – one of the leaders and symbols of the Black Panther Party (BPP) – and his assassination while in prison were the subject of the GIP’s third booklet (GIP 1972). In the preface to this booklet, Jean Genet – playwright, former prisoner, and GIP member – draws the readers’ attention to the carceral attempt to influence Jackson’s behavior.[7] For the crime of stealing 70 dollars, Jackson was imprisoned for “either a year in prison or life” (Genet 1972). It was up to the parole board to decide whether Jackson had been rehabilitated and could be released. According to Genet, Jackson refused to accept the prison’s attempt to “correct” him and influence his subjectivity.[8] Every year of the 11 years he spent in prison for this crime of

2 In “La Situation dans les prisons est intolérable,” File 2.22, Fonds GIP, IMEC. All translations are my own.

3 “On fait aux détenus une vie indigné d’un être humain” (GIP 2003: 50).

4 For similar examples, see: “we are human beings, not dogs” (…) “we are human beings, not numbers” in “Première victoire: plus d’étables mais des parloirs,” File 2.20, Fonds GIP, IMEC, and “we are not beasts, we are human beings” (GIP 1971: 34).

5 Foucault would return to discuss dogs in his references to Diogenes the Cynic who compared himself, and was compared by others, to a dog. The difference between the two instances is that Diogenes reclaims this comparison himself and remains an active agent. See Foucault 2011a.

6 “Première victoire: plus d’étables mais des parloirs,” File 2.20, Fonds GIP, IMEC.

7 For the broader connections between the BPP and the GIP, see Heiner (2007).

8 Of course, not every aspect of prisons’ attempts to affect one’s subjectivity can be refused. Jackson’s prison letters contain numerous examples of this reality; yet, the following quote is worth repeating also because of its relationship to the previous paragraph’s discussion of dogs: “I know that they will not be satisfied until they push me out of this existence altogether. I’ve been the victim of so many racist attacks that I could never relax again. My reflexes will never be normal again. I’m like a dog that has gone through the K-9 process” (Jackson 1970: 28).

stealing 70 dollars, he would meet with the parole board, and every year they determined he was not sufficiently rehabilitated. This, then, is a vignette of the consequentialist logic of incarceration that operates on the prisoner's subjectivity in order to bring about a transformation from a dangerous individual to a contributing member of society (Tonry 2011). Genet's analysis of Jackson's imprisonment reminds us that prisons attempt to constitute subjects and relationalities. As Jackson's experience proves, death is a central part of the story of the utilization of the prison-form as a mechanism of power (Bennett 2022). Yet, it is not the only part. Other prisoners who accepted the parole board's conditions for freedom *qua* release from prison are not known to us, yet Jackson's refusal to accept this subjectification alerts us to its existence: an existence that he describes as more dangerous than death (Jackson 1972). Modern prisons' declared operating principle, the attempt to affect subjectivity, is not merely theoretical. It has important manifestations in action, as felt by Jackson in their bodily impact. His own attempt to affect subjectivity, counter-subjectivation, was a reaction to the prison-form. To the systems, theories, and practices that attempted to change who he was, Jackson reacted by realizing a political self-transformation.

Counter-subjectivation requires a refusal of subjectification. Hence, the process that Jackson initiated can be understood as counter-subjectivation as he did more than refuse to change in a manner that would please the prison's administration: he deliberately sought to transform himself against such logics. "I, I hope, have completely killed the slave in me" (Genet 1972: 6). Genet quotes Jackson's prison letters: "I was a thug all my life. It was my years in prison that gave me the time and the opportunity for self-reflection and incited me to transform my character" (ibid: 5). Alongside Jackson's self-reported refusal of subjectification, the GIP booklet also describes a process that is specifically different from the process that Foucault would later label as "counter-conduct" and that relied on a transcendental (such as morality, a new man, or a form of knowledge, discussed later in this article). The main difference is that Jackson's actions are specifically discussed as distinct from both Christian and orthodox Marxist transcendentalisms: "[Jackson] no longer refers to the Old Testament. He cites neither the Prophets nor the Apostles" (ibid).

Deleuze defines this approach as a double "unhooking" or "differentiation" [*décrochage*] that arises when the "exercises that enabled one to govern oneself" *become detached* both from power as a relation between forces and from knowledge as a stratified form or "code" of virtue (Deleuze 1988: 100). This process of "unhooking" is not a practice of the self that is performed in isolation but a political and collective practice. Jackson's unhooking is similar to the BPP's relational practices outside prison walls: self-help, self-arming, and consciousness-raising as practices of education (Dorlin 2022). Prison education shows the continuum of possibilities between different modalities of power. In Foucault's reading of the prisoners' refusal of education, what they are rejecting is undemocratic politics, this being hinted-at by the etymological source of the "duc" in "education" – just like the "duke" who governs without

consulting those who are governed. Genet's analysis of Jackson's transformation illustrates the possibilities for action that exist even in the most extreme circumstances. While Jackson was held in prison because he refused the parole board's model of rehabilitation, the practices of self-transformation that he undertook open-up theoretical possibilities for action.

In another instance of the refusal of carceral subjectification, Foucault reads the prisoners' arson attack on the library at the Centrale Ney prison in Toul as an act representing the refusal of our inheritance of Roman law that demands that the subject know their place and defines the individual as a submitted sovereign. Describing the prison takeover of December 9, 1971, Foucault writes: "They burned the library, and with it all the hypocrisy of prison education, moral correction, vocational training" (GIP 2003: 153–54). The library is symbolic of both knowledge and education, and readers might flinch at the thought of a library going up in flames; yet, Foucault's analysis is meant to shed light on a specific kind of education process. This is a process in which prisoners are invited to be active – read, take out books – but the kind of rehabilitated subject that is expected of this educational process is not up to them to choose. It is not a matter of the variety of books to choose from but something more profound. The problem with the hypocrisy of prison education to which Foucault draws our attention is that a *rehabilitated* subjectivity is not a result of the prisoners' choosing.

Setting fire to the library, according to Foucault, was not comparable to calls for "flush toilets" (Foucault 1977b: 227). Nor was it on a par with the call of the Maoist hunger strikers of the *Gauche prolétarienne*, who, in their solidarity with the "common law" incarcerated people, declared: "In our eyes, [the "common-law" prisoners] are the victims of a social system that, after having produced them, refuses to re-educate them and is content with debasing and casting them aside" (Secours-Rouge 1970). Rather, Foucault reads the actions of those incarcerated at Centrale Ney as a struggle against the dispositifs that attempt to "re-educate" them in the sense of reconstituting their subjectivities. Unlike "the hypocrisy of prison education, moral correction, [and] vocational training," Foucault understood this arson attack as an attempt by the incarcerated to counter the corpus of knowledge that was imposed on them, but that had never served them and that, undemocratically, they had no capacity to affect. In other GIP texts, the hypocrisy of prison education is discussed as signifying the false promises made by a system that, on the one hand, pretends to re-educate prisoners and to return them to society but, on the other, continuously marks them as criminals and thus adds further difficulties to former prisoners' struggles to find employment. Foucault's Nietzschean analysis of this event was undoubtedly not the one that the incarcerated people themselves articulated. In fact, an eye-witness report provides a specific reason for the attack on the library:

> … arsonists also set to work and burned the library because they found two hundred pairs of shoes while we had been told that we now had to buy them

> for twenty-eight Francs (subsidies are seventy Francs per month in general; the amount increases with tenure) because subsidies were no longer sufficient, or I do not know what other lie.[9]

Foucault's analysis of the incident thus suggests that the prisoners were working against practices of subjectification. His framing of these prisoners in revolt reminds us that the prison-form is an instrument of control: by refusing their passive role, the Toul prisoners were thus also defying a society that attempted to yoke them to predetermined roles and predetermined truths.

Third, the GIP proposed not only individual acts of self-transformation within prisons but also farther-reaching collective ones both inside and outside of prison walls. Foucault interprets incarcerated people's movements as offering both continuity and change (Foucault 1994: 1311). The continuity can be found in their learning from previous movements – primarily, the Algerian resistance movements, such as the *National Liberation Front* in French prisons (most notably, the Parisian prison La Santé) and the 1960s hunger strikes of these movements. The change is that, for the first time, the prison takeovers were centered around a call to public opinion. The prisoners at Toul were at the vanguard: they climbed up to the roof of the Centrale Ney and, from there, attempted to communicate their conditions to those outside. Foucault analyzes this moment not by concentrating on the content of the appeal but on the nature of the gestures involved – horizontal communication and the turn to political action to change the situation. These gestures work against the subject formation inherited from Roman law, where, to request change, the subject would have to appeal to the governor. Instead, the incarcerated people on the roof practice counter-subjectivation in changing these learned modalities of subjectivity. The GIP endeavored to spread this public appeal by reading incarcerated people's demands in public,[10] by publishing a booklet on these demands, and by writing in the press. It was a moment where the "guilty" refused to be placed outside the political order and the carceral subjectivity to which they were supposed to adhere. The GIP amplified this refusal.

The GIP's proposition for self-transformation was also directed toward those outside prisons. "Let us become intolerant of prisons," it invited its readers (GIP 2003: 52). In its refusal of practices of individualization, the GIP proposed a plural "becoming intolerant" as an act of collective transformation. The intolerance that the GIP proposed was not only targeted at sub-standard imprisonment conditions or at humiliating treatment, but at carceral subjectivities as well. The same pamphlet suggested becoming intolerant toward "the

9 Un ancien détenu de Toul raconte la révolte du 9 décembre. Dossier no 10, June 26, 1972, APL Lyon, file 3.37, Fonds GIP, IMEC.

10 On January 17, 1972, GIP members stormed the Ministry of Justice building. Once inside, Foucault read out a statement by people incarcerated at Melun Prison. It was the principle of "donner la parole," giving the floor to prisoners themselves by utilizing the position of the intellectuals (as De Gaulle said of Sartre: "One does not arrest Voltaire"). For an analysis of this important GIP demonstration, see Artières (2004).

hospital system, psychiatric practices, military service, etc.," too (ibid). Foucault would also later use the word "intolerance" to describe the public rage manifested toward cruel or unjust public executions – the very intolerance that would contribute to the appearance of the modern prison-form. Here, arguably, the intolerance to which Foucault aspired would have a broader reach, far beyond a rejection of the excessive practices of punishment. For that brand of intolerance might only lead to more sophisticated mechanisms of control that would replace the excessive violence that might provoke a reaction with masked forms of control. Rather, the GIP's intolerance was aimed at exclusionary and inclusionary practices of subjectification, not just violence. It was an intolerance that could be practiced not only within prison walls in opposing the institution's attempts to constitute an obedient, civilized subject but also outside of prisons, where the chains are less visible. This call to become intolerant was the crux of the GIP's political significance. It suggested a vision of freedom for the politics of our selves – to take control of the theories, institutions, and practices that define us.

In the GIP's first public appearance and founding statement – "None of us is sure to escape prison" – the group stressed the relevance of the struggle against the prison-form to broader sets of concerns, beyond those of incarcerated people. To achieve the goal of unsettling the carceral logics of a punitive society, the GIP turned to those most affected by it. Yet, the turn to the prisoners "themselves" was not separate from the "ourselves." This point was illustrated at a press conference held on January 17, 1972, following the tumultuous demonstration in which GIP members had stormed the Ministry of Justice. When Foucault and Sartre addressed the press at the Rue Dussoubs offices of the *Agence de presse Libération* (created by GIP companion Maurice Clavel), the physical backdrop to their words, formed by a series of posters on the walls behind them, reminds us of the different contexts delineated in the post-'68 era. The silent posters, captured in photographs,[11] point to white supremacy, patriarchy, capitalism, Zionism, xenophobia, and homophobia, among other prevailing issues. Countering the prison is related to a broader spectrum of issues that are both beyond the scope of Marxism and, as Foucault would argue, also have to do with changing the subjects' relation to truth.

In a later exchange with Deleuze, Foucault mentioned that the struggles of "women, prisoners, conscripted soldiers, hospital patients, and homosexuals [are] radical, uncompromising, and non-reformist, and refuse any attempt of arriving at a new disposition of the same power with, at best, a change of masters" (Foucault and Deleuze 1977: 216). It is this refusal that separates the GIP's argument from the analyses that view freedom solely through the lens of

11 For example, one poster cites Angela Davis: "The real criminals in this society are not all the people who populate the prisons across the state but those people who have stolen the wealth of the world from the people." Other posters show calls for protest by African-Americans, feminists, Palestinians, and workers, among others. See photo FD-KAG1688N00082605, Elie Kagan Collection, La Contemporaine.

liberation. In other words, the figures of women, prisoners, soldiers, patients, and homosexuals are not natural configurations but, rather, exist as part of a specific *political* configuration. As prisoners are a modern construct of the deep division separating innocence and guilt that arises from a post-Enlightenment need to control, they demonstrate the possibilities of freedom that emerge from questioning such categories. Understanding that the constructs of innocence and guilt are put in place *to put in place* (that is, to dominate, qualify, limit, and teach a good that is beyond one's reach) is a necessary step en route to the undoing of a carceral subjectivity.

The processes of counter-subjectivation in the GIP's work were posed in juxtaposition to other leftist projects. In line with Foucault's debate with the Maoists in February 1972, they showed that actions such as taking over the court and other institutions cannot serve as practices of freedom because the court itself, along with the distinction between innocence and guilt, was established to work against a popular revolt: "My hypothesis is not so much that the court is the natural expression of popular justice, but rather that its historical function is to ensnare it, to control it, and to strangle it" (Foucault, Lévy, and Glucksmann 1980: 1). Foucault asks: "Is not the setting up of a neutral institution standing between the people and its enemies, capable of establishing the dividing line between the true and the false, the guilty and the innocent, the just and the unjust, is this not a way of resisting popular justice?" (ibid: 2). Unlike the "People's Court" held in Lens in December 1970 as a mock trial to judge those responsible for a mining disaster – with Sartre in the role of Prosecutor – the GIP's actions were not based on taking over an existing institution while keeping the institution itself in place (Sartre 1973: 24). For example, the GIP did not seek to have the Minister of Justice René Pleven incarcerated, even though it considered him highly implicated in the situation in the prisons. Nor did the GIP advocate vengeance as the proper means of serving justice, replacing the prison and reversing or inverting power relations (in contrast to some Paris-based Maoist publications following the April 1972 Bruay-en-Artois affair).[12] Not through vengeful "reversal," not by creating an ideal prison, not by aspiring to a people's prison – the GIP's call to obliterate the deep division that lies between innocence and guilt was built on the understanding that a collective work of unlearning is needed for moving beyond our carceral subjectivities.

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12 The murder and rape of working-class 16-year-old Brigitte Dewèvre in the town of Bruay-en-Artois (today, Bruay-la-Buissière) on April 6, 1972. After the suspect – Pierre Leroy, an upper-class lawyer – was released, some Maoist publications called for vengeance by the people. One such publication suggested that lynching the lawyer was justified: "It is the people's way of inverting [*renverser*] the world and its roles." *La Cause du People J'accuse*, no 24 of May 17, 1972, page 12. Behrent observes that, for Foucault, "Bruay reveals, in short, the essential reversibility of power relations." I disagree. The language of "renverser" is, rather, the Maoist language that Foucault opposes as it keeps a structure of unfreedom in place, even if with "new masters." See Behrent (2010: 593); Ewald and Boehme (2017); Wolin (2010).

The undoing of carceral subjectivity as a collective technology of the self

Foucault defines the goal of the GIP as "to obliterate the deep division that lies between innocence and guilt" (Foucault 1977b: 227). This section explores the birth, according to Foucault, of this separation to understand its hold on modern societies. Scholarship tends to read *Discipline and Punish* as running parallel to Foucault's involvement with the GIP: Cecile Brich seeks to show contradictions in Foucault's political practices and both Keith Gandal and Marcello Hoffman have attempted to unpack the relationship between Foucault's involvement with the GIP as practice and *Discipline and Punish* as theory (Brich 2008; Gandal 1986; Hoffman 2014). The analysis presented herein takes a different route. Rather than unpack a dialectic between theory and practice, it takes the GIP's texts as exposing a lacuna in *Discipline and Punish*; rather than "teasing out affinities" (Hoffman 2014: 38) between the GIP texts and *Discipline and Punish*, or regarding the latter as a "vibrant afterlife" (Zurn and Dilts 2015) of the group, I place the focus here on what the GIP texts offer for different analyses of subjectivity and the subjects' potential for action that transforms their carceral selves.[13] In other words, I read *Discipline and Punish* as a story of subjectification and the GIP as a story of counter-subjectivation.[14]

The GIP texts offer an alternative way to consider subjects' actions. Since prisoners who take action are mostly absent from *Discipline and Punish*, Foucault's research notes help us to better grasp the relation between different kinds of action – whether by prisoners, prison reformers, rebels, or execution-site rioters – in a way that highlights the difference between *Discipline* and the GIP, and thus enables scholars to reassess the role of the acting subject in Foucault's *oeuvre*. Foucault's materials held at the BnF show that his research for *Discipline and Punish* focused on prison reformers. Hence, the files are ordered according to the names of different reformers (such as Cesare Beccaria, Jeremy Bentham, and Nikolaus Heinrich Julius), while other files are named after different police inspectors – such as Siméon-Prosper Hardy, who gives the official account of Damiens' execution. As in *Discipline and Punish*, subjects' actions only appear when these individuals are about to be executed or to demonstrate a successful process of subjectification. However, subjects in action – not necessarily prisoners – do appear in the BnF research notes in two instances. The first is concerned with different rebellions such as the va-nu-pieds rebellion,[15] only very briefly mentioned in *Discipline and Punish* yet elaborated upon in the 1972 lectures, and the second is a file on different revolts against the police in times of executions or arrest (Foucault 1977a: 84).

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13 Elsewhere, Zurn and Dilts do discuss the difference between *Discipline and Punish* and the GIP texts regarding the absence of prisoners' voices from the former. See Zurn, Dilts, and Wolters (2016).

14 That said, a map of subjectification, as provided in *Discipline and Punish*, can be useful when attempting to undo this subjectification. See Ilot (2023); Vásquez (2020).

15 "Les Nu pieds" and "Mouvements populaires XVIIe siècle." File 7, Box 2, BnF.

Both these instances fit what Foucault would later call "counter-conducts." Foucault regards the execution-site revolts – in which witnesses would lash-out against an especially cruel treatment of a condemned person – as one of the motivations for the *abolition* of the pre-prison methods of punishment and their replacement with the "gentle way in punishment" imagined by the reformers. Hence, the counter-conduct itself is not necessarily always something to aspire to. Similarly, Foucault's discussion of the va-nu-pieds rebellion does not focus on its liberatory aspects. This is not only because it was brutally stifled but also because of two – quite enormous – productive afterlives of the rebellion: an original manifestation of the modern state and the separation between innocence and guilt that is central to how the state begins to conduct the conduct of its subjects.

Foucault's writings, in general, clarify the possibilities for change in carceral subjectivity. At the same time, they complicate the notion that Foucault only turned to ethics and the possibility of self-fashioning in the early 1980s. In his January 12, 1972 lecture, Foucault further unpacked the philosophical meaning and historical context of what he referred to as the birth of this separation between innocence and guilt as being inseparable from the appearance of the body of the state apparatus. Foucault traces the birth of the modern state not back to the 1648 Treaty of Westphalia but, rather, nine years earlier, to the suppression of the rebellion of the va-nu-pieds, in Normandy in 1639–40. Among the factors that combined to trigger the va-nu-pieds rebellion was a rumor that the state was about to take control of the salt-making industry in Normandy. [16] This would hurt the interests of both the poorer workers and the Norman nobles and clergymen who owned the lands that sold wood to this industry. To quell the revolt, Louis XIII and Cardinal Richelieu first sent the military into Normandy, under the command of Colonel Jean de Gassion, and then sent in a civilian figurehead, Chancellor Séguier. Foucault argues that Séguier's entrance into Rouen was a crucial event in the founding of the modern state, where the visible body of the state advanced in the place of the absent king (Foucault 2019: 71). That is, the rebellion was the justification for sending in Séguier as the representative not of the king but – for the first time, according to Foucault – of the state.

Yet, the appearance of the modern state – this defining moment of who we are – is tied to another important innovation: *the instrumentalization of moral categories for the purpose of control*. It is the reworking of this second innovation that the GIP experimented with. Foucault's articulation of how moral distinctions serve as a mechanism of power is presented through the actions of Séguier. After Séguier entered the city of Rouen on January 2, 1640, he declared to the rebels: "The innocent have nothing to fear; only those who have failed will feel the effects of the King's just anger and indignation" (ibid: 49).

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16 More specifically, to move districts from the definition of *pays de quart-bouillon* that are taxed one-quarter of their salt to the control of the farm of the *gabelle*, where salt was heavily taxed under a royal monopoly (Mousnier 1970: 96–97).

Foucault also quotes a different source that names the categories of the separation as "good" and "evil" – *bons et méchants* – thus giving this distinction a more pronounced Nietzschean flavor. Séguier's distinction between "the innocent" and "those who have failed" is, to Foucault, a moment of the utmost importance in the emergence of the modern state. It did not merely operate as a tool of external domination; indeed, the act of violent suppression was mostly over by the time Séguier entered Rouen (Davidson 1972: 22–23). The dreadful military commander Gassion, sent by Richelieu (who also gave Gassion the nickname "La Guerre"), had already forcefully crushed the rebellion by then, with the result that "Normans [were] massacred like enemies of the kingdom or traitors." Rather, Séguier's "innocent" versus "failed" distinction is a modern mechanism of control, for it works on the level of subjectivity, not only force. According to Foucault, the expectation was that the statement would cause the people of Rouen to question themselves as to which category they currently belonged to in this binary and how they should act in the future to ensure they belonged to the right group.[17] It is therefore a subject formation-oriented differentiation. At the same time, the leveraging of the two categories was also a mechanism that enabled the nobles, the clergy, and the clerks of the different regions to distinguish themselves from the lower strata, after the rebellion – initially encouraged by them – failed. The construction of the category of "innocent" is that of the subject who knows their place. In more contemporary terms, it is a citizen-subjectivity defined by laws the citizen was not invited to take part in setting and, yet, is expected to adhere to. When this citizen acts in a way that transgresses the laws, they become "guilty" and should thus fear the consequences.

In this case, the creation of the categories of innocence and guilt as instruments of control takes place not in a context of crime but one of rebellion. Moreover, the distinction between the categories operates under a logic of *divide et impera*.[18] Foucault wishes to complicate an Althusserian understanding of repressive "Ideological State Apparatuses" with a notion of the production of carceral subjectivity that goes beyond repression.[19] At the moment of the founding of the modern state and our social relations, Foucault sees not only

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17 I thank François Ewald for clarifying the connection between Séguier's statement and the work of subjectivity (personal communication).

18 Foucault would add another layer to this argument a year later in the 1973 Collège de France lectures *The Punitive Society*, where he describes the further coalescence of the punitive society after the French Revolution when the bourgeoisie started to imprison the lower strata in order to enhance their own standing. To them – Foucault imagines – the lower strata said: "Did we not violate the law, plunder wealth together?" and the bourgeoisie replied: "Previously, abuses of power were attacked; now, violating the law displays a lack of morality." In this case as well, Foucault understands the question of the allegedly objective categories of innocence and guilt as entwined with questions of power (Foucault 2015: 156). For the broader context of the ways in which mechanisms of exclusion are related to the bourgeoisie's interest, see Foucault (2003: 32–33).

19 For an analysis of *Penal Theories and Institutions* in relation to Althusser's work, see Étienne Balibar's comments at the Columbia Center for Contemporary Critical

repression (Gassion) but production (Séguier) as well – the production of subjects according to the moral distinction between the "innocent" and "guilty." Foucault here presents us with a specific historical moment where the categories of innocence and guilt come to play an important role in a relationship of power.

Despite the limitations of *Discipline and Punish*'s focus on the period of the birth of the prison, a period where the technologies of power were qualitatively different from our own, Foucault's analysis is helpful in that it presents how the Enlightenment's prison-form itself was built on the abolition of a previous modality of punishment. As he observes, "very soon the public execution became intolerable" (Foucault 1977a: 73). The aforementioned revolts that broke out at execution sites threatened public order and added further reasons to abolish the practice of public displays of justice, thereby contributing to the eventual transformation into the prison. Thus, Foucault reminds us that abolishing that which is intolerable is not, in and of itself, sufficient (Foucault 1977b: 218, 224). The word "intolerable" is so central to the GIP's project that it was chosen as the title of the group's primary publications, but intolerance was a strategy of a different order to the nineteenth-century intolerance to the public execution. Uncomfortably, *Discipline and Punish* reminds us that the prison itself was a project of intolerance. The modern prison was constituted out of Enlightenment thinkers' intolerance of the previous methods of cruel punishment, and "one of their first cries was to demand their abolition" (Foucault 1977a: 63). *Discipline and Punish* reminds us that the genealogy of our current system of punishment is connected to processes of both intolerance to perceived wrongs and of abolition. The GIP texts assist in differentiating between, on the one hand, processes of intolerance that only replace a mechanism of subjection (be it cruel punishment, public executions, or social death) with a process of subjectification (the ideal prison), and, on the other hand, farther-reaching forms of intolerance. The latter are processes that aim at obliterating the deep division that lies between innocence and guilt as allegedly transcendental categories. These more profound processes hinge on relations of subjectivity. Following Foucault's concepts of "counter-conduct" and "subjectivation," the GIP texts facilitate a schematization of "counter-subjectivation."

A schema of counter-subjectivation

It seems to be common wisdom that prisoners should re-enter society. Yet, the subject-positions of incarcerated people and their experience of societal relations of power demonstrate that society should be *changed* rather than merely entered. In other words, instead of re-entry, counter-subjectivation is a search for an exit that will re-work relations of power. It is neither a "best practices" search for a better prison or more efficient subjectification, nor a search for

Thought (Balibar 2015). Additionally, see Balibar's note to editor Bernard E. Harcourt in Foucault (2019: 279–83).

popular justice, revenge, militancy, or even counter-conduct. Most importantly, it is not a global scheme of transformation. The GIP texts enable the concept of "counter-subjectivation" to be developed as the alternative term I use to describe the mode of thought that began to articulate itself in Foucault's analyses in the early 1970s, though Foucault himself never uses it. It connects Foucault's later concepts of counter-conduct (*contre-conduire*) and subjectivation (*subjectivation*), both of which were introduced by Foucault in 1978. The GIP texts demonstrate counter-subjectivation as a transformative, creative, and innovative attempt to rework relations of power that enables one to define the processes to which one is held accountable.

The possibility for a subject or group of subjects to actively participate in the construction of their own subjectivity appears in Foucault's texts of the 1970s. At first, Foucault used the term "desubjectification" (*désassujettissement*) to denote such a process.[20] Later, with his turn to study the history of sexuality, he used the term subjectivation (*subjectivation*), albeit only after the 1976 publication of the first of his three volumes on the topic.[21] In the pivotal year of 1978, Foucault experimented with the possibility of using the concept *counter-conduct* to describe a positive alternative to desubjectification (2007: 194):

> Just as there have been forms of resistance to power as the exercise of political sovereignty, and just as there have been other, equally intentional forms of resistance or refusal that were directed at power in the form of economic exploitation, have there not been forms of resistance to power as conducting?

However, Foucault was skeptical about this concept, and his examples of counter-conduct that arise from political institutions are also forms of resistance that he came to take issue with (Davidson 2011). In *Security, Territory, Population* Foucault gives three such examples: (1) desertion, (2) the PCF (the French Communist Party), and (3) alternative medical knowledges. These examples fall short of the model of resistance Foucault's later work searches for because each one is built on a particular transcendental (Foucault 2007: 194). All three base their resistance to power, their counter-conduct, on the following transcendentals: (1) a morality, (2) a new man and a new social order, or

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20 Foucault first uses desubjectification (*désassujettissement*) in 1971 (Foucault 1977b: 222). The original French version of this important conversation between Foucault and high school students was entitled "Par-delà le bien et le mal" ("Beyond Good and Evil"), the same title as that of Nietzsche's book. Importantly, this is the same conversation in which Foucault mentions that the goal of the GIP is to obliterate the deep division between innocence and guilt.

21 Foucault first uses subjectivation (*subjectivation*) in 1978 to denote the possibility of the subject to construct their own subjectivity. Milchman and Rosenberg argue that "*subjectivation* pertains to the relation of the individual him/herself; to the multiple ways in which a self can be constructed on the basis of what one takes to be the truth." As Samuel Chambers points out, even attentive readers of Foucault such as Judith Butler have mistakenly translated *assujettissement* as subjectivation. (Chambers 2013: 98–101; Milchman and Rosenberg 2007: 55).

(3) a form of knowledge (ibid: 198–200). In addition, as Foucault intentionally limits his discussion to points of resistance "*within* the field of the pastorate," the five forms of counter-conduct he discusses (asceticism, communities, mysticism, Scripture, and eschatological beliefs) are, similarly, all based on a transcendental religious grounding (ibid: 194, 204–14). At the same time, the concept of counter-conduct enables what other concepts, such as dissidence, do not (ibid: 202, my emphasis):

> I fear [dissidence] may even be dangerous, for there is not much sense in saying, for example, that a mad person or a delinquent is a dissident. There is a process of sanctification or hero worship which does not seem to me of much sense. On the other hand, by using the word counter-conduct, and so without having to give a sacred status to this or that person as a dissident, we can no doubt analyze the components in the way in which someone actually acts in the very general field of politics or in the very general field of power relations; it makes it possible to pick out the *dimension or component* of counter-conduct that may well be found in fact in delinquents, mad people, and patients. So, [one could conduct] an analysis of this immense family of what could be called counter-conducts.

Foucault thus understands the contribution of the term *counter-conduct* to refer not only to specific behaviors – the revolts – but to their possible locations in sites such as prisons, asylums, and hospitals. These, according to Foucault's analyses of these institutions, are also sites for the construction of subjectivity.

Prisons are the sites where we find those excluded by humanism, those who feel the brunt of the weight of the current societal arrangement in processes of subjectification. Counter-conduct is supposed to challenge these constructions of subjectivity. However, as the examples that Foucault discusses include those that seek to replace one construction of subjectivity with another fixed subjectivity, the term *counter-conduct* falls short of describing, positively, a process of a continuous challenge to specific constructions of subjectivity. Foucault describes these movements of resistance and insubordination as seeking "to escape direction by others and to define the way for each to conduct himself" (ibid: 195). Yet, this articulation entails a contradiction in terms.

If the escape from a current way of conducting oneself is only possible through a new "self" that would simply set different limits on one's ability to change oneself (such as the "new man" discovered by the PCF or the "healthy body" discovered by alternative medical knowledges), then it is a bounded practice of freedom. For this reason, the term *counter-conduct* is inadequate to describe the undoing of carceral subjectivity. As we have seen, the alternative approach that the GIP texts articulate would rather leave the possibility of the very act of defining in the hands of the subject. In Foucault's later writings on sexuality, it is precisely the possibility of the subject to define their own sexual practices that situate them as practices of freedom (Foucault 1989). And, indeed, Foucault was never to use the concept "counter-conduct" again after his 1978 experiments with it (Lorenzini 2016).

The art of continuous self-definition lies at the core of counter-subjectivation. The context of the quote in the epigraph is the following (Foucault 1982):

> Maybe the target nowadays is not to discover what we are but to refuse what we are. We have to imagine and to build up what we could be to get rid of this kind of political "double bind," which is the simultaneous individualization and totalization of modern power structures.

However, beyond "subjection" as a relation of force and "subjectification" as a relation in which the subject binds themselves to a truth they could never participate in affecting, this third mode that Foucault hints at – this refusal of "what we are" – is not given a name. But it is concerned with altering the relation between the subject and truth, suggesting an undoing of a fixed relation to truth. Unlike the modes of subjectivation that rely on a transcendental, such as in Christian theology, the unnamed third mode does not foreclose a continuous change – hence, Foucault's use of "de-subjectivize" (Foucault 2011b).

The problem that the family of "de-" concepts (de-subjectivize, desubjectification) poses is that it is not possible to differentiate the process they propose – of undoing a specific set of constructions – from an annihilating process. Of the latter, the Nazi desubjectification of Jews is one paradigmatic example. See Agamben's use of the same word Foucault uses in this context – *désassujettissement* (Agamben 1999: 129). Moreover, Foucault does not propose a concept that would differentiate a subjectivation circumscribed by a transcendental from a non-transcendental subjectivation. To both these issues, the concept of "counter-subjectivation" offers a way forward as a process of refusal where we "imagine and (...) build up what we could be."

As the GIP's analyses demonstrate, it is precisely because prisons are sites that, at their core, imagine people otherwise (as "rehabilitated"/"reformed"/"corrected," and so on) that they become useful sites for scholars. Here, they can examine attempts by the prisoners themselves to define who they are – both in line with, and working against, *carceral* attempts to define them. What the GIP texts offer us is an understanding that the "ideal prison" would remain an undemocratic attempt to change people according to patterns they never chose. "Friends of prisoners," as the GIP self-identified, should look for modes of action that resist such co-optation.[22] The GIP's "experiment in thinking" advocated that prisons' subjectification practices be political, not "common-law," in their essence. The GIP texts thus offer valuable hints portraying counter-subjectivation as a process of self-transformation. The prison could never be democratic, for prisoners would never be able to affect the values they are expected to be reformed into. A farther-reaching abolition, one that would not lead to new entrenchments of inequality and domination, would thus strive toward democratic possibilities of self-formation.

22 The language of "friends of prisoners" is from: Ou en est l'action du GIP?, File 1.30, Fonds GIP, IMEC.

Conclusion

The GIP texts stress that the prison-form cannot be repurposed. It was put in place as a mechanism of control against those that threatened the social contract, and, as long as it exists, it will be put to use against those at the margins. Even more provocatively, and beyond the scope of this article, the GIP's approach also counters the new progressive attempts of the twenty-first century to switch to electronic monitoring instead of the prison. In other words, it reminds us that masked incarceration is not the proper solution either. The GIP tells us that re-education, too, is a form of control, and that better subjectification that seeks to discipline, civilize, and make one learn one's place will only intensify our carceral subjectivities.

Foucault's BnF notes and his lectures teach us that our carceral subjectivities are not transcendental but have been formed historically and that the constitution of the categories of "innocent" and "guilty" can also be historicized. Rather than attempt to attack the prison-form because of the people who are hurt by it, we can choose instead to focus on its effects – not only on all who walk through the prison gates but also on those of us who are currently outside of those gates. Foucault's analysis of Séguier's action reminds us that it is not enough to discuss Gassion – for an analysis of power relations should not only discuss force but also the construction of subjectivities. Séguier's categories of "innocent" and "failed" were meant to ensure control and to make each and every citizen of an occupied city question their own relation to this apparent truth, set by others. But there is a possible exit, per Foucault, in the reworking of power relations. As the GIP texts demonstrate, we can, indeed, become intolerant of prisons, but to do so is also to work on ourselves. The politics of our carceral selves requires a recognition that the categories of innocence and guilt are historically constructed instruments of control – a recognition that can be accompanied by creative, innovative, and collective attempts to undo them.

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Šaj Gortler

Fuko i Grupa za informisanje o zatvorima: kontra-subjektivacija

Apstrakt

Između februara 1971. i decembra 1972. godine, Mišel Fuko je bio suosnivač i aktivni član Grupe za informisanje o zatvorima (Groupe d'Information sur les Prisons, u daljem tekstu GIP). Putem demonstracija, direktnih akcija i publikacija, GIP je nastojao da interveniše u francuski zatvorski režim i u skup sistema, ideja i praksi koje su ga održavale, kako bi doprineo njegovoj transformaciji. Cilj Fukoa i GIP-a nije bio samo poboljšanje uslova u zatvorima, već narušavanje konstitutivnih uslova same institucije. Arhivski materijal koji je Fukoovo učešće u GIP-u ostavilo društvu, zajedno sa njegovim predavanjima i publikacijama, poziva istraživače da razmotre ponovnu artikulaciju našeg razumevanja subjektivnosti. Čitanje Fukoovog genealoškog praćenja kategorije „kriv" i analiza zatvorskih pobuna koje je razvio GIP omogućava dublje razumevanje pojma „kontra-subjektivacije". Nasuprot strukturama karceralne subjektivnosti, u kojima zatvorene osobe nikada ne mogu da utiču na standarde prema kojima zatvori nastoje da ih „rehabilituju", GIP nam skreće pažnju na demokratičniji rad formiranja subjekta.

Ključne reči: Fuko, Grupa za informisanje o zatvorima, kontra-subjektivacija, abolicija, subjektivacija.