

Nietzsche and foucault



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Both Nietzsche and Foucault have similar ideas about the genealogy of punishment. On the one hand, Nietzsche argued that the initial public displays of punishment arose out of our basic primal instincts - to see the wrongdoer punished in a public manner so everyone who wanted to see their suffering (and according to Nietzsche this mob was composed of anyone who didn't repress their instincts and urges) could do so. Foucault, on the other hand, presents his account as a genealogy.

His genealogy gives us an account of the shift from the old method of sovereign power towards the modern method of disciplinary power. In the older system of punishment, the power to execute and punish was held absolutely by the sovereign, and all public displays of punishment were displays of the sovereign's power over their subjects.

In the modern system, this power relation between the state and the individual still exists, but is done so in a much more private way. Punishment now takes place behind closed doors, giving rise to the birth of prisons and correctional facilities, exhibiting a more disciplinary power. In other words, the system of punishment shifted from public displays of the sovereign's power over their subjects to private rehabilitative processes meant to change the criminal back to normal standards of society.

In this essay I will explain each of the philosophers' ideas about the shift in the method and purpose of punishment, and I will explore how Nietzsche's genealogy of morals could further account for this shift. Foucault's investigation into punishment and the origin of punishment begins with his exploration into why people in society conform to standardized norms and

how certain institutions correct people's deviance away from those norms through exercising their power.

He explains that these "corrections" have been historically carried out in the form of two different types of power: sovereign power and disciplinary power. In *Discipline and Punish*, Foucault asserts that sovereign power is held by the leader or ruler of the land and the subjects, historically residing in the form of a king or other monarch, and the subjects of such a sovereign are made to abide by their laws and regulations.

When a subject breaks a law, their punishment is characterized by extreme violence and made to be very public (DP, 7). The execution or punishment itself is most often carried out by a state-appointed executioner, working as a direct representative of the sovereign's power in order to further dissuade the public witnessing the execution of committing other crimes (DP, 9).

Around a hundred years later, there was a shift away from these public displays of power and violence to a more corrective and rehabilitating process. Foucault defines disciplinary power as the power to return a wrongdoer to the normative standards of society (DP, 179). As the years go on, power is taken away from a central body and is exhibited through institutions such as schools, prisons, and hospitals where power and knowledge is maintained through the sciences (e. g. psychology, sociology, and psychiatry) rather than laws.

This new form of power is exercised over the individual's soul rather by disciplining their body (DP, 30). In other words, these new houses of power

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prefer a correctional approach in order to rehabilitate the wrongdoer and cut down on the amount of individuals not adhering to the norms of society (DP, 19).

By doing this, disciplinary power and punishment is exercised over subjects through hierarchical observation, correcting individuals based off of an accepted norm (DP, 171, 183), and examination, which is characterized by the merging of observation and normalizing in order to more fully understand the actions and thought-process of the individual, thereby gaining more power over them (191).

Foucault further argues that this shift from sovereign to disciplinary power was instantiated by evolution of power the state held (or wanted to implement) over its subjects. The new Enlightenment system of punishment that emerged in the early 19th century, although on its face seems to be a reaction against the old system of linking together punishment with violence and spectacle is in fact just a new system of power for the state and a new way of exercising control over its subjects.

This new system is supposed to be a more humane way of dealing with offenders - it is meant to be seen as a cure in fact - however, the opposite is true: no longer is it intended to punish the individual, rather it is set up to supervise and observe the individual. This system of disciplinary power is no longer torturing the body, rather it is characterized by the deprivation of some sort of rights and liberties, most often by housing them in some sort of correctional institution.

However, for Foucault, this does not remove the harm and injury of corporal punishment for to deprive an individual their rights and freedoms is to inflict a different form of pain. With this current form of punishment, the State has shifted its power into the shadows so to speak.

It has distanced itself from grand, gruesome public displays of its power to a more nuanced and covert system of private punishment that no longer sates the bloodlust of the crowds that used to watch the executions (because as we will see with Nietzsche, people began to suppress their natural instincts around the time of the slave-morality revolt) but rather focuses its energy on the degradation of the offender's soul.

In his *Genealogy of Morals*, Nietzsche presents his view of how morality (and through that, punishment) has developed over the course of history.

Retributivists assert that the essential essence of punishment is contained in the fair and equitable deserts it presents the guilty offenders with.

To this, Nietzsche claims that this punishment did not come from the thought that the crimes of the guilty must be punished—in fact, he claims that this judgement is a rather late form of human observation and condemnation.

Punishment, in Nietzsche's mind, came about as the will of the masters over the slaves, to enable them to experience and revel in the feeling of condemning someone and being able to abuse someone beneath them.

In other words, punishing a wrongdoer was a right of the masters to engage in cruelty, something that was viewed as a positive trait. However, these values changed after the emergence of Christian resentment which flipped the cruelty exhibited by the masters before from something good to

something evil; this taught man to be ashamed and to reject his primal instincts (those of the masters) which told him that cruelty and abuse was essential to a happy life.

Before this reversal, humans celebrated our cruel instincts: "[W]ithout cruelty there is no festival: thus the longest and most ancient part of human history teaches—and in punishment there is so much that is festival!" (Nietzsche, *Genealogy*, essay 2, section 6). Nietzsche believed that punishment as it was supposed to be practiced in the days of the masters is no longer how it is actually practiced in modern society.

This is because if punishment still represented the sovereign power (as Foucault would put it) of those who punished, we would no longer punish. Originally, punishment came about as the direct expression of the will of the powerful (what Foucault called the "sovereign"). However, in our modern society, a change has taken place and the roles in punishment have been reversed.

Being powerful in ancient times was likened to being cruel and happy; being powerful nowadays is the ability to suppress those instincts, to reject cruelty and through that, punishment. Being able to punish is no longer an act of power over those beneath you; those who now punish are too frail to be able not to punish.

This Christian ideal of resentment irrevocably changed who punished and what punishment actually is. Those who are now the punishers take punishment as not being the imposition of their will over those weaker than them but rather as the defending of their idea of justice by retributive

means, by curing the sick, or by preventing further breaches of this justice.

Nietzsche asserts that our understanding of punishment in modern times is a contradiction of its beginnings.

He believes that the implementation of punishment—the remains of the "will to power"—now prefers the morality of the weak, and tells them of the importance of getting retribution for the crimes committed, or the importance of doing only that which has utility. Therefore the weak aren't creating a new institution of punishment, rather they are transforming the old version under their new masters, into something that directly goes against what punishment was initially supposed to mean.

Taking this idea into the perspective of Foucault, Nietzsche would say that the change in the meaning of punishment from that which gloried in public displays of violence to a penitentiary system which targeted the rehabilitation of the prisoner or to gain some sort of retribution for the criminal's offence has less to do with the punished and more to do with the punishers.

To Nietzsche, this shift is in accordance with a rejection and suppression of basic human instincts, where the reveling and celebration of cruelty has been transformed into the idea of retribution or justice.