Prison and (im)mobility. What about Foucault?

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Word count (total): 11,920

Word count (article): 11,044

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Abstract:

A substantial part of Foucault's work is dedicated to the prison. He is seen as one of the major theorists of this institution. However, he is also a major epistemologist. In this contribution, we shall develop a Foucauldian approach to interrogate Foucault's model of prison.

In this respect, we shall address the carceral question in the context of the mobility turn. More precisely, we shall investigate the extent to which the development of a new relation to space-time and the emergence of a "mobilitarian ideology", praising mobility for itself, influence the way prison is now ruled and legitimated.

Keywords: Prison, discipline, biopower, thanato-power, ideology, Foucault, mobility

Introduction

The relation between Foucault and mobility can be approached by sifting through the philosopher's works for traces of a special interest in the subject. It is also feasible to begin with an analysis of ongoing works on mobility and use them to question the current relevance of certain concepts proposed by Foucault. We have chosen to follow this second approach. More specifically, as one of us is formulating a theory on the "ideology of mobility" and applying it to discourses on prisons, this seemed to be a fit occasion to take another look at Foucault's large body of work on the prison system. The question guiding us will be: how have recent mutations in the relation to mobility influenced the latest concepts on prison and its role in today's society?

Through these discourses, we will thus address the question of the legitimation of prison, an interrogation that is one of the most classical themes in criminology studies. Indeed, prison is not only the central punishment in modern penal systems; it has also always been a major challenge to democratic values and, therefore, an institution very hard to legitimate.

We could adopt an approach that prison is that "never legitimate institution", the centre of attention for both theory and politics, resulting in an overflow of discourses, studies and reforms in the attempt to justify it or to make it justifiable. In vain, as prison is never (fully) legitimate and requires a continuing effort to legitimate or to mask its legitimacy deficits. In this respect, it appears logical to choose the prison to test the hypothesis of the development of a new ideology, as the discourses on it are the place of all innovations. Prison is so hard to justify that everything will be used to try to achieve a (relative) legitimation.

On the other hand, if we are looking for a field to test our hypothesis about discourses on mobility, we have two choices. We could choose a topic where the theme of mobility is "naturally" present. Or else we could opt for a field where mobility, at first glance, should not be a central value… such as prison. In this second case, if we can show that mobility is even used to legitimize the prison, we have a strong indication that it is a very powerful legitimizing discourse.

The hypothesis we will develop here is that a new way of considering prison and its legitimacy is emerging. This new way is based on a new social construction of space-time and on a new relation to mobility[i]. Under the banner of mobilitarian ideology (mobility praised for itself), a whole new vision of imprisonment is being developed, aiming to allow the persistence of prison after the "mobility turn" (Sheller and Urry 2006).

This mobilitarian legitimation of prison would be based on a new representation that addresses the Foucauldian theory of imprisonment. We shall thus question the way this fact challenges some of the concepts at the base of Foucault's theories.

Foucault and Foucault

In this paper, we will thus distinguish between Foucault the theoretician of prisons and Foucault the epistemologist who provided intellectual tools that are now shared by all researchers in the social sciences. It is important to emphasise that, although certain aspects of this text may sound like a questioning of Foucault's works, it also owes much to Foucault for a large part of its approach. This is the case for the heart of our discussion which is placed in the Foucauldian perspective of an analysis of social rationalities (mobility in the case at hand) and their relation with specific forms of power and domination. Likewise this text must be seen as a way to apply the notions of genealogy and archaeology in the Foucauldian sense of the term. Indeed, the rationality of the present, a notion dear to Foucault (Foucault 2001a), does not stem from its static existence at the present moment, but from its genesis through (sometimes disruptive) evolutions. The rationality of the present must also be apprehended in its multiple components and its strategic effects must be analysed.

Foucauldian analysis requires suspending a certain number of preconceived ideas. When we study Foucault's thinking closely, the first thing we see is that no original reason or significance can be attached to the development of one or another form of penalty. Indeed, such a development is more the product of multiple causes and processes that make up an event (Smart 1983, 63‑65).

The Foucauldian approach also invites us to behold, in its positivity, a given "historical assemblage" at a certain point in time and in certain places. First and foremost we must focus on the *way* in which, at particular times and in particular places, certain discourses and practices held sway over others. These events must not be inserted in a linear process or in explanatory systems. This is because in the Foucauldian approach history cannot be conceived in the form of a continuity: it is a product of discontinuity, breaks, change and calling into question (Smart 1983, 65). Secondly, Foucault considers that reforms are not merely justified by progressive concerns or by the authority of one author or another, because power is not a privilege in the hands of only a few. Instead, in his view reforms reflect "historical conditions for their possibility". As he affirms: "*No one is responsible for an emergence, no one can glory in it, since it always occurs in the interstice*" (Foucault 1971, 156; Dreyfus and Rabinow 1984, 162). For Foucault, power is above all relational. It is made of manoeuvres, tactics, techniques and operational principles... It is a 'bundle' of relations in continuous activity; it is everywhere. It can be both positive and negative; it can be imposed but can also be resisted. Foucault's process thus aims to comprehend the specific events that lead to the appearance of these "historical conditions for possibility", in particular power-knowledge relations, as one implies the other and vice versa (Dreyfus and Rabinow 1984, 161; Foucault 2001b, 302‑304).

Thirdly, Foucault considers penalty in terms of diversified elements. His use of the notion of *dispositif* reveals his will to split the perception of a given "historical assemblage" into the various elements that make it up. He considers a *dispositif* to be: "a heterogeneous assemblage, embodying discourses, institutions, architectural dimensions, rules, laws, administrative measures, scientific, philosophical/moral, philanthropic proposition. In short, what is said but also what is not said" (Foucault 2001b, 299). Lastly, he affirms the importance of understanding the existence of the objects analysed through the sets of connections that appear among the different discourses and practices found at various levels.

This is the epistemologically Foucauldian context in which we must understand our approach to 'mobilitarian' ideology. This ideology is both the product of an evolution in social representations, and one element of a complex assembly of diverse elements which shape the carceral and repressive dispositifs. On the one hand, it is the result of the historical conditions for its possibility and, on the other hand, it is a mix of diverse elements which coexist and form, as a whole, what can be analysed as a new ideology.

It is nonetheless important to specify that, in the context of this paper the aim, in a quite Foucauldian manner, is above all to analyse a "serious", institutional, discourse on the prison system (Dreyfus and Rabinow 1984, 76‑77). We shall first attempt to highlight the conceptual break this discourse conveys in relation to its predecessors. We will then return to Foucault's theories on the prison in order to understand how these recent evolutions (may) call these theories into question. Through this perspective we should be able to shed light on the changes at play in today's governmentality and the way we are established as agents to think and act in a certain manner (Dean 1999).

The prison as a dispositif for immobilisation

In order to understand the position we are proposing here, we must summon up the prison model that prevailed until recently, which Foucault described as deriving from both discipline (and

thanato-power) and bio-power. This view still forms a good many of our *a priori* images of the prison. It is in this frame of thought that "prison" and "mobility" are perceived as obvious opposites. The prison is typically conceived as a punitive dispositif for immobilisation.[ii]

A compartmentalised prison

To begin with, the prison is seen as a place isolated from the rest of the world, and used solely to serve liberty depriving sentences, which have now become the main punishment in the modern State's criminal law. With rare exceptions, punishments of the *Ancien Regime* have been rejected. Deprivation of liberty means taking away someone's freedom of movement, a sentence to be served in a building designed for this purpose: the prison. Entering prison is a radical break in a person's life: the individual becomes a convict and almost all his rights are removed (private life, earning wages, choice of health care, political rights and some civic rights, etc.). His possibilities for action are reduced to a minimum. Thus one might also see prison as primarily founded on physical immobilisation, but also on legal immobilisation in terms of a deprived capacity for action.

Secondly, incapacitation is one of the main functions of detention. The intention is to keep an individual from continuing to act freely in society and, thereby, to protect law-abiding citizens. Imprisonment is thus essential to this function.

Thirdly, "prison" is a sentence, but also a building. With the rare exception of open facilities, prisons are entirely conceived in terms of the level of custody. The perfect example is the star-shaped prison: individual cells, a few service areas and recreation areas (prison yards). All the inmate's movements require passing from one restricted area to another. And moving around, as an activity, is only possible for the prison guards, in the form of strictly organised patrols, which is at the origin of their power (Bauman 2000, 9‑10). If internal movements are limited, this is even more the case for entry and exit. In the initial prison model, there was no question of the outside world being invited into the prison[iii]. An inmate entered the gates and then left when he had served his time. During the interval he only saw the prison staff and members of the clergy. As far as possible contacts with fellow inmates were prohibited or at least limited; the regime was confinement in cells. Visits from the outside were rare and short. The spatial closure of the prison was thus double: on the inside the aim was to partition space so as to isolate the inmates from one another and to separate the different categories of prisoners. On the outside the aim was to cut the inmates off from society (Demonchy 2004, 282‑285). On this subject, it should be noted that the star-shaped prison, definitely more common than the circular Bentham panopticon model, primarily targets the inmates' confinement not their direct surveillance. On the other hand, the guards – the people moving – are the ones submitted to panopticon, as the area of their patrols is permanently visible from the control centre (Demonchy 2004, 284‑287). They are the one who are rendered docile.

The fourth observation is that physical spaces are not the only things to bear traces of a will to partition and isolate. Inmates theoretically are divided into populations based on characteristics linked to the offense they have committed or other criteria.[iv] Classification of inmates, indeed, is a leitmotiv of the classical discourse on prisons, even if its actual application poses innumerable problems (Maes 2009, 229‑276; Vanneste 2004). Likewise, the functions of various actors in the carceral context are clearly differentiated: director, penitentiary staff, chaplains, inmates and families each play a highly specific and exclusive role. The prison, as a social system, is compartmentalised just like the building itself. One of the most telling examples is the rule of silence imposed in French prisons until 1972, which also forbade the guards from speaking to the inmates (Demonchy 2004, 280 & 290).

The fifth observation pertains to the temporal aspects that contribute to immobilisation. Time in prison is perfectly repetitive and cadenced. For long prison terms, this means being locked up for a

predetermined length of time. And under the pure classical model, it was impossible to modify this term after the fact.[v] The prisoner would be released, with full rights and no special follow-up, once he had "done his time". The prison day itself follows an unwavering rhythm: the time locked in the cell, in the canteen, at work or in the yard are distinct, regular and unchangeable throughout the prison term. There is no free time, no unallocated slots.

And lastly, the sixth facet is that incarceration is mainly intended as a time when life stops (Demonchy 2004, 291). It is not so much as question of having an effect on the inmate[vi] as it is to punish him with the mere passage of time. Although a moral evolution is hoped for, it is an "extra" and not a requirement as such. Under the classical model, an inmate could not be required to adopt the straight and narrow before his release. A prison term can be 'perfectly' served simply by remaining immobilised in a cell.

In this understanding arising from the earliest political modernity (late 18th and 19th centuries), we can see the characteristics of a thanato-power based on discipline (Blanchette 2006). Although it was not a question literally of "allowing to live and causing to die", this removal of a period of someone's life could be considered as a lesser form of death. Especially when it was coupled with a social and civic 'death' by removing rights endowed by citizenship, all the more so when some of these rights were never recovered. Furthermore, control over the inmate's body was a central point.

The expert enters the scene

A positivist criminology that emerged at the end of the 19th century had a strong influence on the prison system, and more broadly, on confinement in general. Anthropometry and psychiatry were introduced in the State sector dealing with criminality (and related deviancies). The evolution brought numerous measures including confinement of mentally ill criminals, "protectional" measures towards minors who were dangerous or in danger themselves,[vii] locking up vagabonds [viii] and creation of psychiatric annexes in prisons. All were marked by the expert's entry into the scene. Henceforth the State's intervention aimed at managing social groups, especially populations identified as 'dangerous', the same way vagabonds were. The aim was to keep them from harming others and, ideally, to rehabilitate them so they could re-enter society as functional social entities. This came to be called "rehabilitation", and its main action modes were cure and education (in the broad sense). For the mentally ill, for instance, the predefined sentence was gradually replaced by the idea of a cure which, once confirmed by an expert, could lead to release from confinement. In such a context, the inmate remained a passive entity. This passivity, however, was no longer in relation to the sentence and those responsible for organising it, but instead to the treatment applied to him and the experts who managed it.

This articulation marked the introduction of a new logic in the prison world: bio-power. As Foucault explains, this did not cancel out thanato-power but merged with it to effect an evolution in the dispositifs of power (Genel 2004, paragr. 5). The prison was no exception. To the control over physical bodies was added population management. To a power based on the law as a tool to wield sovereignty (Genel 2004, paragr. 2) was added the involvement of experts, those who held the tools to wield bio-power through an understanding of the population which could not be gained without specific instruments, such as statistics. In addition to discipline, the notion of regulating now became important (Blanchette 2006, 5).

There was no question at that time of opening the prisons, nor of decompartmentalising them inside. However the time in confinement came to be varied in relation to criteria that were no longer merely legal. So it was no longer a question of "doing one's time", but of "proving oneself", passing the test, in the eyes of the experts.[ix]

The limit-form: spatial-temporality in the prison

Therefore the prison model we have inherited can be summarised as one denoted by a space closed in many different ways, where movement is strictly limited. Time is repetitive and cadenced; it regulates the life of the inmates the same way as heavily marked parallels clearly separate the time in prison from the time as a free person. The experts (judges, doctors, psychologists, etc.) are the ones who arrange the modes, lengths and places where sentences would be served. They assign the carceral positions and roles on the basis of their diagnoses. The spatial-temporality of this prison corresponds to a particular morphology: the limit-form, we will discuss hereafter. This is the combination of specific representations of space and time, in this case a space defined by its boundaries in the interlocking partitions, and a time cadenced by alternating periods of stasis and rupture.

In this context, the inmate is firstly the object of an expected *functioning*, in other words, the ability to develop a useful activity. If something is expected from him, it is to comply with the normative and curative injunctions the experts have established in their rehabilitative action. The inmate is confined because it is hard for him to act correctly, and consequently he must submit to rehabilitation or punishment. Obviously in this context, the last person whose opinion would be sought is the inmate himself, whose role is limited to *applying* norms set by others.[x] From a more global perspective, the prison population is conceived and managed either by absolute isolation or by *incorporating* individuals into groups (Deleuze 1992, 5). The first group is that of the inmates themselves, followed by that of former inmates who are objects of special "attention", and then finally the different types of inmates. The main objective of these interventions is to relocalise the individuals, to *stabilise* them in a physical and social position that is acceptable for society and where their functional capacities can be put to use. The people causing the most problems are liable to spend the rest of their lives behind bars, submitted to carceral incapacitation due to their immobilisation and required to assume the permanent role of a danger to society. The others are supposed to leave the prison moralized or rehabilitated through their confinement and/or rehabilitative measures, in other words led back to their place in society, where they can once again participate in its collective mechanisms. It is not so much a question of the right to follow a potential personal evolution as it is to restore social order by stabilising the positions held by its individual members.

We could thus resume this image of the prison in four principles or imperatives: functioning (orderly functioning of individuals and the prison organisation), application (of legal and technical norms that impose their objectives and actions on people and groups), incorporation (of individuals in populations that are managed as such) and stabilisation (of the individuals' physical and social positions). The prison is thus a dispositif for immobility that is painful (then rehabilitational), in the sense that punishment is the central objective for immobilising individuals in a partitioned space and cutting them off from the outside. Certain conditions have obviously been eased, but in the form of a mobility that is severely controlled by the experts based on the idea that it is possible to make individuals follow rehabilitative trajectories under strict control. Immobilisation is thus primal, at the very heart of the carceral objective. Mobility is merely conditional and secondary.

The prison seen through the preparatory work for the Act on the prison system

What we have described above is the prison that we have inherited, or more exactly the carceral *dispositif* that prevailed until recently. Since the 1990s-2000s a new discourse has emerged. It is quite different and claims to replace the one reflected in the old dispositif. Changing discourses obviously implies a change to legitimations, but the same does not always hold for practices. This said, in so far as a dispositif is a set of interdependent elements, one hypothesis may be that the discursive shift can be linked to a broader change in the prison system.

The Prison Act of 2005

In any case, in this paper we will only discuss the discursive facet of the carceral dispositif, through the use of a "serious discourse": the rich set of documentation prepared for the Belgian law on "principles governing the administration of prison establishments and the legal position of detainees", the Act of 12 January 2005. The object was to draw up clear regulations on the prison system in the place of the former complex system of circulars and decrees that hitherto governed the system. To date this text is far from completely in force and it has raised stiff opposition, especially from penitentiary staff. However, it is not the legal text itself, nor its application that interests us here, but rather the discourse produced when the act was adopted: the preparatory work including the report by the preparatory group (the "Dupont Commission" from the name of its chair) and the set of parliamentary debates. In addition to a description of this dispositif, the texts contain lengthy considerations on the prison. In these terms, they are not so much documents that reveal a hypothetical "legislator's will" as they are a public and collective discourse that reflects how those involved deemed they could legitimately present the goals for the prison and justify them, which is, as we have seen, one of the toughest challenges for a democratic state.

The Prison Act defines the basic principles of incarceration (nature, objectives and organisation of prisons). It introduces a prison surveillance system, sets up a procedure for complaints and conflict settlement, and imposes the use of an individual detention plan, the central element of what aims to be a new policy on prisons. The act also regulates aspects of the inmates' daily life, from community life to working, as well as access to healthcare, contacts with the outside world (mail, telephone, visits, contacts with the media), social and legal assistance, and so on. The disciplinary system and security regimes are also laid out in detail.

A deep-seated mutation in the discourse on prisons

We shall defend two hypotheses. On the one hand, that the prison, a place for painful immobilisation, tends to become (in the discourse at least) an instrument to impose a trying mobility. On the other hand, that this shift raises questions about the Foucauldian view of the prison. Changes in the way the prison project relates to mobility are a sign of mutations which lead us to questions about the current validity of Foucauldian analyses of the prison. This very Foucauldian way of asking questions is thus a way to interrogate the contemporary validity of Foucault's theory of prison.

An attentive reading of the preparatory work for the above Prison Act gives us a vision of the prison that in a large way no longer corresponds to that of the painful immobilisation described above.

For example, when there is a question of justifying legislative intervention in the management of carceral practices, instead of invoking the exorbitant nature of depriving liberty in relation to basic rights, we see a set of arguments focusing on the personal dependency caused by incarceration. The inmate must be subject to special attention because he is locked up and thus deprived of autonomy, not because a basic right has been taken from him.

> the inmate is deprived of the possibility to assume on his own the responsibilities relating to his own life and that of others (particularly any family members). […] the inmate can no longer take care of anything, which often leads to a sense of frustration. Regulation and supervision by the penitentiary places the inmate in a situation of heavy dependence on others. This stunts all his moral resistance at the social level and the flexibility that enables him to function in a normal context, conditions that are necessary in the future if he is to continue living in respect of the law in free society. (*Rapport final de la commission « loi de principes concernant l'administration pénitentiaire et le statut juridique des détenus ». Rapport fait au nom de la commission de la Justice par*

Vincent Decroly et Tony Van Parys 2001, 66‑67) (hereunder "rapport final")

And this is why it is advisable, on the one hand, to try to render the prison as normal a place as possible, and on the other, to protect the inmate.

> Preventing or limiting the adverse affects of confinement […] implies the suppression as far as possible of the prison as a "total institution", the maximal normalisation of daily life in the prison, an opening as broad as possible to the outside world and the definition of a carceral trajectory placed in the perspective of early release. (*Rapport final* 2001, 69)

In parallel, the prison loses its main specificity: the fact that it is the place to serve a sentence which, itself, consists in confinement behind bars. It is clearly affirmed that the prison is no longer the exclusive place to serve a punishment that deprives one of liberty, one reason being the development of new electronic control devices (Deleuze 1992, 7). It thus becomes a space among many others – including free society – where the sentence is served (*Rapport final* 2001, 121). Here again it becomes normal because of its lack of distinction. It even comes to be described as an interim phase separating two periods of liberty.

The prison space, in this context, is presented as largely open. Closed space is seen as a problem rather than the very nature of the prison. Confinement can only by justified for reasons of security, and even then it must be minimal.

> The inmates placed in a […] [particular security] regime must have the opportunity to take part in activities such as yard walks, leisure, sports, etc. In so far as possible and following individual evaluation, these activities can occur in community with the other inmates. Visiting and mail rights must be preserved. (*Rapport final* 2001, 185)

Furthermore, far from being the subject of experts' action from the outside, the inmates, like the other participants in the prison project, must pitch in to help run the prison. There were thus calls to set up a process of participatory management.

> In this area, the principle of participation […] can be usefully applied, in particular to enable the inmates to protest should the price of certain products in the commissary be higher than those found in free society. (*Rapport final* 2001, 128)[xi]

Participation also refers to the way the sentence is organised. The inmate himself must give meaning to the punishment, he must be able to draw up a "detention plan" specifying what he intends to undertake during his time in prison. He is also encouraged to take initiatives towards the victim to repair the harm or damage caused. In this context, interventions with the inmates are no longer considered as imperative supervisions, but instead as proposals for services which the convicts can accept or decline. In other words the prison offers opportunities rather than imposing measures.

> This [detention] plan identifies the obstacles to reintegration and elaborates strategies to overcome them. In agreement with the inmate, it also includes a programme of activities of which he can take advantage in the prospect of his release. (*Rapport final* 2001, 74)

> All effort must be expended during the time in prison time in order to […] make available to the inmate an offer – with no imperative nature – of activities and services as varied as possible, corresponding as closely as possible to his necessities and needs, particularly in view of his future reintegration into free society. (*Rapport final* 2001, 74)

Lastly, prison is described as pursuing objectives related neither to retribution (punishment) nor to rehabilitation. It is affirmed that no particular goal is sought.

> The aim of serving a prison term is indeed so obvious that in a way it cannot be defined other than through a tautology, as serving one's sentence, in other words completing the punishment handed down by the judge. (*Rapport final* 2001, 64)

> Mr Coveliers explained that the theory of the punitive and dissuasive nature of incarceration is erroneous and outdated. (*Proposition de résolution relative au rapport final de la Commission "loi de principes concernant l'administration pénitentiaire et le statut juridique des détenus"* 2003, 5) (hereunder "Proposition de résolution")

> Treatment ideology […] places undue hope in possibilities to foster stable modifications of behaviour in a situation of constraint which generates a large number of survival strategies and compensatory feigned adaptation. While serving the sentence, the goal of preparing for reintegration is more neutral, objective and feasible. (*Proposition de résolution* 2003, 73‑74)

Much more than a closed and derogatory space, in this discourse the prison appears as an only loosely specified space, one that is in connection and continuity with free society. In a Foucauldian view, this could be interpreted as a way to negate prison's role of heterotopia by contesting its closure in regard to society (Foucault 1984). Somewhat vague regarding its characteristics, structure or degree of closure, it is essentially presented as a blank page, a space for opportunity and in the end, for freedom (of action) for all the actors called on to deploy their initiatives.

The good prisoner

In this context the (good) prisoner is an actor (in society, in democracy, in the economy, justice and prison security, etc.) who is able to take initiatives. He is proactive and does not wait to be acted upon from the outside, but assumes his responsibilities. He designs and successfully completes projects, the primary being that of his sentence and the process of assuming responsibility. It is important that the prison not be an obstacle to this. The prison, therefore, is no longer so much the means to bring the inmate to the place he deserves as it is a potential obstacle to the action he himself must deploy to do this.

> The mission of individualisation, particularly in terms of self-responsibility, can have only limited success if we retain the principle that in all cases prison is the place where the prisoner stays and that the punishment of deprivation of liberty is defined solely in relation to this place. (*Rapport final* 2001, 377)

The inmate is, of course, a partner for the others, which means that instead of remaining isolated he enters into contact with other inmates, his victims, the social services, etc. in order to conceive and carry out collective projects. He becomes what Deleuze calls a stockholder (Deleuze 1992, 6).

In this context, he shows he is capable of (re)adapting, which enables him to demonstrate the appropriateness of his initiatives. He has to preserve and develop his flexibility in an environment that tends to make people feel less responsible and lose all ability to take initiatives.

[***Table 1 about here***]

From this perspective it seems to us that the four imperatives of the classic prison model described above correspond to four that are new. The *activity* imperative applies to all the actors in a prison world in perpetual movement. In this sense, the period of incarceration is no longer a time lost, one

of inaction, merely waiting to be released. It is a time that must be put to use to develop the activities (training, compensating, work and so on) that are laid out in the detention plan. The activity, however, must not be just busywork, suggested by someone else and limited to repeating instructions already set by experts. The *activation* imperative means that the actor must be proactive, capable of taking initiatives. He is also the only one who can determine the most suitable action in his precise situation. In this way, assistance in prison moves from the paradigm of supervision to that of services offered. It is not enough however to be active yet sitting in a corner all alone. The *participation* imperative means that the project must be collective, so that the prison is presented as the result of a cooperation between the administration, the prison staff, the inmates and external services. It is no longer seen as an institution that imposes things on individuals and groups, but rather a common project. And lastly, the *adaptation* imperative brings flexibility into the picture. There is no longer question of hanging on to unchanging stereotyped attitudes, nor it is one of reintegrating a predefined norm. On the contrary the challenge is to develop a whole range of variable behaviours, adapted to the immediate circumstances and which can be abandoned when the time comes. This obviously implies an excellent understanding of the situations one is faced with.

The mobilitarian ideology and the relationship to space-time

The theoretical framework we propose to interpret the emergence of these imperatives is the mobilitarian ideology (Mincke 2013a; Mincke 2013b; Mincke 2013c), developed together with Bertrand Montulet. We have seen that the different imperatives mentioned here can be placed under the sign of mobility. Permanent activity, spontaneously starting to move, participation in temporary projects and constant adaptation to the context - all trace the outline of a particular form of movement.

If we start from the somewhat commonplace idea that mobility is movement in space over time, we can easily see that its definition depends on the way space and time are defined. Yet, for sociologists, one cannot speak of *a priori* definitions but of social constructs. Because of the variations in these constructs, some behaviours will be constructed socially as mobile. In this area we are close to the ideas of Birgitta Frello who calls for recognising the socially structured nature of all forms of mobility (Frello 2008, 31). Yet, Frello does not seem to have gone far enough, for she continues to see mobility as a social construct exclusively related to physical reality.

Indeed, in the context we are studying, and in other sectors as well, the continuity we observe between physical mobilities and other social practices incites us to question the habit of limiting mobility to mere physical reality. This is even more so considering how easy it is to use the same spatial-temporal morphologies to describe both physical and social realities, in other words spaces that are physical and others that are social. Therefore we see no reason to limit the notions of space and mobility. It must be recognized that what constitutes a space is all that plays the social role of structuring what is real, whether the social actors are aware of it or not, and that mobility is any movement within any space over time. In our view this is not a metaphorical use of the notion of space, unlike the view Frello expressed regarding John Urry's concept of mobility (Frello 2008, 29).

To summarize our position, it can be affirmed that space does not *constitute* the physical world, but it is a *dimension*, a category of understanding based on the positionings that are established and structured. Henceforth it applies to the whole set of human experiences of reality and arises from the process of social construction. The spatial-temporal morphologies described above thus structure all social spaces.

As you can see, mobility concerns both space and time because it implies a change in the relationship to these two dimensions. They seemingly cannot be considered independently. The social representations of one influence those of the other and vice-versa. Consequently they should be thought of in terms of space-time, in terms of morphologies that include the social

representations corresponding to space and time. Space-time must be interrogated, something to which Foucault paid relatively little attention (Koskela 2003, 295‑297), but something which as we shall see will be crucial.

To summarise our position, it seems that a new relationship is being formed to mobility, based on a particular spatial-temporal morphology. More precisely, the four imperatives mentioned above about the new vision of prison work to develop an injunction to omni-mobility in the form of incessant movements. It thus seems that a new ideology is emerging, the heart of which is placing a value on mobility for its own sake. This imposes permanent movement, on the pretext that simply moving is good in itself. It is not so much a question of ensuring a spatial anchorage and moving under certain conditions, but rather that of turning movement into a prime imperative, as immobility is secondary and derogatory. There is nowhere left for a re-embedding, as Bauman would say (Bauman 2000, 33).

Mutations in the relations to space-time

This ideological evolution thus marks the emergence of a new social relationship to space-time. The relation to space that corresponds to the prison discussed by Foucault is structured through a play of boundaries. Whether it is social, ideological, conceptual, physical or even political, the space is socially represented as a formless stretch that only derives meaning from its division in contiguous territories separated by clear and strictly defined borders. These are alternately ordered by compartments at the next level down. The relations between these different circumscriptions (in the literal sense of a space circumscribed by a boundary) pass by relations of juxtaposition (horizontal) and hierarchisation (vertical). For instance, different countries are put aside together, but are also internally divided into circumscriptions of a lower hierarchical level (provinces, departments, regions, etc.), themselves possibly divided into lower range circumscriptions.

This particular representation of space corresponds to a specific understanding of time. Indeed a boundary can only be conceived in a framework that is sufficiently stable to ensure it a permanence. This is why the vision of space we have just described pertains to in a particular spatial-temporal morphology: the limit-form (Montulet 1998). This corresponds to a representation of time based on the definition of instances of discontinuity that encompass what could be considered as temporal circumscriptions. Time henceforth is made up of periods of stability interspersed with moments of sudden change, what Michon calls "the time in blocks of archaeology" in his analysis of the different conceptions of time in Foucault's work (Michon 2002). Revolutions, major inventions, battles, reigns, fall of empires and regimes, succession of the ages of humans, liberation from imprisonment, and so on - this notion is based on the idea of turning points. This, for instance, forms the ground for a particular vision of both history *and* History. The spatial boundaries can thus remain stable for a time before they disappear abruptly to give way to new boundaries that define new areas, themselves stable for a given time. The limit-form is thus organised around the definition of clear spatial-temporal limits.

This spatial-temporal nature is that of the prison described through a strict and stable external closure, coupled with internal partitions. Time is cadenced by the immutable rhythm of the days that go by and is defined by the time to be served, which form a clear succession of periods of liberty and imprisonment.

We can thus see that in such a universe of meaning, the relation to space requires above all a spatial affiliation: someone belongs to a particular social background, identifies with certain ideas, is part of a socio-professional category, lives in a particular national territory, is identified with an ethno-geographical space, etc. Someone is part of the prison world and part of a particular category of inmates, and is incorporated into the class of convicts, and so on. Spatial anchorage is thus prior and

even compulsory[xii]. Mobility in this light does not come first, it flows from the choice or obligation to change one's memberships and cross borders. Mobility is thus understood as the passage from one anchorage to another and must be justified in so far as it is an exception to the impermeability of boundaries[xiii]. Leaving prison is either an evasion or a release, in other words crossing the prison's boundaries under certain strict conditions (de facto or by law). To the limit-form thus corresponds an ideology of anchorage which makes membership in circumscriptions the basis for prescriptions at the social level.

At present this morphology is in strong competition with and losing ground to another one, more recent: the flow-form. This is based on a quite different concept of time, which is henceforth seen as an irrepressible flow. Be it slow or rapid, change is above all constant. Nothing can resist it and it oversteps any limit the very moment it is set. The work of circumscription thus appears in its full degree of counterfeit and, henceforth, in the illegitimacy of its pretensions to structure the world. What is the use of setting boundaries if they are immediately overcome by a changing reality?

Does this mean that space is reduced to a formless stretch, un-structured because it is not structurable? Certainly not. Although space is definitely conceived as a stretch, it is punctuated with sites of attraction in relation to which each element occupying the space must situate itself. One no longer belongs to a social class seen as a circumscription of a population, but maintains more or less strong affinities with certain loosely contoured groups. One is no longer a diehard believer in an ideology or religion, but determines complex relationships with a blurry set of ideas, in a personal syncretism. Likewise prison is no longer a separate space, but rather a "normal" place, situated along a spatial-temporal continuum it shares with free society. One is no longer either on the inside (serving one's sentence in prison) or the outside (innocent or having "done one's time") but in an evolving situation characterised by complex relations with both the prison and free society. This is because the sentence of being deprived of freedom can be served on either side of the prison fence. Thus the systematisation of measures to adjust a sentence (since from now on it must be viewed entirely in the prospect of release) turns the inmate (still inside) into an individual who is (already) free: holidays, weekends off, on parole with an "electronic ankle tag" and/or other conditions, the situation of the person can no longer be interpreted in terms of belonging strictly and exclusively to the realm of inmates or of free individuals.

A mutation in the relation to mobility

The relational structuring in a flow-form effects a remarkable change in the relation to mobility. There is no longer question of being anchored in a determined space, to only move from one anchorage to another. The relational position, free of all notion of fixed boundary is by its very essence variable. It must take into account a permanent process of temporal erosion and, henceforth, depends on a constant re-evaluation of the needs and possibilities of the moment. Furthermore, the set of reference points for the space under question is also subject to this temporal abrasion, which means that the various reference points are themselves in movement. Even if one wished to remain immobile it would not be possible for the relational position would evolve over time due to the shifts of the sites of attraction and other entities involved in this localisation system. Places themselves are seen as mobile, instead of being anchored spaces (Frello 2008, 26).

As a result, in the flow-form context, immobility is impossible, unthinkable even. Mobility is natural and irrepressible. Immobility is thus rejected because it can only be an illusion, and boundaries are rejected because they cannot account for a relationship to space. In the framework of this social space-time construct, what will be socially considered as relevant for mobility is no longer similar to what it was in the framework of the limit-form. This is the context in which we must understand the idea of "mobility turn" (Sheller et Urry 2006). Moreover, in this context where immobility is seen as impossible and where mobility is the inevitable fate of us all, mobility appears

as a value in itself. It becomes the primary experience of the relation to space-time (physical or not), just like anchorage could be seen in the limit-form framework.

A 'mobilitarian' prison?

Study of the parliamentary work to prepare the Prison Act reveals the emergence of a new concept and new legitimations regarding the prison. They relate to a new type of relation to mobility and spatial temporality. This is completely logical: what benefits can be expected from a punitive immobilisation when one holds a discourse that affirms the fecundity of mobility?

The encounter between an emerging ideology and an institution firmly anchored in imagery and in repressive practices of the West for over 200 years appears to forecast a confrontation. One might hypothesise a progressive weakening of the prison, sapped by 'mobilitarian' social representations that are incompatible with its use as a site for painful immobilisation. Although it is certainly too early to judge, the countries of the West do not seem to be abandoning the prison. Quite the contrary, in several there has been a considerable rise in its use (Aebi and Delgrande 2013, 62‑63). In Belgium, for example, the prison population has almost doubled in three decades (Jonckheere and Maes 2012; Vanneste 2013).

Faced with such a situation, it is possible to either conclude that this is a paradox, or else to attempt to elucidate the way these two elements can work together in a carceral dispositif. We think that the second option is more promising and more closely reflects the indications we drew from the discourse analysed here. In this discourse, the prison would see its project for painful immobilisation (the penalty of immobilisation) replaced by an objective for a trying mobility (mobilisation as a trial, as a test) (Mincke and Montulet 2010). This project is that of an empty prison, a blank page the inmate would be called on to fill: from the meaning of his sentence to what it consists of, from the duration of his imprisonment to the effects it has, all is intended to proceed from his own personal action. The prisoner is asked to demonstrate his respect of 'mobilitarian' imperatives – and thus to mobilise himself – in exchange for the benefit of flexibility in serving his sentence. Clearly this system requires the play of prison walls and enclosure, which can be made modulable to the point where one may even doubt they exist, even to the extent that one can claim that freedom and detention are only the extreme points of an extremely gradual continuum. In concrete terms, this ambition more than likely is an illusion. Nonetheless, it appears to us that imaginary social constructions underlie the work of the lawmakers and allow the prison to be legitimized.

The prison after Foucault?

It is quite clear that if the spatial-temporal references of the prison shift from the limit-form to the flow-form and that if the imperatives of the ideology of anchorage (functioning, application, incorporation, stabilisation) are gradually giving way to those of the mobilitarian ideology (activity, activation, participation, adaptation), then a new interpretation of the prison model must be considered.

We point out nevertheless that it is not a question of analysing prison practices - which undoubtedly maintain complex and ambiguous relations with the discourses found inside the carceral dispositif. Nor is it a question of affirming that the mobilitarian ideology and the flow-form have free rein, or that competing ideas have dropped out.The walls, professional cultures, general social representations, habits, jurisprudence and the law are all elements that rein *in* the evolutions and limit their scope.

Our objective here, as we announced, was to question Foucault when he envisions prison as a disciplinary model (Foucault 1975) using Foucault's later work on governmentality on the basis of

the evolutions underway (Foucault 2004). Obviously there can be no question of looking into his entire work. Nevertheless, it seems that the elements we have developed above should lead us to ask a few questions and suggest a few hypotheses.

It is effectively a matter of seeing to which extent Foucault's vision of the prison is still useful in understanding the present situation. Founded on a disciplinary enterprise, on control over bodies (thanato-power) and the panopticon (even if we felt its importance in the relation with inmates needed to be relativised), enhanced by the contribution of bio-power and use of scientific tools (epidemiology, statistics, etc.) to manage its populations, this model seems ill-equipped to describe the new forms adopted by the carceral project. Can the prison still be considered as a mixture of "let live and cause to die", the incarnation of the State's power to sanction and annihilate someone who has decided to waver from the straight and narrow (normation), and the "cause to live and let die", the power founded on knowledge of the mechanisms regulating the populations concerned – the target for interventions by experts in the aim to rehabilitate dysfunctional people who have adopted criminal behaviour considered to be statistically abnormal (normalisation)?

It appears that the imperative for activation precludes the idea of a dirigist intervention, in the same way as participation is opposed to incorporation in the rigid and pre-determined objects of state intervention. Likewise the objective is no longer to "cause to die", if only socially, at least this is what is claimed, in a system that aims to normalize the prison. Activation, participation and adaptation instead plead that one bank on people's capacities for self-organisation and self-management. Would "let live and let die" be a more adequate principle to describe this new situation? Perhaps, in so far as we cannot forget that particular results are expected of individuals and that, if they are officially required to take themselves into hand, they are nonetheless still not free to do what they may think is best. Even if the prison is decompartmentalised, it is nonetheless a system of constraints, and it is not illogical to think that the survival of the disciplinary prison is necessary in order to install the mobilitarian prison. As Foucault (2004, 10) himself recalls, it is more the system of correlation between various mechanisms that will change over the time rather than the disappearance of one to the profit of the other[xiv].

In parallel there is also the question about the relation to the norm. Foucault makes a distinction between 'normation' – a normative endeavour based first on determination of a norm, then on attributing qualities of normal and abnormal – and normalization, which is linked to social sciences and consists in establishing a norm based on the empirical observation of a given population where the problem is one of statistical distribution rather than infringement of a predefined norm (Blanchette 2006, 9). In its more classical form, prison represents the retribution for the infringement of a predefined norm (normation). In its later evolutions, where it becomes the site to apply socio-medical dispositifs (such as internment of the criminally insane in "psychiatric annexes" of prisons) or incarceration measures targeting dangerous, yet not criminal, populations (as was the case for vagabonds in Belgium), it is part of a probabilistic dispositif to manage populations identified as problematic. Here the notion of dangerousness is linked to a dispositif of normalisation which, for example, makes it possible to justify that among the people who have adopted a nomadic way of life there is a particularly high level of danger that individuals may upset social order.

The new discourse on the prison rejects both "normation" and "normalization", as these concepts are described by Foucault. It is henceforth possible to ask which type of norm it corresponds to. One hypothesis may be that, in the end, it ignores *both* the norm originally transgressed – as the process of release and prison management do not seem to focus on the convict's 'just desert' – *and* the statistical norm – as each person is called on to work on himself (activation, adaptation) independently of any statistical regularity. The individuals have become people, that is, entities that are not interchangeable whose actions cannot be regulated by their incorporation into groups and

generalisations. Our hypothesis would be that the very question of the norm loses a large part of its relevancy and gives way to the contextualisation of the action. A situation or individuality is no longer assessed on the basis of conformity either to a pre-established norm or to a statistical qualification, but rather on the basis of its contextual relevance.[xv] The proposal for reparation must meet the victim's agreement, the detention plan must be adapted to the person and social context, implementation of the prison regulations must respect the circumstances, the services offered must be as varied as possible so as to respond potentially to the widest range of cases, and so on. The adaptation imperative raises relevance to the level of quality criteria, making it *a priori* an eminently variable and intangible norm. While normation emphasised the anteriority of the norm and normalization was grounded in a study of the present situation, we can consider that contextualisation postpones to an ever-receding future the question of defining the relevance of the action. It is the results that will lead to a consultation on past actions in order to establish the responsibilities, which could not have been fathomed at the time of these actions, but which make it possible to impute a person in virtue of the responsibilisation principle. For instance, restorative justice is brought into play by the fact that damage has occurred. It is not a question of pre-existing norms or statistical regularities, but one of consequences of the act. Without any negative consequences, an action is thus out of the scope of restoration. Responsibilisation has to be distinguished from penal responsibility and from statistical abnormality. It is process based on an a *posteriori* evaluation of acts and promoting a restoration that will only be judged… on its future consequences, independently of their previsibility. Normalisation of prison – as a major goal of the Prison Act, in its sense in its preparatory works – in this framework should be seen as an action on a context. The issue is that the context should not be an obstacle to the inmate's assuming responsibility. His acts - or inaction - must be imputable to him, there can be no question of his personal autonomy being reduced. Normalisation is thus the process that renders invisible the context as a possible cause for individual actions. On this subject, we should bear in mind that the preparatory work studied identified the problem of the prison as that of depriving the prisoners of their autonomy.

Another point of interest raised by the new Prison Act entails the reorganisation of the government of personal life. Indeed, within this programme, it seems that the notion of "active entrepreneurship" is to replace the one of "passivity". Prisoners are encouraged to strive to optimize their own quality of life. As autonomous actors, they are to some extent pushed to go freely about their business, making their own decisions and their own destinies. This vision of the individual in the new Prison Act undoubtedly reflects the way new rationalities, emerging from the economic realm (and in particular the analysis schemes that neo-liberalism suggests as well as the criteria of decision it proposes), are progressively extending to other political areas. (Foucault 1979). Indeed, according to this rationality, what can be called the "neo-liberal political subject" (or the entrepreneurial individual) is less a social citizen with powers and obligations deriving from membership of a collective body, than an individual whose citizenship is active. He is more and more endowed with freedom and autonomy. In this ethos, "autonomous agents make their decisions, pursue their preferences and seek to maximise the quality of their lives" (Rose and Miller 1992, 200‑201).

Therefore, in the new Prison Act, the prisoner can *only* attain (or win back) valid moral status by his/her entrepreneurial participation, as in other realms of social life. The problem of prison, however, is that "the game of the market" presupposes certain capacities of the individual, which all prisoners unfortunately do not have. So one can raise the following question: is prison becoming the temporary space where these individuals neither suffer the punishment nor are rehabilitated (both of which concepts presume a 'society' that neo-liberalism actively denies) but rather are schooled in becoming the entrepreneurial mobile selves the market presupposes?

A further question can be posed regarding the central role of the panopticon in the prison model.

Applied to inmates or prison staff, it deeply structured the Foucauldian prison. This ambition to see, however, appears to recede in the light of new interpretations of the gaze (Mincke 2011). Certainly, calls for transparency always reflect the question of revealing what is real and the visibility of envisaged situations. However, we should not disregard the fact that the panopticon implied organising the social situation in order to subject it to a potential gaze, installed yet impossible to comprehend for the subject of the surveillance. Everything potentially could be seen, even if it was not in actual fact (Francis 2008, 1027‑1029). Panopticon is based on the internalisation of potential gaze by the object of surveillance, and not on an actual constant gaze.

In the framework of the search for transparency this is replaced by the dream of a perfect traceability, in other words of a gaze which, instead of requiring the immobilisation of the object examined, is able to follow it throughout its movements (almost) without hindering them. The most characteristic image of this is obviously the mobile prison which electronic surveillance claims to be. The latest generation, based on GPS tracking, is the concrete expression of the prison wall limiting action in order to control, which is replaced by the GPS that monitors activity in order to control. In this context, the multiplication and extension of conditions for parole - in a context where (in the discourses) this has become the logical and almost necessary sequel to incarceration[xvi] – has instituted a system to monitor activities and social mobilities: tracking – in the literal sense of the term – of (former) inmates. One may well consider that it becomes part of a system along with non-repressive dispositifs to support outcasts (welfare recipients, the poor, the socially vulnerable, etc.).[xvii] Indeed, support programmes for outcasts looks very closely like control programmes for prisoners on probation: educational interventions, socio-professional training, motivational monitoring, psycho-social help, etc. Traceability thus appears as the surveillance mode adapted to a mobility society. Monitoring is its physical transfer, offering a continual update of data relating to the situations followed, with the situation adapted in real time.

The resulting effect is quite different from that of the panopticon. The latter consisted in the staging of surveillance, its spectacular nature lent an effect of internalisation through the surveillance which itself was the actual objective (Koskela 2003, 299), much more than detecting deviations. Traceability though is not spectacular. Quite the contrary, it is discrete and plays on spatial and temporal boundaries (Deleuze 1992, 7). Traceability affirms the continuity of space all the while maintaining potential mastery of the situation. It opens the possibility for a surveillance much more extensive than the panopticon. Release on parole coupled with conditions such as wearing an electronic ankle tag, looking for a job, attending professional training, following therapy and avoiding certain places and people generate a multiplication of tracing dispositifs as well as actors in surveillance and its sphere. We are far from the time when the prison guards could only see as far as the prison wall. A fragmented gaze is set into place (Francis 2008, 1029‑1031). Another novelty is the exponential development of surveillance archives (Koskela 2003, 304‑305). Whereas direct vigilance generated few reports and archives, traceability practices lead to a potentially infinite accumulation of data, to the extent that one can imagine the creation of an individual's actual numerical double (Francis 2008, 1031‑1032)[xviii]. We are far from the simple discipline of bodies by noting the inmates' presence in a cell or workshop or else their activity (or inactivity). The challenge to the controller is among the most classic: managing the influx of information gathered in files that are hard to manage and where multiple and potentially contradictory data hamper an easy binary reading. The question is no longer one of differentiating what is present from what is not, or active from inactive, but rather producing subtle evaluations on the basis of multiple and diachronic sources. The gaze must henceforth become intelligent, which seems to reconfigure the very meaning of surveillance (Francis 2008, 1031‑1033).

A trying mobility here takes on its full sense when the tracking consists of accumulating indications of a conformity to mobilitarian imperatives through multiple and almost completely cumulative dispositifs. Prison is thus one dispositif among many others, all interpenetrating in a continuum of

monitoring. This is the basis on which practices of trial and testing can be developed.

A question to ask here, one especially dear to Foucault, is that of the conjunction of the particular forms of power and knowledge. Knowledge usually generates a power that corresponds to it, the same way that a power-form must resort to certain knowledge to consolidate itself. Thus, for example, to bio-power corresponds the rise of social sciences (Blanchette 2006, 10). However, it must be noted that social sciences, especially in the prison context, have undergone considerable discredit. The errors of psychiatric expertises are increasingly denounced, along with the impossibility of finding a reliable way to evaluate the dangerousness of individuals, the random nature of the result of therapies, and more generally, psycho-social supervision. As these types of knowledge become more and more discredited, other types are developed which correspond to establishing a permanent monitoring for individuals, just like actuarial and statistical models assist decision making. Power through traceability and trajectory control thus correspond to new types of knowledge. From forecasting possibilities of recidivism by tracking various indicators to the analysis of criminal careers and on to drawing up models to predict the development of situations of violence, it is no longer so much a question of understanding – the ambition of the social sciences – as it is to anticipate (Francis 2008, 1035‑1037). In our view, however, it is not a question of anticipating, in terms of establishing ahead of time a set of causalities to define the path an individual must take. Rather, here it is a matter of correlations that make it possible to anticipate slightly ahead of time and to maintain control, through permanent *monitoring*. This is closer to maintaining a synchronism between interventions and evolutions in the situation than it is to planning the action. This type of knowledge corresponds to a managerial type of action. The matter is no longer one of reforming (the individual, prison or society) but rather managing, fostering a relatively stable and harmless functioning.

We can see that Foucauldian theories on the prison, in relation to recent discursive developments, can spawn numerous questions. Although it is obviously impossible to answer them here, we felt the time was ripe to launch a questioning which may help evaluate the present fecundity of Foucault's work on prisons

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[i] Assuming that mobility is in itself a social construction (Frello 2008, 29), we make the hypothesis that it is linked to a shift in social construction of space and time.

[ii] We are speaking here of the carceral system, not the workhouse-prison of the 19th century which, in France especially, was a place to serve prison sentences, but also a form of slavery devoid of any correctional aims (Demonchy 2004, 278–279). Characteristics of immobilisation can be seen in the jails that held people awaiting judgement or transfer to a penal colony.

[iii] In this sense, Foucault conceived it as an heterotopia of deviation (my translation): a space that is apart from ordinary social spaces and is meant as an "elsewhere" in which deviants are placed for a time or forever (Foucault 1984).

[iv] For example, another criteria may be mental state, in the case of inmates who are placed in the prison's "psychiatric annexes" and not in the wings intended for the convicts (situation in Belgium).

[v] The strictly predefined sentence length is the basic principle of classical law. It was first called into question when release on parole was introduced in the late 19th century. In Belgium, this was through the "Le Jeune law" of 1888. Sentencing courts were set up only in the late 20th or early 21st century (in 2006 in Belgium) based on the idea that a sentence is not immutable, that is not enough to organise the end of the punishment, but to follow its application throughout the sentence. Its modulation over time was a normal part of its implementation. This was not a mere change in the intensity of the sentence's modulation, but also the assumed entry into a new paradigm, that of a sentence under monitoring (or the monitoring sentence).

[vi] Although this effect on the inmate is certainly the objective of the Benthamian panopticon described by Foucault, it seems to be quite divorced from the objective of containment and amends through isolation that primarily structured the 19th century prison system. In this context, the objective for the inmate who had integrated the idea of constant surveillance was not so much using this surveillance as a way to regain a hold over himself, but rather to have him "living in his cell, face-to-face with God until he repented" (Demonchy 2004, 291), especially since this isolation was never a reality but simply a powerful discourse.

[vii] In Belgium the "protectional law" was a set of laws relating to what was called "youth protection" in order to deal differently with juvenile delinquents who were not criminally responsible, yet who could be subject to coercive and educational measures.

[viii] For many years Belgium had on its books a law foreseeing the incarceration of vagabonds solely on the basis of their vagrancy (law of 27 November 1891 to Curb Vagrancy and Mendicancy, repealed in 1993). This law was based

on the idea that vagabonds, as a population, posed a more than average danger to society.

ix   The involvement of experts occurred at different rhythms depending on the importance given to rehabilitation.

x   Note that the Foucauldian panopticon itself works by integrating observation and the norms it imposes and not by creating a personal set of norms (Francis 2008, 1027).

xi   Note that the objective of participation is the possibility to lodge a complaint. Several years earlier this possibility would likely have been described under the categories Rules or Recourse, rather than Participation. Although one can doubt the truly participative nature of such a possibility, this example shows the extent to which the idea of participation seems to have become essential to the description and legitimation of the prison's functioning.

xii This is what some call the "sedentarist metaphysics" in their studies of physical mobility (Frello 2008, 26).

xiii On this subject we reall Bauman's thoughts on the need for a new establishment for individuals who are released following the "liquefaction" of the institutions in which they were held (Bauman 2000, 7).

xiv « You have a series of complex edifices in which what above all changes is the dominant characteristic, or more exactly the system of correlation between juridico-legal mechanisms, disciplinary mechanisms, and mechanisms of security ». (Foucault 2004, 10) (our translation)

xv   On this subject, see Koskela who considers that surveillance in an urban context is always circumstantial and not founded on strict norms. The circumstances are what dictate whether a behaviour or presence is acceptable or not (Koskela 2003, 300).

xvi   It can even become concomitant, in view of the development of practices to place someone on immediate parole as soon as they first enter the prison.

xvii   In this area, the parallels between intervention ethics in the repressive and medical-social sectors are well worth more detailed studies.

xviii   Deleuze states that we shifted from "individuals" to "dividuals", split in different fields. The numerical double could be considered as a numerical subidivision of the person (Deleuze 1992, 5).