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Imprisonment and Internment: Comparing Penal Institutions North and South

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Abstract:	This article compares the nature of confinement in North America and Latin America in terms of six interrelated aspects: regimentation, surveillance, isolation, supervision, accountability and formalization. In the North, inmates are more regimented, more isolated, and subject to greater surveillance; they are also less involved in the running of the institution. North American penal institutions are more open to external scrutiny and their bureaucracies are more formalized. In Latin America, inmates are less regimented, less isolated and subject to less surveillance; they are also more involved in the running of the institution. Latin American penal institutions are less open to external scrutiny and their bureaucracies are less formalized. One way to express these contrasts – quantitatively - is as a difference in the level of control: in North America, control is assiduous in the sense that it is unceasing, persistent and intrusive; in Latin America, control is perfunctory in the sense that it is sporadic, indifferent and cursory. But another way to express these contrasts – qualitatively – is in terms of the character of confinement: in North America there is imprisonment; in Latin America there is internment.

IMPRISONMENT AND INTERNMENT: COMPARING PENAL INSTITUTIONS NORTH AND SOUTH

ABSTRACT

This article compares the nature of confinement in North America and Latin America in terms of six interrelated aspects: regimentation, surveillance, isolation, supervision, accountability and formalization. In the North, inmates are more regimented, more isolated, and subject to greater surveillance; they are also less involved in the running of the institution. North American penal institutions are more open to external scrutiny and their bureaucracies are more formalized. In Latin America, inmates are less regimented, less isolated and subject to less surveillance; they are also more involved in the running of the institution. Latin American penal institutions are less open to external scrutiny and their bureaucracies are less formalized. One way to express these contrasts – quantitatively - is as a difference in the level of control: in North America, control is assiduous in the sense that it is unceasing, persistent and intrusive; in Latin America, control is perfunctory in the sense that it is sporadic, indifferent and cursory. But another way to express these contrasts – qualitatively – is in terms of the character of confinement: in North America there is imprisonment; in Latin America there is internment.

Key words: penal institutions, prisons, internment, North America, Latin America.

1. INTRODUCTION

Terminological profusion in the penal sector – "penitentiary," "prison," "jail," "correctional facility," "detention center," and so on – reveals a considerable diversity of perspectives, and perhaps no small measure of vagueness, regarding the institution being talked about. Are these words descriptions or prescriptions? Do they convey what is going on, or do they symbolise our thoughts (and hopes?) about

what should be happening? Against these kinds of doubts and queries, some

scholars have employed new terminological devices in a spirit of penological realism.

Thus, it is interesting to note that US scholars are increasingly inclined to use

the term "warehouse" when talking about prisons in that country (e.g., Toch, 1985;

Fleisher, 1989; Robertson, 1997; Simon, 2000; Lynch, 2001; Irwin, 2004). Not only is

this a striking semantic turn (how can a prison be likened to a building used to store

goods?), it also invites us to recognize that contemporary prisons in the US do little

more than provide secure confinement for sentenced offenders. Held almost like

boxes on shelves, prisoners are subject to regimes of control designed primarily to

reduce the risks they pose to themselves, to other prisoners, to prison staff and to the

rest of society. However (the implicit argument goes), at some point most of these

individuals will be released (redistributed like goods!) with all the attendant

problems that one might expect after their time in storage.

In Latin America, where the volume of literature and commentary is

considerably lower (a point to which I will return shortly), the most striking

contemporary label for the prison is the "concentration camp" (Caldeira, 2000:176;

Wacquant, 2003:200; Kane and Tilsley, 2006:69). The particular impact of this term is

of course driven by its association in the popular mind with the death camps

organized by Nazi Germany. But whether or not the authors were thinking of the

latter is irrelevant to their more general objective of calling attention to the harsh

living conditions and brutality to be found in many Latin American prisons. There is

a humanitarian crisis in the penal domain, which requires full acknowledgement and

urgent action.

Two terms; two geographic domains. Are these semantic choices merely a

matter of style and moral stance, or do they reflect observable differences in the

nature of confinement? This chapter is largely concerned with finding an answer. It

does so by comparing penal institutions North and South,[1] and focusing on the nature of confinement in order to seek evidence of its character – that particular combination of qualities that makes something distinctive. To give away part of the story, the "warehouse" and the "concentration camp" are not unproblematic as descriptors of their respective realities, but they undoubtedly point towards a very important difference in the nature of confinement in each region. To maintain the suspense, that difference will be fully discussed only in the final sections of this chapter.

My comparative study of confinement begins by focusing on six interrelated aspects of penal institutions: regimentation, surveillance, isolation, supervision, accountability and formalization. This ordering of the topics not only facilitates the exposition (because one topic leads naturally into another), but also has some analytical significance: the first three essentially refer to the physical arrangement of these institutions, the rest to social arrangements. The content here is relatively mundane and of necessity superficial; there is not the space for a detailed portrayal of confinement in each continent.

Nevertheless, assembling such material is something of a challenge because of the need to construct a general description that is not distorted by excessive attention to particular years or institutions. Penal facilities can vary quite markedly among themselves and over time. The challenge is also compounded by the unequal volume and availability of material on confinement in each region. Wealthy societies (such as those in North America) produce more knowledge than poorer ones (such as those in Latin America), whether through government agencies, universities or research organizations, and this generalization holds for penological studies as well.

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[1] For brevity and convenience, "North and South" means "North America and Latin America."

Simple and rapid comparisons of the websites of correctional agencies and academic

organizations in both regions serve to confirm this relatively obvious point.[2]

If I have got my general descriptions right, there should be little to surprise

readers in the Americas who know the penal institutions in their own region. The

more interesting case will be that of the institutions in the region that they do not

know, or know so well. Moreover, it is only by conducting these relatively basic

comparisons that the overall pattern of difference emerges. Thus, towards the end of

the paper the individual aspects are drawn together in a general reflection on the

nature of confinement in each region. I argue that there are both quantitative and

qualitative differences between North America and Latin America, which means that

we need to take more than a little care in how we name the penal institutions in each

region. This, of course, is the point skilfully made by the semantic creativity inherent

in "the warehouse prison" and "the concentration camp." In the conclusion to the

chapter, I identify some potentially fruitful lines of inquiry that would help to clarify

and explain these differences.

2. PHYSICAL ARRANGEMENTS IN CONFINEMENT: REGIMENTATION, SURVEILLANCE, ISOLATION

Regimentation

As used here, regimentation refers to the spatial organization of inmates.

Such organization is obviously relevant to the goals of the institution because it

reflects and enables a particular kind of control. A key aspect of regimentation is

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[2] It is also important to recognise the increasing attention given to penal institutions in North America during the last 50 years, as they have moved – to use Jacobs' (1977:6) words – "from the periphery toward the center" of society (see, also, Gaucher and Lowman, 1998; Melossi and Lettiere, 1998). This increased focus has contributed to the collection of data about them, above and beyond what would be expected from the general growth of knowledge in North America. By contrast, Latin American penal institutions are still on the margins of society, only irrupting into public consciousness when some particularly spectacular crisis (a riot, a mass escape) occurs.

classification – an activity that has a long history in some penal systems (e.g., McCartney, 1933). In general, classification allows the grouping of like individuals in order to achieve some purpose. In penal institutions, key dimensions of classification are reflected in residential arrangements, whereby different classes of inmate inhabit different spaces or buildings. Classification also affects patterns of movement within the institution – another important aspect of regimentation.

In North America, facilities for confinement reflect a systemic approach to organization. First, a basic distinction exists between jails (used for preventive detention and short-term confinement) and prisons. Second, individual prisons generally form part of a classificatory system which encompasses both their role in relation to other prisons in the same jurisdiction, and the characteristics and uses of their component parts. The criteria used for classification are determined by the overall objectives assigned to the prison, and these have changed in recent years. Up to the mid 1970s, treatment was considered the primary aim of confinement, and facilities were organized according to the type of program they delivered, for example, the "…California Rehabilitation Centre, for drug users; California Medical Prison at Vacaville, for the mentally ill; [and the] Deuel Vocational Institute, for young adults" (Feeley and Simon, 1992:461). With the disillusionment that set in regarding the prospects for successful rehabilitation and with the public concern over rising crime rates, penal philosophy took a punitive turn and focused much more heavily on incapacitation (Garland, 2001). Under this new perspective, risk management became the key consideration (Feeley and Simon, 1992).[3] Confinement facilities are now designated not by function, but by level of "security."

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[3] I am here describing developments in the United States. The trend away from treatment and towards punishment and incapacitation was more attenuated in Canada (Meyer and O'Malley, 2005).

The basic categories in the current classification system are maximum,

medium and minimum security. What these terms mean is illustrated by the

following description from the North Carolina Department of Correction (NCDC,

2007):

The prison security level is an indicator of the extent to which an

offender who is assigned to that facility is separated from the civilian

community….Close security prisons typically are comprised of single

cells and divided into cell blocks, which may be in one building or

multiple buildings. Cell doors are generally remotely controlled from a

secure control station….The perimeter barrier is designed with a double

fence with armed watch towers or armed roving patrols….Medium

security prisons typically are comprised of secure dormitories that

provide housing for up to fifty inmates each…..Each dormitory is locked

at night with a correctional officer providing direct supervision of the

inmates and sleeping area….The prison usually has a double fence

perimeter with armed watch towers or armed roving patrols….Minimum

security prisons are comprised of non-secure dormitories which are

routinely patrolled by correctional officers….The prison generally has a

single perimeter fence which is inspected on a regular basis, but has no

armed watch towers or roving patrol.

Of course, the classification of inmates also requires its own facility (or unit

within a facility), where convicted offenders spend the first one or two months of

their sentence and are assessed in terms of "risks" and "needs." In addition,

custodial staff require a disciplinary unit in order to handle particularly troublesome

inmates, usually known as the "maximum security" unit/facility (or "supermax" if

the term "maximum" has already been applied to a lower security level). Once again,

the North Carolina Department of Correction:

> *Maximum security units are comprised of cells with sliding doors that*
>
> *are remotely operated from a secure control station….These units are*
>
> *utilized to confine the most dangerous inmates who are a severe threat to*
>
> *public safety, correctional staff, and other inmates. Inmates confined in a*
>
> *maximum security unit typically are in their cell 23 hours a day. During*
>
> *the other hour they may be allowed to shower and exercise in the cell*
>
> *block or an exterior cage.* (NCDC, 2007)

Freedom of movement within the facility is closely correlated with

the security level: at maximum security level, physical restraints are used

when inmates are moved and all inmates are escorted by custodial staff;

medium security facilities may employ a pass system for inmates; while

at minimum security facilities, control on movement may be limited to

certain spaces and certain times of the day.

In Latin America, the classification of different types of facility may exist on

paper, but much less so in practice. The distinction between jails and other penal

facilities is not so clear because physical arrangements do not correspond entirely

with legal categories of inmate. Thus, the police have holding cells, but these rarely

represent the equivalent of the American jail. They are used for short-term detention

during the initial phases of the criminal case, but individuals on preventive detention

are held in larger facilities. By law, these larger facilities would approximate to the

North American jail, but in practice they are part of the "prison" system and used as

such. For example, in Venezuela, the Criminal Code (Venezuela, 1964; 2005) and the

penal laws (Venezuela, 1975; 2000) have for long distinguished between

penitentiaries (solitary confinement, forced labor), prisons (group confinement,

voluntary labor), penal colonies (for frontier regions) and judicial internment centers (for preventive detention and sentences up to one year). The materialization of this array of institutions required the construction of judicial internment centers in each circuit and the construction of prisons, penitentiaries and penal colonies in selected sites around the country to house offenders serving longer sentences. In practice, the resources for such a system were never forthcoming, and as a result each judicial circuit has one or other of these types of facility, but only one. Thus, the officially designated "judicial internment centers" house offenders serving long sentences, while the "prisons" and the "penitentiaries" house offenders in preventive detention. Moreover, the distinction between "prisons" and "penitentiaries" is found only in their architectural characteristics and not in their regimes. In a similar vein, Ecuador implemented a new law in 1982 which renamed penal institutions as "Social Rehabilitation Centers" and classified them into maximum, medium and minimum security levels. However, this classification system was never implemented (lack of resources was cited as one reason), and "Today, there are 36 Centers of Social Rehabilitation in abominable physical condition, where classification is applied only in terms of sex" (del Olmo, 1998:128).[4]

Colombia represents a slight exception to this trend because during the 1990s it embarked on an ambitious programme for constructing new maximum security facilities to house drug traffickers and guerrilla leaders. However, these facilities relied on both ideas and financial aid from the United States and have a limited, though high profile, presence in the country's inventory of penal institutions (del Olmo, 1998). As an exception, they prove the rule that most Latin American

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[4] Thirty years ago, Rico (1977) reported a similar situation throughout Latin America.

governments are unable (or unwilling?) to construct penal facilities, even in the face

of quite high levels of overcrowding (Carranza, 2001).[5]

      The distinction between preventive detention and the diverse levels of secure

confinement could still be maintained if facilities were internally divided into

specialized units, but often this does not occur: offenders are located according to

other criteria, mainly social extraction or geographic region of origin (Aldana, 1972;

Olivero, 1998).[6] This results in a mixing of inmates by legal category (accused or

convicted), sentence length and type of crime, which makes the population within

any facility far more heterogeneous than in North America.[7] However, the relative

lack of differentiation between facilities makes Latin American institutions far more

homogeneous than their North American counterparts, most of them approximating

the latter's medium security model.

      Surevillance

      Surveillance of inmates relies on the physical presence of custodial staff

together with any technological resources that are available to them. Table 1 shows

the ratio of inmates to staff in Canada, the United States and selected Latin American

countries. Although these figures contain an unknown amount of internal error

springing from likely differences in the methods for defining and counting staff, the

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[5] According to figures presented by Carranza (2001), the average level of overcrowding (prison population as a percentage of rated capacity) in Latin America was 148% in 1999. This compares with the following situation in the United States: 134% for federal facilities, 101% for state facilities, 89% for private facilities (BJS, 2003) and 93% for jails (BJS, 2001). In Canada, a recent government report observed that "in many jurisdictions, the number of incarcerated adults has reached the levels of institutional capacity in recent years" (Juristat, 2006:19) therein suggesting that overcrowding has not been a recent problem, although it may become so.

[6] Classification units are rare in Latin American prisons and, where they exist, have tended to represent sinecures for professionals steeped in the legacy of Italian positivism. For example, as late as 1984, an Ecuadorian specialist was writing about a biotypological classification of offenders which included the "normal," the "induced," the "non-adapted," the "hypoevolutive" and the "psychopath" (Narváez, 1984).

[7] One consequence is the existence of a large number of "prisoners without sentence" (Carranza et al., 1983) or "punishment before trial" (HRW, 1997), which has been of so much concern to penal reformers in Latin America.

Table 1: Ratios of Inmates to Staff, North and Latin America				
Country	Year	Total Number of Inmates	Total Number of Staff	Number of Inmates/Staff Member
Canada	2001[a]	35,166	32,588	1.1
United States	2000[b]	1,305,253	430,033	3.0
Colombia	2001[c]	53,156	6,390	8.3
Costa Rica	2001[d]	11,152	2,258	4.9
Chile	2001[a]	34,717	6,614	5.2
Ecuador	2001[a]	7,738	1,567	4.9
El Salvador	2002[a]	11,055	1,303	8.4
Peru	2001[a]	26,989	4,812	5.6
Venezuela	2001[a]	18,768	2,703	6.9
Sources: [a] – United Nations (2005); [b] – Bureau of Justice Statistics (2003); [c] – Campo Vásquez and Vargas de Roa (2003); [d] – Rico (2003).				

broad picture that emerges is one of higher numbers of inmates per staff member in

Latin America. In a detailed comparison of a U.S. jail and a Venezuelan judicial

internment center, Jordan (1996) found that the U.S. facility had an average of one

custodial staff member for every five inmates, while the Venezuelan facility had one

custodial staff member for every 17 inmates. In terms of custodial staff on the job at

any time, the ratios were 1:20/25 and 1:65, respectively.

As is to be expected, North American facilities also routinely incorporate

surveillance technology, particularly CCTV and metal detectors, in order to keep an

eye on what is going on. The trend for the future is well illustrated by a new 186-bed

jail that was recently opened in New York State:

…the facility's integrated electronic security system…included five

touchscreen control stations, three graphic panels, 260 controlled and

monitored doors, 165 intercom stations, 165 proximity readers and more

than 110 cameras….With the installation of [a] security electronics

system, the facility is able to significantly increase its inmate monitoring

capacity. The intuitive and scalable nature of the touchscreens, as well as

its ease of configuration enables a single corrections officer to view the

activity of 42 inmates at a time compared to the original capacity of 24.

(Werner, 2006)

In addition, various "inmate tracking systems" have also been developed, based on bracelets worn by inmates, and are gradually being installed in prisons and jails. The publicity for one of these systems cites the following benefits:

The RFID prison management system is intended to have a three-fold function. It ensures inmates do not escape by issuing an alarm if the bracelet approaches the jail perimeter; it reduces violence by allowing officers to monitor who is congregating with whom; and it allows for administrative functions such as tracking where an inmate is when they are needed. (Swedberg, 2005)

Not surprisingly, in the less wealthy continent that is Latin America, technology is almost entirely absent from penal facilities. With fewer custodial staff to man them, Latin American penal institutions exercize a far lower level of surveillance over their inmates than do correctional facilities in North America.

Isolation

The degree of isolation of inmates from society is governed by policies on visiting, the use of telephones, the availability of televisions, and so on. In this regard, an interesting difference emerges around visiting. In North America, the extent and mode of visitation generally varies by the security level of the facility. Inmates in maximum security facilities are only permitted non-contact visits (conducted in booths with glass partitions and telephone intercoms), with greater restrictions on the number of visitors and the length of time for which the visits can last. Inmates in medium and minimum security facilities are allowed contact visits (in a supervised visiting room or patio) from a greater number of visitors and for a greater period of time. "Family" (conjugal) visits are also available to these inmates (e.g., CSC, 2007a).

The degree of control over visitors and visiting is quite strict. Inmates must request approval of nominated visitors; visitors must comply with guidelines regarding appropriate attire (Comfort, 2003); and behaviour in the visiting room must minimize physical contact:

> *An inmate and his/her visitor(s) are allowed to briefly embrace and kiss*
>
> *at the beginning and end of their visit. An inmate may hold his or her*
>
> *minor children….Holding hands on top of the table in plain view is*
>
> *permitted, with no other physical contact. Excessive contact, (kissing,*
>
> *massaging, stroking, and sitting with legs intertwined or sitting on laps)*
>
> *could result in termination of the visit*. (CDCR, 2007:9).

This, at least, is the mandate from the authorities.

Visiting policy in Latin American institutions is much more permissive. Typically, one or two days per week are designated for visits and on these days the friends and family of all inmates except those in administrative or disciplinary segregation are allowed in to the facility. Staff do not keep lists of authorised visitors, but anyone wishing to enter the facility must know the name of a person held there, must produce identification, must comply with a minimum dress code, and must be willing to be searched. The visiting period generally lasts from four to six hours and there is usually no designated visiting area, nor direct supervision of visitors and inmates. In Brazil, for example:

> *Few penal facilities have special areas for visits; instead, visitors are often*
>
> *allowed to enter directly into prisoners' living areas. In some prisons,*
>
> *such as Sao Paulo's Casa de Detenção, "social visits" with family and*
>
> *friends take place in the courtyard, while wives and girlfriends are*
>
> *allowed to enter prisoners' cells*. (HRW, 1998:115)

Conjugal visits are also permitted for most inmates, on a relatively frequent basis, and independent of marital status (Olivero, 1998). In some cases, prostitutes may go into the facility on pre-arranged appointments with inmates (HRW 1997; 1998).

All observers agree that visiting days transform penal institutions in Latin America. Thus, MacNeil (2006:94-95) on a Venezuelan facility:

> *After three days in prison, I experienced my first visit day. The*
> *atmosphere of the prison was completely transformed as women and*
> *children streamed in to the compound, laden with bags of groceries, and*
> *the whole place took on a gala atmosphere for a few hours.*[8]

And Olivero (1998:104) reports an analogous situation in Mexico:

> *In some facilities, entire families are allowed to live for extended periods*
> *behind prison walls with their loved ones. It is common for children to be*
> *seen running and playing throughout Mexican prisons.*

While visits clearly reflect the importance of family in Latin American countries and provide welcome relief from the boredom and violence of institutional life, it is their character as "open days" that I wish to emphasize here. Once or twice weekly, the institution becomes an arena for mingling with visitors which draws in almost all of the inmates whether or not someone goes specifically to visit them (an inmate can meet the visitors of companions, or even sell snacks and handicrafts to the assembled throng). This represents a significant weakening of the social isolation that would otherwise prevail. In addition, the relative freedom given to inmates and visitors to do what they like, where they like, is a considerable departure from the close control that is typically associated with penal institutions in North America and

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[8] Another British inmate in the same facility had a similar impression: *The visitors came in at nine, and I spent the rest of the day with Paul while, outside, couples wandered, children of all ages ran around playing and a general party atmosphere settled on the place* (Kane and Tilsley, 2006:88).

constitutes a visible acknowledgement that the interior of the facility belongs to the inmates, not the authorities.

3. SOCIAL ARRANGEMENTS: SUPERVISION, ACCOUNTABILITY, FORMALIZATION

Supervision

Penal institutions are a clear example of Goffman's ([1961]1991) assertion that in total institutions there is a basic division between a large managed group of inmates and a small supervisory staff. But these institutions can vary in the extent to which the inmates are managed by the supervisory staff and the extent to which they manage themselves.

In North America, everything points to the decline of inmate participation in the management of the facility. For example, Jacobs (1977) noted that during the 1930s much of the clerical work at the Stateville Penitentiary in Illinois was performed by inmates. This persisted until the early 1960s when civilians were appointed to replace them. In other institutions, inmates were employed in custodial functions, such as the convict-guards who were used until the mid-1960s in the sugar cane fields around Lousiana's Angola Penitentiary (Rideau and Wikberg, 1992). In still other facilities, inmates held responsibilities for residential units, as in the well known case of the "building tenders" who oversaw housing blocks in Texas penal institutions until the 1970s (Marquart and Crouch, 1984; 1985). These and other less visible roles, such as those played by informants (e.g., Colvin, 1992), wedded staff and inmates in the internal governance of the institution.

For a number of reasons deriving from the increased external scrutiny to which penal institutions in North America are now subjected, these structures of power and authority have ceased to exist almost completely. Participation by inmates in administrative or custodial matters is rarely (if ever) countenanced and

instead tends to be confined to programme development and management (e.g.,

Díaz-Cotto, 1996). Even here, the possibilities may be limited: using DiIulio's

tripartite typology of managerial styles (control, responsibility, consensual), Reisig

(1998) recently found that only two out of eleven state facilities surveyed in the

United States corresponded to the responsibility model (that which gives inmates a

greater voice in institutional affairs).

One result of the trend to exclude them from administrative and custodial

matters is a greater levelling of inmates, because there are fewer positions from

which to garner power or influence. Although gangs represent an important mode of

social organization among contemporary inmates (Gaes et al., 2002), and in some

respects reproduce the hierarchies and styles of control shown by the old convict-

guards and building tenders, unlike the latter they are not sponsored by the facility's

administration and are therefore seen as a far less suitable mechanism for internal

governance. Thus, the attitude of the custodial staff towards gangs may range from

strictly adversarial to cautiously tolerant, but never to wholesale acceptance. Absent

the possibility of the formal incorporation of inmates into the structure of internal

control, administrations appear to have responded in a variety of ways: increasing

the number of custodial staff; increasing the restrictions and control on the

movements of inmates; increasing surveillance; seeking a balance of power between

gangs; or simply turning a blind eye to all but the most egregious disorder.[9]

In Latin America, the use of some kind of building tender appears to be

widespread and longstanding. For example, Aguirre (2005:150) noted that the 1901

regulations for the Lima Penitentiary provided for the appointment of an inmate as

caporal (boss) of every section, and also of a *caporal mayor* (head boss) "…to ensure

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[9] This latter strategy was recently observed by an inmate in a private facility: *After I got around more, I noticed the staff and guards had no real control. Prisoners were roaming from one living unit to the next as they pleased. No one seemed to care.* (Carceral, 2006:28).

that those in charge of order and cleanliness inside prison did their jobs, but also to

report any occurrence taking place in prison." Aldana (1972:54) described the

Delegado de Pabellón (Dormitory Delegate) in the Catia Judicial Internment Facility

(Caracas) where he served time ("an inmate whom the authorities recognize as

having good behavior and the capacity to exercize internal control over each

dormitory"), as did Bayer (1978) the *jefes de patio o pasillo* (heads of patio or corridor)

at about the same time in a Bogotá facility. More recently, Human Rights Watch

(HRW, 1997) found that the dormitory delegates in Catia Prison were being called

polipresos (inmate police); while most recently, MacNeil (2006) found a well

entrenched system of inmate control in Venezuela's Western General Penitentiary.[10]

MacNeil, however, had previously been in a Venezuelan facility where there

was no strategic alliance between the prison staff and the inmates, nor any attempt to

replace that form of control with a more permanent and intrusive presence on the

part of the administration. The custodial staff limited themselves to controlling

certain doors and railings, to trying to impose some kind of order on the lines that

formed at meal times, and to the evacuation of inmates who were ill, injured or dead.

Human Rights Watch found a similar situation in some Brazilian prisons. For

example, at the João Chaves Penitentiary in Natal, with an inmate population of 646,

only three guards were on duty while the human rights activists were visiting:

> *...the three guards remained stationed at a table near the entrance of*
>
> *the prison. During a day at the facility, we rarely saw them get up*

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[10] *We were introduced to the* cabo, *o head man in the* letra *[dormitory], and began to understand a little about how the prison was organised. There was the usual management team of hard men who ran the prison, but they, together with everyone else in the prisoners' organization, played a dual role. To the prisoners, they were the* gremio, *or management, and were the law within the prison, holding the power of life and death over prisoners….To the prison authorities, though, they were known as the prisoners' committee, and met regularly with the prison director and other officials to organise sports competitions, cultural events, educational courses and other aspects of prison life. (MacNeil, 2006:200; cf. Marquart and Crouch, 1985)*

from the table to monitor the situation of the inmate population.

(HRW, 1998: 71)

When custodial staff give up any attempt at internal control, relations between prisoners can quickly descend into internecine warfare (Hidalgo and Jordan, 1993-1994), with truces only for visiting days. This is the more problematic form of prisoner self-government, built on anarchy rather than authority.[11] Throughout Latin America these two styles of internal governance ebb and flow, providing a striking contrast to the structure of power in the North.

Accountability

The disappearance of the inmate custodians in North American facilities was probably a gradual phenomenon, but their end was brought about by the intervention of the federal courts in penal institutions. Since the 1960s, inmates had been agitating and organizing for improvements in the way that they were treated, aided by prisoners' rights groups on the outside (Irwin, 1980). A key strategy was the presentation of lawsuits to publicize and seek redress for the inhumane treatment of inmates and the arbitrary nature of decisions regarding key aspects of the penal trajectory (such as, good time, furloughs and parole). The courts responded by placing individual facilities or entire correctional systems under consent decrees (which were essentially designed to strengthen the humanitarian content of imprisonment) and by mandating the introduction of due process for decisions relating to sentence remissions and disciplinary matters (Feeley and Rubin,

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[11] When warring factions of inmates are not kept apart, a considerable number of deaths can occur, as for example at the Sabaneta National Prison in Maracaibo, Venezuela, where more than 100 inmates were killed in one day of internal conflict in January, 1994 (HRW, 1994). Typically, this style of inmate self-government and conflict is also accompanied by military containment and re-take strategies on the part of the authorities, which are prime opportunities for state brutality. The most egregious example was the retaking of the Carandiru prison in Sao Paulo, Brazil, after a riot in October 1992, during which 111 inmates were killed (HRW, 1998).

1999). In Canada, government-appointed commissions of inquiry have performed

something of a similar role, their creation often triggered by crises in the correctional

system and their reports filled with criticisms of the inhumane and arbitrary

treatment of prisoners and with proposals for reform (Gaucher and Lowman, 1998).

The U.S. courts and the Canadian commissions of inquiry were evidence of

the increasing scrutiny of penal institutions in North America, and of the trend to

include prisoners as members of "mass society" with many of the same rights as

other citizens (Jacobs, 1977; Shils, 1962). A second set of external observers were the

general public and elected politicians who, concerned by rising crime rates from the

1960s onwards, developed strategic alliances to demand custody and control rather

than welfare and treatment for offenders (Garland, 2001). This trend is generally

acknowledged to be stronger in the United States (Melossi and Lettiere, 1998) than in

Canada (Moore and Hannah-Moffatt, 2005) and, insofar as it has affected

correctional systems, has arguably led to a greater concern for security (understood

as the attempt to limit problem behaviors among inmates).

The confluence of these external demands on penal control is neatly reflected

in the Correctional Service of Canada's slogan – "Safety, Respect and Dignity for

All" (CSC, 2007b) – and has led to a self-conscious attempt to achieve a "balance"

(Meyer and O'Malley, 2005) between what many see as potentially conflicting

objectives. However, one result has been that the "principle of less eligibility," which

in the penal domain mandates worse material conditions for inmates than for the

poorest members of society, has been somewhat attenuated. [12]

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[12] When the demand for greater punitiveness has been particularly vocal, some of the "frills"
of institutional life (the weight room, TVs, and so on) may also disappear for a while
(Riveland, 1999). However, there is little doubt that the material conditions of life in North
American facilities are now above those experienced by the poorest segments of society:
*Prison staff must deliver services and programs to an increasingly diversified inmate population. Staff
must be sensitive to the lighting, caloric intake of inmates, food temperature, recreational needs, cell*

Latin America has experienced a similar punitive turn to that in the North, but there has not been the counter-trend towards more humanitarian confinement. Rapid increases in crime rates since the late 1980s have fuelled historically high levels of concern about crime and personal safety in Latin America (Caldeira, 2000; Rotker, 2000), which have been a strong stimulus to self help in crime prevention as communities gate themselves off, harden property targets and hire varying types of watchmen and security personnel. Attitudes towards offenders have also hardened (Briceño-León, Camardiel and Ávila, 2006) and self help in criminal justice has spilled over into execution, either as spontaneous lynchings (Godoy, 2006) or the more organized death squads (Perea, 2003; Huggins and Mesquita, 1995). In this social climate, the prospects for examining what goes on in penal facilities and for improving the inmate's lot are quite bleak.

Latin American penal institutions have always attracted their share of moral crusaders, whether they be wealthy philanthropists (Aguirre, 2005), religious groups (Miller, 1998), academics (e.g., Córdova, 1999) or, more recently, human rights groups (e.g., HRW, 1997; HRW, 1998). These have done much to publicize and criticize conditions inside. Inmates themselves have also drawn attention to the conditions of confinement through letters, the occasional book and, most frequently, protests and strikes. However, these initiatives have not been sufficient to produce a sustained shift in the position of penal institutions, or inmates, vis-à-vis the rest of society. One barrier has been the relative lack of inmates' organizations and of the articulation of their problems: the typical inmate has little education or social capital. This situation only changes when political figures are confined in these facilities,

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size and population density, racial and ethnic composition of offender living areas and cells, disciplinary requirements and personal security, health care, mail and correspondence needs, hygiene needs, and a host of other issues on a daily and hourly basis (Marquart, 2005).

because they have a peculiar motivation and the necessary discursive skills to publicize penal ills (Aguirre, 2005; del Olmo, 1998). Occasionally, a government takes it upon itself to proclaim a new condition for inmates, as did the populist Perón government in 1950s Argentina (Caimari, 2004), but such changes have rarely gone beyond rhetoric and have lasted only as long as the corresponding political regime.

Another barrier to the humanitarian movement has been the unwillingness of the courts to get involved with conditions within the facilities.[13] The legal and judicial response to the penal crisis in Latin America has been an attempt to lower the use of preventive detention through reforms to criminal procedure (Vogler, 2005; Tocora, 2005), rather than to deal with the problems of penal institutions themselves. In Latin America, these facilities continue to be much less open to scrutiny than their counterparts in North America.

Formalization

External scrutiny in the North is also part of a broader legal and administrative trend in accountability. Administrative and custodial personnel find themselves increasingly called to account by their administrative superiors in the executive, by legislatures, and by the courts and the media (Riveland, 1999). Accountability has accentuated the trend in correctional bureaucracy towards the development of codified rules and the use of written documentation as part of a culture of audit and control. A brief look at the websites of correctional administrations or of accessory bodies concerned with standards confirms this. For example, the Correctional Service of Canada has nearly 140 "Commissioner's Directives" and nine "Standard Operating Practices" (CSC, 2007c); and the United

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[13] However, there are isolated cases of judges ordering the closure of individual facilities, for example in Brazil (HRW, 1998:19) and Venezuela (Martínez, 1993-1994).

States Federal Bureau of Prisons (BOP) has more than 280 policy documents (BOP,

2007). The latter deal with such varied matters as the acceptance of donations,

incentive awards for employees, inmate grooming, and furniture testing. The flavor

of this style of administration is well captured in a recent statement by the Director

of the BOP to the Prison Commission:

> *Beyond externally-mandated oversight, the Bureau is a policy-driven*
>
> *agency with numerous built-in mechanisms of critical self-review and*
>
> *management control….The primary system of control in the Bureau of*
>
> *Prisons is the program review process…. Two examples from the Food*
>
> *Services institution guidelines are provided below:*
>
> *· "Review documentation over the past 6 months to determine if job*
>
> *efficiency lectures (monthly safety talks) are being conducted and*
>
> *topics include instruction on job specific equipment, hazardous*
>
> *materials, safety, and sanitation procedures.*
>
> *· Determine through direct observation if safety procedures are*
>
> *established and there is proper use of all protective safety equipment*
>
> *(where applicable) in the inmate work area (e.g., machine guarding, eye*
>
> *protection, safety shoes, fire extinguishers charged and functional, and*
>
> *eye wash stations operable)."*
>
> *In support of this review process, perpetual audits are conducted by*
>
> *specific institution departments to ensure actions required by policy*
>
> *are in fact being completed. For example, an audit may be conducted*
>
> *examining visiting logs for the Special Housing Unit, to ensure the*
>
> *institution's executive staff, department heads, and a psychologist have*
>
> *conducted rounds as required, and that shift lieutenants are making*
>
> *rounds every shift.* (Lappin, 2006:5-7)

The meaning of this comparatively new administrative style for corrections

personnel is direct and obvious:

It's a new day. When I first started with the department, there was

very little documentation. If you locked an inmate up, you verbally

reported that to the captain on duty. You did not write a report at that

particular time like we do now... In the old days, you had what you

referred to as a guidebook. Now we manage by standards and policies.

We are not allowed mistakes. It's important that officers stay on top of

the rules and regulations. It's important they stay on top of the

standard operating procedures and it's important they stay on top of

the administrative memos that come out from the department, the

division or the warden's office. (Beck, 2006:2)

This managerial style is absent in Latin American penal institutions, where

policy is largely legislated. Most countries have a basic penal law which is

complemented by a few sets of legislated regulations and by the occasional ministerial

decree. For example, Argentina has five sets of regulations that accompany its Organic

Law of the Federal Penitentiary Service (SPFA, 2007), while Colombia – which has

been more diligent in this regard – has at least 40 presidential or ministerial decrees

that develop or modify the basic *Ley 65 de 1993* (see INPEC, 2007). Neither these nor

other countries approach the level of codification or administrative control found in

North America.

Legislative guidelines, sometimes dubbed as "bright" and "shiny,"[14] coexist

with a preference for verbal orders and control within prisons (Jordan, 1996).

Administration is based heavily on inertia and institutional tradition while

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[14] "These [penal] codes have been referred to as 'bright' and 'shiny', which is a polite way of saying that they are seldom, if ever, used in so far as the practice in the prisons is concerned." (Teeters, 1946: 24)

documentation is relatively scarce. Two consequences flow from this. The first is that

relatively little information is routinely collected about penal institutions, further

underlining their opacity to the public gaze. In extreme situations, there may not

even be an accurate count of the number of inmates in the facility (e.g., Hidalgo and

Jordan, 1993-1994). The second is that the specification and control of operating

procedures may be tenuous, such that outcomes can be quite varied.[15] The

development and codification of rules usually promotes a universalistic ethos in

bureaucracies, and where this does not occur particularism may be quite strong.

Evidence of the latter is seen in the reproduction within the Latin American penal

facilities of the social inequalities found in wider society, a feature commented on by

numerous observers who compare the relatively comfortable quarters of the wealthy

inmates with the squalid dormitory areas inhabited by the poor (Bayer, 1978; Bretas,

1996; Olivero, 1998).[16]

  A phenomenon linked with particularism is corruption, which is frequently

cited in descriptions of Latin American penal facilities (e.g., del Olmo, 1998:127;

HRW, 1997; HRW, 1998). However, generic affirmations require much refinement

and testing if gross stereotyping is to be avoided. For example, Olivero (1998:103)

claimed that "Prisoners [in Mexico] are virtually free to bring into the prisons almost

anything, as long as the prison administrators are paid or guards are given their

share." Nevertheless, the only systematic information available on payment in

Mexican prisons shows a rather different picture. From a survey of 1,600 inmates,

Bergman (2004:13) found that the proportion reporting that their family members

had to pay for goods and services ranged from 14% (entering for conjugal visits) to

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[15] This tendency is exacerbated where prison staff are hired without preparatory training.
[16] *The organization of life within Mexican prisons is a mirror image of life in Mexican society. That is to say that there are clear class and economic distinctions. Those who can afford the quality amenities of life can purchase them.* (Olivero, 1998:103).

35% (bringing the prisoner out to see them). Penal institutions may be particularistic

but they are not, apparently, fully patrimonial regimes.

4. IMPRISONMENT AND INTERNMENT

According to Irwin (2004), who makes explicit use of the concept more than

other scholars, the warehouse prison is largely a response to the punitive trend in

North American society from the mid 1970s through to the 1990s, and is dominated

by the goals of security, efficiency and economy. The emphasis on security is seen in

the use of relatively small cell blocks and buildings (which makes the control of

inmates somewhat easier),[17] while "[t]he cells have extremely small windows to the

outside, and the cell fronts are solid so that nothing can be thrown out of, or

weapons used from, the cells" (Irwin, 2004: 59). Efficiency is seen in the use of

electronic devices, control rooms and the like, which are designed to control

prisoners' movements with "minimum personnel and maximum staff protection"

(Irwin, 2004: 59). Finally, economy is seen in the plain buildings (using prefabricated,

steel-reinforced concrete slabs) and the plain yards (asphalt, concrete or dirt). Secure

confinement, rather than treatment or rehabilitation is the primary objective. Irwin

acknowledges that educational, vocational, voluntary, and substance abuse

programmes exist, but is critical of their extent and impact. Summing up:

> …*the imprisonment routine…is not brutal, dangerous, or*
>
> *excessively cruel. It* is *tightly controlled, limited, monotonous, and*
>
> *lacking in opportunities for self-improvement.* (Irwin, 2004:80,
>
> emphasis in the original)

Insofar as he is writing about developments in the US, Irwin's description of

its penal institutions may serve best to portray the contemporary trend in the nature

---

[17] In this, as in other ways, the contemporary prison "warehouse" differs from the "Big House" design that was employed at the beginning of the Twentieth Century (Irwin, 1980).

of confinement rather than to provide a valid characterization of the prison estate and its accompanying regimes. Historical inertia implies a more varied horizon than that depicted in his book. In addition, many Canadian scholars would probably object to the insinuation (which would be mine, not Irwin's) that Canadian prisons fit well with the notion of the warehouse. There has been a far greater attempt to pursue, rather than abandon, treatment programs and rehabilitation in that country (Meyer and O'Malley, 2005). Thus, to speak of the warehouse prison in the North American context is not without problems.

Typical of the imbalance in production between North American and Latin American penology, the notion of the warehouse prison in the former has been subject to more attention than the idea of the concentration camp in the latter. Caldeira (2000:176) noted that photographs of victims of the Carandiru massacre (see note 12) were "a concentration camp-type vision." Wacquant (2003:200) also used the term in an essay on Brazilian prisons, in which he characterised them as "concentration camps for the dispossessed." However, his terminology seems to spring mainly from moral indignation rather than a particular analytical insight. More interestingly (because the narrative is less moralistic), when Kane was sent to a Venezuelan prison, his "first impression was that of a concentration camp" (Kane and Tilsley, 2006:69). But none of these authors develops or explores the term. Is it a metaphor or a descriptor?

Around the world, the term concentration camp has been applied to an array of institutions, which vary in terms of the type of person confined in them, the procedures for channelling people to them, and the objectives assigned to the institution (Applebaum, 2001). Some have housed persons of a single status (e.g, political opponents) or a single sex; others have housed a mixture of people (e.g., criminals, vagrants, and political opponents), or people of mixed sex and age. Some

have housed groups of people who were simply rounded up and sent into confinement; others have received them after judicial proceedings, usually very perfunctory. Some have been designed simply as holding facilities, others as sites for the exploitation of labor, and still others as instruments of "re-education".[18] Perhaps the only thing that sets them apart is that they are not primarily designed to house criminals or to provide a considered response to the crime problem. And if such is the case, it is rather difficult to label Latin American penal institutions as concentration camps, because they function as a part of the criminal justice system.

Nevertheless, the occasional reference to the concentration camp in the literature on Latin American penal institutions seems to hint at something important. Those institutions may not exactly be concentration camps, but perhaps they are not prisons either. Looking across the various institutional dimensions reviewed in this essay, we find a relatively clear set of differences between North America and Latin America. In the North, inmates are more regimented, more isolated, and subject to greater surveillance; they are also less involved in the running of the institution. North American penal institutions are more open to external scrutiny and their bureaucracies are more formalized. In Latin America, inmates are less regimented, less isolated and subject to less surveillance; they are also more involved in the running of the institution. Latin American penal institutions are less open to external scrutiny and their bureaucracies are less formalized.

One way to express these contrasts – quantitatively - is as a difference in the level of control: in North America, control is assiduous in the sense that it is unceasing, persistent and intrusive; in Latin America, control is perfunctory in the sense that it is sporadic, indifferent and cursory. But another way to express these

---

[18] Six concentration camps in Nazi Germany were explicitly designed as human slaughterhouses, but most were not, although many people still died in them (Applebaum, 2001).

contrasts – qualitatively – is in terms of the character of confinement: in North

America there is imprisonment; in Latin America there is internment.

Despite the lengthy historical existence of the word "prison," there is much of

value in Foucault's (1979) point that, since the late Eighteenth Century, the prison is

to be differentiated from detention because it also involves the "technical

transformation of individuals" (1979:233): "[t]he margin by which the prison exceeds

detention is filled…by techniques of a disciplinary type." In other words, the prison

is an institution in which individuals are not merely detained, but in which

something is done to them through "projects, improvements, experiments,

theoretical statements, personal evidence and investigations" (Foucault, 1979:235). It

does not matter that what is being done has changed over time, from rehabilitation

(Rothman, 1995), to punishment or incapacitation (Feeley and Simon, 1992); it does

not even matter that the technical transformations fail to materialize (as evidenced by

the periodic and persistent pronouncements on the "failure" of prisons). Even when

imprisonment is reduced to nothing more than control, it is still more than detention:

"Inmates do not control anything inside the walls. Everything is structured in

accordance with strict policy and procedure" (Bruton, 2004:41). In all of this,

imprisonment is conceived as an act of social engineering. It may be possible to

transform criminals through penitence, rehabilitation or treatment; but even when

not, it is still possible to act in a rational, planned and calculated manner to reduce

disorder, danger and risk. In the latter case, it is not simply a warehouse that is being

created but a *prison* warehouse.

Latin American penal institutions, of course, are usually referred to as

prisons, and have often been wrapped in a discourse of rehabilitation (Aguirre, 2005;

Salvatore and Aguirre, 1996a). But their characteristics and functioning usually belie

this image and – to return to the insight behind their labeling as concentration camps

- make them more akin to internment centers. For example, to read about the

wartime internment camps in the United States (e.g., Glidden, 1973; Hayashi, 2004),

is to find some striking parallels – makeshift and relatively harsh conditions, inmate

self-government, inmate unrest, the simple objective of confinement – with penal

institutions in Latin America, and heightens the contrast with North American

prisons. Perhaps the term "Judicial Internment Center," used at least in Venezuela

(as was seen above), hints at something similar. Penal institutions are not sustained

projects for "the technical transformation of individuals" (Foucault, 1979:233), they

are facilities for the detention of suspects and criminals. In the terms of

contemporary US penology, they are not warehouse prisons, merely warehouses.

Scholars who study the history of penal institutions in Latin America have

provided some valuable insights into the emergence and spread of ideas regarding

penitentiaries and prisons as social and political projects (del Olmo, 1981; Salvatore

and Aguirre, 1996a; Aguirre, 2005). In these studies, we find ample evidence of

experts, commentators and reformers who, in the best tradition of social engineering,

articulated visions of the prison as a site for the technical transformation of

offenders. Most drew heavily on international sources but also reflected local, more

idiosyncratic, perspectives. However, there is also equally ample evidence that these

visions were either never realized or only short lived (see particularly, Aguirre, 2005;

Salvatore and Aguirre, 1996b; Santiago-Valles, 1996). For whatever reason, the

margin by which these regimes went beyond detention, i.e., became a prison in

Foucault's terms, was either small or non-existent. The information presented in this

chapter suggests that this state of affairs still persists today.

CONCLUSION

It might be objected that the gap between vision and reality is a characteristic

of all penal institutions. Their life, particularly their "underlife," does not run

according to the prescriptions of reformers, legislators and administrators. Perhaps

there are few differences between penal regimes North and South; each region has

its penal imagination, each has its penal reality. In some senses, such an argument is

irrefutable – it posits an evident commonality – but it is not particularly profound.

Moreover, the information presented in this chapter suggests that the penal realities

in North America and Latin America *are* distinct and as such merit further

exploration and explanation.

There may be several places to look for the origin of these differences. One

would be the perceptions of crime and criminality in each region. What images are

typically constructed of the criminal offender? How do empirical beliefs about the

causes of crime entwine with moral judgments on the nature of offending? Answers

to these questions would require not only a study of social attitudes, but also

particular attention to the content and role of criminology. Perhaps there are

significant differences in the salience of causes when thinking about criminality (for

many projects aimed at the transformation of offenders grow from, or rely on, ideas

about the causes of crime). Alternatively, there might be significant differences in the

types of causes attended to in each region (because some causes are more amenable

to intervention than others). Or perhaps there are differences in the moral image of

offenders and in the consequent orientation of responses to crime.

A second place to look would be the conceptions of organized, particularly

governmental, intervention in social and individual affairs and the extent to which

social engineering – of the kind implied by imprisonment – has taken root in each

region. The internment centers in Latin America seem to indicate a much more

weakly developed sense of the possibility (perhaps desirability?) of rational,

planned, action aimed at the transformation of inmates. How far is this true, and if

so, how does it relate to conceptions of human and governmental agency and to perceptions of the alterability of individual and social conditions?

Finally, the difference between imprisonment and internment might be sought in organizational factors, particularly in the extent to which penal personnel are willing and able to translate abstract institutional blueprints into specific patterns of behavior. The universal breach between penal imagination and penal reality seems to be wider in Latin America, at least when comparing legislative and administrative provisions with what goes on in penal institutions (the popular penal imagination may have a different content). Perhaps this is the result of weaker processes of socialization into institutions, and a weaker sense of the institution as a collective organization oriented to the achievement of universalistic goals.

For each of the above possibilities, it is tempting to try and give brief illustrations and examples, contrasting the situation in North America and Latin America. However, these are not matters that can be dealt with summarily in any effective way. For example, the development and role of criminology in each region are the subjects of two chapters in this book, chapters which are obviously of particular relevance for the kind of reflection called for here. It is evident that an adequate understanding of penal institutions requires a much broader analysis of social perceptions, morality, intellectual activity, and institutional organization. These are rich themes for development in future research.

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