Part II

Historical Roots and Contemporary Trends

Forms of punishment change over time. Michel Foucault (1977) documents a major shift in the late eighteenth century, from public floggings, brandings, stocks, and other forms of corporal punishment to the beginnings of the modern prison bureaucracy, where punishments look more rational, almost clinical. Barbaric forms of bodily retribution gave way to the purportedly more "humane" modern prison system, with its whistle-clean solitary confinement units and video monitoring. But Foucault insists that the whole idea of progress is illusory. Although he does not throw gender relations into the mix, his explanation of the interconnections between punishments, culture, and politics has obvious ramifications for gender theory.

The history of imprisonment in the United States contains many major shifts, yet there are striking continuities throughout centuries. One example of a shift is the alternating cycle of harsh punishment and kinder rehabilitative efforts. For example, from the late thirties to the late seventies a large number of politicians and prison administrators favored the rehabilitative model of incarceration. By now, however, most have switched to harsh punishment, claiming that rehabilitation and all efforts to correct are useless because prisoners are incorrigible. Efforts to rehabilitate prisoners have been curtailed or at least downsized considerably. Today, the conservative law-and-order lobby urges us to deny prisoners educational opportunities and even to remove the exercise weights from the prison yards.

Along with the shifts there are continuities. Consider the theme of manhood that runs throughout the history of punishment in the United States. In colonial times, a man entering prison lost his manhood in the eyes of the citizenry (see Mark E. Kann's "Penitence for the Privileged" in this volume). After the Civil War, when a large number of former slaves were imprisoned only to be leased out to work for their former plantation owners, the prisoners' manhood was literally and symbolically at issue (see Davis's "Race, Gender, and Prison History" in this volume). White racists, obsessed by the idea of sex between a black man and white woman, carried out castrations and lynchings. Today, a prisoner's real or imagined manliness plays a very big part in shaping his prison experience.

Race is another critical factor. People of color are much more likely than whites to be stopped by police, searched, arrested, defended by a public defender with a huge caseload, convicted, and imprisoned. Over 50 percent of new admissions to U.S. prisons today are black, another 15 to 20 percent are Latino, and Native Americans are also vastly overrepresented in the prisons. The number of people of color imprisoned increases with each security level, until, in a supermaximum-security unit, where prisoners remain in their cells nearly twenty-four hours per day, people of color constitute an overwhelming majority. More than 90 percent of the "supermax" population in some state systems is black. And 40 percent of the occupants of death row nationwide are African Americans. When prisoners of one race are outnumbered by those of another, the disproportion can lead to extreme violence. Race is a critical dividing line in prison. Like that other line between the strong and the weak, racial lines are a constant consideration. After all, it would be deadly to make the mistake, for example, of being among men of a different race when a race fight breaks out.

Gender and race are inextricably linked in the daily lives of men in prison. As the harshness and brutality of prison life intensify, the lines that separate men inside become ever more rigid, and many of the worst aspects of ultramasculine behavior come to the fore.

Reference

Foucault, Michel. 1977. *Discipline and Punish: The Birth of the Prison*. Trans. Alan Sheridan. New York: Pantheon Books.

Mark E. Kann

Penitence for the Privileged: Manhood, Race, and Penitentiaries in Early America

The American founders coupled the concept of manhood to the language of liberty. Benjamin Franklin proclaimed that his grandfather's essay on liberty was written with "manly freedom," and Thomas Paine explained that *Common Sense* was meant to prepare the way for "manly principles of independence." John Adams praised his ancestors for their "manly assertion of . . . rights" against tyranny, while Thomas Jefferson applauded his American brethren for demonstrating "manly spirit" by declaring independence.[1] The founders' use of gendered language to urge men into battle was a typical offspring of the ancient marriage of manhood to militarism. However, their use of manhood to promote self-discipline in the exercise of liberty, to deter and punish criminal activity, and to rehabilitate some convicts and restore their liberty was innovative.

The founders led a revolution in the name of liberty only to encounter what they considered men's tendency toward licentious behavior. They believed that ordinary male vices, such as swearing, gambling, drinking, promiscuity, and greed, fostered conflict and criminality that subverted the new republic. Accordingly, they urged men to consult religious doctrine, examine enlightened self-interest, commit to republican virtue, and follow their moral sensibilities to promote self-restraint in the exercise of liberty, social harmony, and law-abiding behavior. They also invoked the dominant norms of manhood to prompt men to moderate their conduct.

In general, the founders defined "manhood" as a combination of individual independence and family responsibility. They saw this mix as a positive source of social order and stable citizenship. They also relied on it to deter white men from engaging in criminal conduct and to punish and rehabilitate white convicts. Prison reformers in the early republic threatened to deprive lawbreakers of their manly freedom and dignity by incarcerating them and isolating them from their families in newly conceived penitentiaries. Men who were actually convicted of crimes and imprisoned were encouraged to use their isolation as an opportunity to repent and reform in order to regain their manhood and liberty.

The founders' Enlightenment optimism about deterring crime and rehabilitating criminals had racial limits. Many white leaders considered black males as inherently unmanly because they lacked individual independence and control of their families. This putative absence of manhood precluded public officials from deterring and punishing black men's crimes by threatening to confiscate their manhood. It also eliminated any incentive for rehabilitation, because black convicts had no manly freedom to redeem. Black convicts were often considered incorrigibles. For them, the new penitentiaries were not innovative houses of penitence but old-style prisons for punishment.

Male Licentiousness

The American founders were obsessed with maintaining order in the ranks of men. From the first protests against British authority in the 1760s, through the Revolution, and into the turbulent politics of the 1790s, patriot leaders wondered whether most American men would ever consent to be governed and comply with legitimate political authority. Once the rhetoric of liberty and equality was unleashed, many men used it to justify rebellions against parents, masters, teachers, ministers, and magistrates. Bernard Bailyn writes, "Defiance to constituted authority leaped like a spark from one flammable area to another, growing in heat as it went." Men's defiant attitudes and licentious conduct were symbolized by the figure of the libertine. He represented all males who were enslaved by passion and who acted in ways that had a destructive impact on lovers, families, and neighbors, as well as on republican society.[2]

The founders were especially concerned about men's lustful tendencies, because they believed that men's failure to discipline sexual desire represented a more general failure to restrain passion, impulse, and avarice. For example, during the Great Awakening—a general revival of evangelical religion in the American colonies—congregational ministers attacked New Light evangelicalism not simply by interrogating its theology but also by associating its spiritual individualism with devastating images of "sexual anarchy," "sexual libertinism," "sexual promiscuity," and "a generally sexualized climate" that destroyed individual faith and reason, family integrity, and social stability. Men's sexual transgressions were seen as indicators of their potential for moral, social, economic, and political subversion.[3]

Consider the young men in post-revolutionary New York City who constituted "crowds of 'bloods' . . . who lounged on city sidewalks and, affecting the contemptuous stance of the aristocratic libertine, tossed provocative remarks at any single woman who passed." These young rakes were known for their aggressive sexuality and their tendency to make contempt for women an "emblem of high style." Some of them went beyond provocative words to violent deeds only to be charged with "attempted rape" or "rape." "Attempted rape" referred to coercive sexual acts up to and including forcible penetration; "rape," the more serious charge, involved penetration and ejaculation. Legislators had two concerns: First, they wanted to reduce the number of single mothers and bastard children who made claims on the public treasury. Second, they believed that the crime of rape was rooted in "the sudden abuse of a natural passion" and "perpetrated in a frenzy of desire." Rape indicated that liberty without self-restraint resulted

in abusive, frenzied actions that were inconsistent with liberal reason and republican order.[4]

The founders consistently condemned rape as "a horrid crime" that excited "universal abhorrence." Certainly, some American men, however, blamed the victim. In one notorious case, a defense attorney claimed that the accused rapist had actually been seduced by a carnal thirteen-year-old. But most civic leaders blamed rapists for impassioned violence against innocent females. Josiah Quincy and others expressed outrage at the "brutal ravisher." William Bradford declared rape an unmanly crime that demanded manly vengeance: "Female innocence has strong claims upon our protection, and a desire to avenge its wrongs is natural to a generous and manly mind." Like most founders who prided themselves on gentility and civility, Bradford saw nothing manly in sexual promiscuity or sexual violence.[5]

American leaders also associated same-sex relationships with subversion. Same-sex relationships represented a "potential in the lustful nature of all men" and "a potential for disorder in the cosmos." During the eighteenth century, public perception transformed sodomy from a mortal sin against God into a passion "against the order of nature" and therefore an abuse of natural laws that regulated "the peace, government, and dignity of the state." Why did private sexual acts among consenting adults have public meaning? John Winthrop's explanation was the enduring one. He argued that same-sex relations "tended to the frustrating of the ordinance of marriage and the hindering [of] the generation of mankind." Like the libertine, the sodomist separated sexual pleasure from marital restraint, unleashed passion and licentiousness, and thereby undermined men's commitment and conformity to stable family life.[6]

Following the Revolution, men's licentiousness appeared to be expanding. Many founders saw libertinism, along with itinerancy, pauperism, frontier bloodshed, slave unrest, military disorder, and criminality, as the crest of a wave of male degeneracy swelled by men's dealings in blasphemy, alcoholism, gambling, prostitution, adultery, fighting, dueling, thievery, and murder. So many men seemed to be "intemperate zealots"; so many took part in "the most shameful depredations"; so many joined mobs that committed "indecent outrages"; so many followed "factious demagogues."[7] In part, the founders responded by invoking the dominant norms of manhood to urge males to discipline desire and channel passion into family responsibilities and sober citizenship.

The Dominant Norms of Manhood

Eighteenth-century Americans debated the meaning of manhood. Images of traditional patriarchy vied with aristocratic ideals of the gentleman, republican images of benign fathers, and nascent notions of self-made manhood.[8] However, two facets of manhood were common to all contenders.

First, manhood required individual independence. A mature male was an autonomous thinker and actor. He disciplined passion and impulse, consulted reason, and relied on virtue to guide his actions. A mature male was also self-supporting, determined the nature and pace of his labor, and kept free of other men's patronage and government relief. He could afford to resist adverse pressures and exercise his own will to defend

his liberty, property, and community. He was an independent agent of his personal and public destiny. His independence stood in opposition to slavery in particular and subordination in general. Judith Shklar writes that a white male's sense of dignity, reputation, and public standing was a function of distinguishing himself "from slaves and occasionally from women." He measured his worth by his distance from dependency. The main marker of that distance was suffrage, which functioned as "a certificate of full membership in society." A man without the vote saw himself and was seen by others as slavish, effeminate, or childish.[9]

Second, mature manhood entailed family governance. The founders saw "a bachelor of age" as a slave to desire and greed. They presumed that a family patriarch assumed sober responsibility for provisioning and protecting his loved ones, continuing his family line, and caring for his posterity. His deep and abiding commitment to his family provided him an enduring stake in social stability and the public good. Although popular culture warned that a married man might be degraded by a domineering wife, Benjamin Franklin explained that "Every man that is really a man is master of his own family." He governed firmly but lovingly. Ideally, he ruled his household by joining traditional patriarchal authority to republican benevolence.[10]

Many founders saw patriarchal family status as a basis for citizenship. Thomas Jefferson wrote, "I cannot doubt any attachment to his country in any man who has his family and peculium in it. . . . I [am] for extending the right of suffrage (or in other words the rights of a citizen) to all who [have] a permanent intention of living in the country. Take what circumstances you please as evidence of this, either the having resided a certain time, or having a family, or having property, any or all of them." At the Constitutional Convention, George Mason proposed enfranchising family patriarchs, arguing that "the parent of a number of children whose fortunes are to be pursued in his own country" merited "the common rights of their fellow citizens."[11] In early America, independent manhood, family patriarchy, and social stability were nearly synonymous.

Ideally, males who exercised the self-discipline associated with independence, assumed the responsibilities of family life, and exhibited the long-term caring conducive to citizenship would voluntarily limit licentiousness and obey legitimate laws. After all, if a husband could restrict sexual passion to the marriage bed, then he could also make the small sacrifices necessary for republican order. Of course, some husbands were adulterers who indulged lust despite their marriage vows. Jacob Rush asserted that their adultery constituted a "cruel breech of trust" that fostered a "universal depravity of morals" that "must utterly destroy society."[12] The founders hoped that most men would exhibit manly self-restraint and marital fidelity, but they knew that many men failed to discipline desire only to run afoul of the law. They continued to rely on state coercion to deter criminal activity and punish criminals, but they infused traditional state coercion with an Enlightenment ethic of benevolent reform.

Traditional State Coercion

The American founders believed that criminal behavior on a prosperous continent could not be justified. Crime in class-divided Europe was understandable. There, William