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**A HISTORY OF THE  
BREAKWATER PRISON  
FROM 1859 TO 1905**

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**Submitted to the Faculty of Arts, University of Cape Town, in partial fulfillment of the requirements of an Honours Degree in African Studies (Social Anthropology).**

**1989**

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## PREFACE

This thesis is submitted in partial fulfillment of a B.A. (Hons.) degree in African Studies, for which my home department was Social Anthropology.

The project arose out of my interest in the interdisciplinary work of Michel Foucault and its application to the history of Africa. This has been broadened into an interest in post-structuralist theory, and has been particularly focussed on the "institution". A prime example of Foucault's "complete" or "austere" institution is the prison.

The Breakwater convict station, a colonial prison in Cape Town during the nineteenth century, suited both my theoretical and empirical interests. I chose this particular institution because it was the prison from which the linguist W.H.I. Bleek drew his San informants in the 1870s, and because the prison and its records were based in Cape Town. I wanted to incorporate ideas from secondary sources on Bleek and his work (e.g. Thornton 1983, Deacon 1988a). But the work took its own directions, and I have focussed here on the organization of the prison and on the prisoners in general rather than on the San.

### Notes on Spelling and Terminology

This thesis uses the spelling conventions recommended by the Basil Blackwell Guide for Authors (1985). The suffix '-ize' is used in favour of '-ise'. Words like 'analyse', however, retain the 's' as this is not part of a suffix. The word 'prison', when used in a general sense, is not treated as a proper noun, and thus retains the lower case. In this sense, it is used to refer to all the Colony's penal institutions: both "convict stations" (for long term convicts) and "prisons" (for those awaiting trial and short term prisoners). When the Breakwater Prison is referred to, however, the word 'prison' is treated as a proper noun.

In spite of my agreement with Miles (1989) that the term 'race' has no analytical status, I have used the terms 'black' and 'white', for example, to describe groups of people in nineteenth century South Africa without placing them in single quotation marks as Miles does. This is to reduce the unwieldiness of Miles' terminology. In general, I have used single quotation marks to signal concepts (e.g. 'race') whose use

I am attributing to someone else, or the value of which is in doubt. Other peoples' words are given in double quotation marks.

### **Acknowledgements**

Although I am responsible for the content of this document in its final form, I am indebted to several people for their criticism and advice on aspects of it. My supervisors, Associate Professor Robert Thornton and Professor Dirk van Zyl Smit, have helped me a great deal in designing the project and organizing the evidence respectively. I am very grateful to them.

The postgraduate and staff seminars in the Social Anthropology Department at which I presented papers were useful in assessing the value of the theoretical approach of the thesis as a whole. I should like to thank Nigel Penn in particular for his clear and detailed comments on the final drafts of the thesis, and on my initial ideas for Chapter Two. Finally I should like to thank my mother for her support and valuable advice on this project during the last year.

Harriet Deacon

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### **List of Abbreviations**

CAS	Centre for African Studies
IDB	Illegal Diamond Buyers
LMS	London Missionary Society

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## CHAPTER ONE

### INTRODUCTION

*Nothing is fundamental. That is what is interesting in the analysis of society.*

Foucault (in Rabinow 1986:247).

#### **Introduction**

On the same day that he visited Mr McCollum's American Circus at Cape Town in 1859 young Prince Albert tipped the first truck load of stones into Table Bay (Hodgson 1975:291). Pulling a silver trigger (Green 1947:94), he symbolically began the work on a new breakwater, work that was to occupy thousands of convicts from the Breakwater Prison for nearly half a century.

The Breakwater Prison, built in 1859 to house long-term convict labour for the Table Bay Harbour Board's breakwater program, was the Colony's largest convict station for most of the nineteenth century. It was also the major station for the detention of white convicts, who were housed in a separate building, the Industrial Breakwater, by 1901. The Breakwater Ceremony of 1859 was attended by the Xhosa chief Sandile, the Governor, Sir George Grey, and by many of the residents of Cape Town (Hodgson 1975:291).

But in 1905, when the black prisoners from the Breakwater were transferred to the De Beers Convict Station in Kimberley, its demise was a quiet one. Only the Industrial Breakwater remained: it housed white convicts until 1923. From 1926 until this year the building served as a labour hostel for black workers, and now there are plans to refurbish it as a hotel (*The Southern Suburbs Tatler* 14 September 1989:5) (1).

This thesis sketches the history of the Breakwater Prison from 1859 to about 1905. Firstly, the thesis examines the specificity of colonial punishment with respect to European models, and contextualizes this within the broader socio-economic framework of colonial expansion and industrialization. Crucially, the thesis focuses on the specificity of the Breakwater Prison itself:

on its people, its organization and its effects on the codification of prison practice in the Colony.

Secondly, the thesis makes several related theoretical points. Within a post-structuralist paradigm, I investigate the extent to which the work of Goffman (1961), Foucault (1977) and Ignatieff (1978, 1983) is applicable to the colonial situation. I argue that the Breakwater Prison can be analysed as a nexus of discourses, and I isolate two of them in Chapter Three. Lastly, I draw on theories of discourse and subjectivity in order to relate the macro-level of society to the micro-level of the individual prisoner and prison official.

The 1880s and 1890s form a crucial turning point for the Colony and for the prison, and are the nub around which the argument of the thesis turns. At this time, the Colony's economy was fundamentally altered by the discovery of mineral wealth and at the same time, local settlers began to control the government. Also, South African penal policy was then evolving into broadly its present form (Van Zyl Smit 1984:157). The Breakwater was at the forefront of many of these changes in prison policy and practice. The thesis will focus on the specificity of the Breakwater's contribution, and on the generality of the Breakwater experience within the specific strictures of the Colony's penal policy and practice.

### **Generalities and Specificities**

Chapter Two will contextualize the practice of imprisonment within the history of colonial conquest in South Africa. The criminalization of independent economic activity by the indigenous population was an important stage in their proletarianization and the control of an emerging working class. The colonial prisons thus created workers as well as Public Works.

The Breakwater Prison's policy and practice cannot be seen in isolation from broader aspects of social control. For example, convict labour (mainly that of black prisoners) was responsible for all the major road building in the Colony between 1843 and 1900, and for the construction of breakwaters at East London, Table Bay and Kowie. The Breakwater was one of the few

permanent convict stations in this scheme, which was initiated by Governor John Montagu in 1843. The expansion of colonial surveillance, through improved communications networks and troop accessibility to the interior, aided the colonization of the countryside and its inhabitants.

Chapter Three turns to the organization of the prison itself, and attempts to explain why strict disciplining of prisoners did not happen in the early years and by 1901 had taken a form peculiar to the colonial prisons. The chapter draws specifically on Colonial Office records of the Breakwater Prison.

The Breakwater Prison was the biggest of the convict stations and had a reputation, in the 1880s and 1890s, for being the best in terms of efficiency and discipline. It usually had the lowest *per diem* cost for the maintenance of prisoners (e.g. in the 1870s and in 1891-4, G53-96, p.12), and provided some of the best food, according to some of its inmates (G2-88, Minutes of Evidence, p.425, para.8091).

The Breakwater the one convict station which successfully classified and separated prisoners before 1900; after the Industrial section was built, the first structural separation of black and white prisoners was effected. Chapter Four analyses the form and meaning of the nascent racial segregation within the old Breakwater and the ultimate split between white and black prisoners in the construction of the Industrial Breakwater in 1901. This new building echoed the later distinction in the Union Prisons Department between unskilled labour for blacks outside the prison, and industrial training within prison walls for whites. Today, although some blacks are trained in skilled work, this is given relatively little emphasis compared to skills training for whites (Van Zyl Smit 1984:158).

The Breakwater was thus the testing ground for many later practices within the South African penal system. It also seems to have been influential in standardizing penal practice in the 1880s and 1890s. The Breakwater served as a model for other prisons, and for the codification of practice in, for example, Ordinance 23 of 1888, and was held up as an example to other convict stations. It was not, however, qualitatively different from the smaller stations, and certain generalizations can be drawn from the Breakwater experience.

Chapter Five addresses the question of resistance by convicts within the prison. It focuses on the historical and cultural specificity of forms of resistance at the Breakwater. Yet the issue of resistance is placed within a framework that recognizes the importance of willing compliance in the establishment of power relations.

Chapter Six explores possibilities for the integration of history and biography, using 'investment' theory from Hollway (1984). To sketch a background to this discussion, and to the discourse analyses of Chapters Three and Four, I shall now summarize the major theoretical ideas employed in the thesis.

### **The Theory**

The theoretical frameworks chosen for this analysis are diverse, as it is intended to be an interdisciplinary project, and sensitive to current debates in what has been called 'post-structuralist' theory. In this section I shall examine three main problem areas and the ways in which post-structuralist theory can tackle them. Firstly, the creation of a text such as this is a political enterprise, creating a reality that depends on causal models and the divide between truth and falsehood. Secondly, the prison itself needs to be theorized as a social structure, an institution. Thirdly, and related to this definition, the functions of the prison need to be established.

### *The Text and its Causality*

Recent work in anthropology has problematized the construction of an academic text (e.g. Fabian 1983). It thus addresses the creation of objects of analysis (e.g. the prisoner) within the ethnographic text, rather than simply the study of these objects as they exist in the real world. One can also analyse the creation of such objects of analysis in other texts (e.g. in popular accounts of prison life such as Green 1947). More broadly, objects are constituted through the discourses of a particular historical period (e.g. the useful, functioning whole of the Breakwater Prison is created through the depiction of the Breakwater as an institution in colonial office records).

This project will be completed in the form of a text. As such, it will be creating coherent objects and establishing connections between them that may not really have existed. Yet it will also be a commentary on other texts,

such as the stories and legends surrounding the Breakwater. By exposing the 'seams' of its construction, this text will be able to comment both on its own artifice and the political construction of its textual data.

The question of causality is a central one for social theory. Choosing categories of things and events that "can cause" other things and events is a fundamental political activity within academic work. It is often done implicitly, quietly. Within these broad frames of reference, certain causalities are privileged by certain disciplines. That these choices are made, becomes especially evident in the course of interdisciplinary work. Every discipline has its own truths: its own acceptable causal chains.

As Clifford Geertz has said,

To set forth symmetrical crystals of significance, purified of the material complexity in which they are located, and then attribute their existence to autogenous [self-causing] principles of order, universal properties of the human mind, or vast a priori weltanschauungen is to pretend to a science that does not exist and imagine a reality that cannot be found (1973:20).

Although de-centering the rational subject (Lacan in Henriques et al. 1984:212) and rejecting the notion of a bounded culture (Thornton 1988) can address some of these problems, attributing causality remains one of the major difficulties in social science, not least because it defines itself precisely as 'social science'. Some of the difficulties of establishing non-essentialist models of causality within an interdisciplinary framework are addressed by what has been called post-structuralist theory.

### *The Utility of Post-Structuralism*

Post-structuralism as social theory tries to avoid essentialism and reductionism in the following ways:

1. by rejecting, in structuralist theory, the division between theory and reality, and the arbitrariness of meaning,
2. by rejecting, in phenomenology, the notion that the origin of all meaning is an autonomous, transcendental subject (this is essentialist), and

3. by rejecting, in hermeneutics, the possibility of reading off the implicit meaning of social practices - the existence of an underlying hidden truth (Dreyfus and Rabinow 1982:xix-xx).

Characteristic of post-structuralism is its rejection of any one over-arching theory as the fundamental explanation of human action and interaction. There has been an attempt to fuse "idealist" and "materialist" models of causality without privileging one over the other. Other dualisms in social theory have also been attacked, notably the strict division between 'society' and the 'individual' as sources of causality. Although one can speak of 'bodies' as discrete physical entities, the 'individual' and its aggregate, 'society' are social constructs. In recent work in radical psychology, Henriques et al. (1984) have attempted to avoid the essentialism of humanist psychology by re-theorizing the subject and the social domain. They draw on the work of Althusser, Foucault and Lacan.

They argue that the macro (or social) domain can be represented in terms of multiple, contradictory discourses, the micro domain of the body (or individual) can be represented in terms of multiple and conflicting subjectivities. This avoids "individual-social dualism": neither the individual nor society is coherent or simple, and neither is privileged as the source of causality. Let us now examine these two interlinked domains with special reference to the applicability of this theory to the Breakwater.

#### *The Breakwater as a nexus of discourses*

Discourses are regulated, systematic sets of statements that form a "social framework of meanings" into which people are positioned as social actors. They may be internally contradictory, but show a regularity that makes them recognizable, and orders their content. Crucially, however, discourse is not just an arrangement of ideas, as opposed to reality. It is always formed within practices, and has (not quite predictable) material effects (Henriques et al. 1984:113). For example, "disciplinary" discourses about modes of imprisonment influenced an architecture of prisons, symbolized by the Panopticon, which still affects the prison experiences of convicts today.

The Breakwater could be described as a "discursive complex" (Henriques et al. 1984:106), a nexus of differing and conflicting discourses and related

practices. Discourses are always caught up in relationships with other discourses, and systematically articulated with them, and other material practices. They are mutually constituted and constitutive, multiple and potentially contradictory (Hollway 1984:227). A discourse analysis thus takes account of resistance, internal contradictions (e.g. in the Colonial apparatus), and the historical and cultural specificity of punishment.

The notion of "discourses" does not describe everything that is said or done: it is not coterminous with society (Henriques et al. 1984:105) and does not produce reality. It is not clear from Foucault (1977) or Henriques et al. (1984), however, exactly what is non-discursive. But it is clear that discourses do not simply create the specificity of the Breakwater situation, creating its power relations, and its knowledges about punishment. Hollway (1984:227) emphasizes the constant re-production of power relations within discourse. The officials and prisoners are not moulded, unproblematically, by the discourses around them. An account of subjectivity and why it is taken up is thus essential to avoid "discourse determinism" (Hollway 1984:251). The notion of subjectivity will now be examined by way of the theory of the "total institution".

### *The Total Institution*

Goffman (1961:xiii) defines the total institution as follows:

a place of residence and work where a large number of like-situated individuals, cut off from the wider society for an appreciable period of time, together lead an enclosed, formally administered round of life.

Clearly, the prime example of a total institution is the penitentiary, or prison. In general, the total institution has four main characteristics (Goffman 1961:6):

1. All aspects of life are conducted in the same place under the same central authority.
2. Each phase of an inmate's daily activity is carried out with many others, who are required to do the same thing together, and are all treated alike.
3. All phases of daily activity are tightly scheduled. The sequence of activity is imposed from above by a system of explicit formal rulings and a body of officials.

4. The various enforced activities are brought together into a single rational plan, purportedly designed to fulfill the official aims of the institution.

Foucault has called the total institution a "complete" or "austere" institution (Van Onselen 1985:63). For Foucault (1977) the ideal design of the total institution was Bentham's Panopticon: a flexible architectural design which separated inmates (e.g. factory workers, prisoners, even harem girls) from each other completely, and by a clever play of light, allowed guards to see each prisoner from a central watchtower without being seen (Rabinow 1986:18-20).

Foucault argues that institutions (e.g. church, hospital, prison, factory and school) in nineteenth century France were part of a broader "disciplinary strategy" or new form of power called "bio-power" (Rabinow 1986:17). The idea of "bio-power" is associated with the idea of surveillance: the 'gaze' of the institutions, and of the State, began to reach into people's homes (through social workers or voluntary poor relief), into their bodies (through the medical examination) and into their minds (school, factory and prison routines or timetables ordered people's conceptualizations of time and space) (Rabinow 1986:15). This new form of "discipline" extended state control into the minds of its citizens, and structured the way in which they could think and act.

Foucault's notion of "discipline" proceeds from the organization of individuals in space, and requires a specific enclosure of space (Rabinow 1986:17). The significance of the total institution lies in the effects it has on the inmates and the officials who run it. "Disciplined" subjects are created partly through the operations of total institutions on them (Rabinow 1986:17). A major criticism of Foucault's work is that it can be seen as reductionist: the function of the prison is reduced to "discipline". The source of this problem lies in privileging disciplinary power over the 'subjects' it creates. In other words, Foucault does not theorize the creation of subjectivity sufficiently.

Lacan's theory of the de-centered, irrational subject gives an account of how subjectivity is produced and re-produced within discourses (Henriques et al. 1984:212). The entry of the individual into the social world is neither

automatic nor finite. People are not independent actors, and their positioning within discourses (and thus the social creation and recognition of their power to act) is related to unconscious, non-rational desires. These desires are not, as in Freud's work, innate, natural instincts but are constructed through historical operations on the subject's unconscious (Henriques et al. 1984:214). Hollway's (1984:238) notion of "investment", or an emotional commitment in certain discursive positionings, thus depends on the individual's history of subjectivity. Her work helps us to analyse the motivational dynamics (desires) behind people's adoption of social 'roles' within discourses.

The idea of a 'discursive complex' at the Breakwater will be used in Chapter Three. The prison will be examined as a "total institution". But the complementary notions of subjectivity and investment will only be explored, and then rather briefly, in Chapter Six. My intention is to point to gaps in the historical record rather than to fill them in this regard, for the application of 'investment theory' to historical study demands a fundamental revision of methodology and models of causality in revisionist accounts. This revision will not be attempted in this thesis, but its direction will be underscored by a slightly different historical analysis.

The idea of the "total institution" is predicated to a large extent on theories of its functionality. With particular reference to the prison, the debate about institutional functionality has raged for nearly two centuries. I now therefore turn to the debate about the prison's function: what it does and what people say it should do.

### *The Functions of the Prison*

Imprisonment emerged as the major punitive sanction in Europe as late as the end of the eighteenth century. It was designed to remove offenders from society, to punish them by depriving them of their liberty. This sanction, in the Enlightenment idiom, affected all people, rich or poor, equally. Prisons were meant to deter others from criminal acts, and to reform the criminal through fair punishment. The curiousness of the prison lies not so much in its failure to achieve any of these aims, but in the persistence of the institution in spite of this failure.

In 1861, the Superintendent of Convicts, Charles Piers, said that the new Breakwater Prison would make "imprisonment with hard labour ... efficacious" in so far as it was able:

1. To make the results of the labours of the convicts most useful to the public.
2. To make their punishment most influential to deter others.
3. To make their punishment most reformatory to themselves (G20-61, p.12).

Piers was confident that the first aim would "certainly be met by the employment of such a large body of convicts upon such a public work"; but, he said, "with regard to the [other aims] no one acquainted with the management of convicts in the Colony would venture to be too sanguine at present" (G20-61, p.12).

For the colonial prisons, therefore, there was another (more certain) aim: the provision of free labour on Public Works, and later (after 1884) the possibility that the Government could actually generate revenue by hiring-out convict labour to private enterprises too. I shall argue, however, that this purpose was in some senses subordinated to the project of generating workers for the Colony in the long run.

#### *A Critique of Social Control Models*

The idea, advanced in this paper, that the Breakwater was part of the Colony's program to create a disciplined working class, relies in part on the Marxist version of a model of 'social control' that was popular in structural-functionalism and American progressivist sociology of the 1950s (e.g. Talcott Parsons 1952). The social control model is structure-functionalist in that its social institutions (e.g. the prison, family, and school) make up a functioning whole, all working successfully towards the maintenance of the status quo. The Marxist version of it (advanced by Foucault 1977, Ignatieff 1978) argues that institutions (and prisons in particular) are essential for the reproduction of a capitalist workforce.

In a partial self-critique, Ignatieff (1983:96) argues that:

When applied to prison history, this model implies that institutions 'work', whereas the prison is perhaps the classic example of an institution which works badly and which none the less survives in the face of recurrent scepticism as to its deterrent or reformatory capacity. Instead of looking for some hidden function which prisons actually succeed in discharging, we ought to work free of such functionalist assumptions altogether and begin to think of society in much more dynamic and historical terms.

Certainly, the prison does not have to be successful in order to be perpetuated: its conspicuous failures are central to this discussion. Crucially, its success (in producing workers) was not easy or unambiguous. Also, state coercion is neither a necessary nor a sufficient condition for the maintenance of the status quo. The social control model over-emphasizes the role of state force at the expense of the consensual aspects of people's entry into the labour market.

The second criticism must, however, be qualified when the social control model is applied to the Cape Colony in the nineteenth century. Ignatieff himself says (1983:97) that the state penal sanction is central in the forcible establishment of wage relations in "pauperized labour markets" before the "wage bargain" has been broadly accepted. In the Colony there was a dire shortage of labour, first for the capitalization of settler agriculture and then also for the exploitation of mineral wealth. The indigenous populations had to be encouraged to leave their independent economic activities and to join the wage labour market. Then this working class had to be controlled. The state thus made more explicit use of its penal sanction in the Cape Colony than in England in the nineteenth century.

### **Departure Points**

I have sketched the broad theoretical background to the thesis and the outline of its argument. Now I shall contextualize the project within secondary work on related topics and raise a few questions which are to be addressed in this thesis.

Within the framework of consensus penology, the historian Van Wyk (1963) has produced a detailed and extremely useful account of colonial penal

policy during the nineteenth century. Venter (1959) provides an adequate, although less detailed account of this period.

Recent work on the origins of the prison and the asylum has provided a large body of comparative material on European and American institutions. It has also stimulated interest in the economic, social and intellectual roots of institutions and their relationship to the wider society (Chisholm 1986:481). In using the (neo-Marxist) theory of Foucault (1977) and Ignatieff (1978, 1983), I challenge Van Wyk (1963) and Venter (1959) on their interpretation of prison function and shifts in penal policy. I examine the links between the rise of capitalism and the use of the prisons in creating a working class, rather than just incarcerating criminals.

An important ancillary theme in this body of scholarship is the response of inmates to new and more intrusive controls over them (Chisholm 1986:481). I investigate the meaning of a shift towards greater discipline and isolation of prisoners in the Colony towards the end of the nineteenth century from this perspective rather than interpreting it as humanitarian reform.

In this rather more radical tradition established by European scholarship since the 1960s, Van Zyl Smit (1984), Van Onselen (1982, 1985), Pete (1985) and Chisholm (1987) have critically analysed the meaning and operation of the penal system in the Colony and early Union. Chisholm (1986:481) argues that the prison and the labour compound in this country show significant divergences from the pattern of institutional development in Europe and America. In particular, Van Zyl Smit (1984) has pointed to the specificity of colonial punishment, and has advanced possible reasons for it. This is a question of great importance in this project: Why were the prisons in this country differently organized from their models in Europe?

In order to answer this question, I have used the empirical work done on European punishment in the nineteenth century by Ignatieff (1978) and Foucault (1977) as comparative data. Comparisons can also be drawn between the form of the prison system in the Colony and a lunatic asylum established in Zomba, Malawi (Vaughan 1983). The translation of European models of punishment to the Colony is well documented in the work of Pete (1985) on the Natal penal system. An article by Van Onselen (1982)

provides an account of Transvaal prisons and gangs after Union and Chisholm (1986) has provided a local example with her work on the Porter Reformatory in Tokai.

In examining the Breakwater Prison as a "total institution" I shall thus assess the suitability of such theoretical concepts in a colonial setting that is different from that in Europe. Crucially, I shall ask in what ways the Breakwater operated as a total institution, and whether there were historical and racial differences in the application of disciplinary procedures in the prison. In this respect I shall be filling in another piece of the jigsaw that Chisholm (1986) has begun with her account of the operation of Porter Reformatory. In the penultimate chapter of the thesis, I shall investigate resistance to and acceptance of prison discipline, as Van Onselen (1985) has done with respect to Jan Note in the Transvaal.

Also, I hope to address certain issues that are highlighted by current research into penal history in Britain and America. Although imprisonment seems an obvious solution to crime today, it is certainly not the only one. European penologists have traced the motivations and meanings behind the adoption of imprisonment as the pre-eminent punishment for most serious offences by the early nineteenth century (Ignatieff 1978:79). This has formed a background to the search for alternatives to imprisonment such as community service. In the same vein, when designing a non-racial community-oriented penal system for South Africa one has to first understand the reasons behind the emergence of a prison system, and later a racially segregated prison system, in the history of the Cape Colony.

## NOTES

1. On the day that I visited this prison, the hostel superintendent and his staff were packing up to leave for the new hostel in Langa, ushering in a new era for the once dreaded Breakwater.

## CHAPTER TWO

### THE CREATION OF CRIMINALITY

*What are called criminals nowadays are not criminals at all.*

Oscar Wilde 1895 (in Ellmann 1987:438).

*The Xhosa chief Tyhali asked [in 1851] how it happened that the prisoners confined in our trunk [sic], and at hard labour in our streets, were all Hottentots and black people.*

J. Hare-G. Napier (in Peires 1981:105).

#### Introduction

Rusche and Kirchheimer (1936:5) have emphasized that punishment is not an abstract general act, and that the selection of its subjects and the form of its action are closely related to the economic imperatives of the 'punishers'. This chapter is concerned with the **generation** of deviance within the Colony, and its socio-economic context, while Chapters Three and Four will address the **specificity** of colonial punishment, although from less of a classically Marxist perspective than Rusche and Kirchheimer (1936).

Prisons all over the world incarcerate murderers, rapists, thieves and other deviants in society. The efficacy of this method in punishing or reforming its subjects, and in deterring others has long been questioned, but will not be addressed here. This chapter will examine the success of the prison in other respects. It is particularly evident in colonial prisons that the definition of deviance is constructed to the advantage of the ruling classes, the colonists.

In particular, I shall argue that the Breakwater Prison was part of a wider project: the proletarianization of the indigenous populations, and the control of this working class. The "pauperized labour markets" of the Colony made the state penal sanction central in this process (see Chapter One). The prison employed men in building the Breakwater at Table Bay, but the meaning and extent of this activity stretched beyond the docks, to the creation of suitable colonial workers. In this chapter, various historical accounts will illustrate the interrelationships between the law, imprisonment, and the subordination of indigenous populations: the Khoikhoi, the

San and the African (those on the Eastern Frontier in particular) up till and during the nineteenth century.

### **The Subordination of the Khoikhoi**

Trade between passing ships and the Khoikhoi groups in the Table Bay area (the 'Peninsulars') was undertaken on an *ad hoc* basis between 1590 and 1652. Khoikhoi exchanged fresh meat (cattle or sheep) willingly for copper, iron and tobacco (Elphick and Malherbe 1989:18-21). The Dutch settlement in 1652 was partly an attempt to regularize this trade, and to keep prices down. By 1671, some Khoikhoi (servants and those in disputes with slaves or D.E.I.C. employees) were placed under the jurisdiction of the Company (Elphick and Malherbe 1989:17), although its Directors, the Heren XVII, anxious to preserve good relations, had ruled in 1652 that the Khoikhoi were a free people and could not be conquered or enslaved (Elphick and Malherbe 1989:11).

By the 1720s the Company had initiated and perpetuated a downswing in the political organization and economy of the Khoikhoi from which they were never to recover (Elphick and Malherbe 1989:18-21). Khoikhoi who lost stock through disease or raiding in the past had been able to recover by raiding in turn, or by working for richer Khoikhoi. Now the Khoikhoi, ravaged by disease (e.g. smallpox in 1713), and by loss of stock through forced extensive trade with the Company and by wars against it, were unable to raid each other (the Company intervened in this warfare) or the militarily more powerful D.E.I.C. They were forced to work for white farmers, from whom they seldom received cash wages, or enough breeding stock to regain their independence.

After 1720, activity on what has been called the trekboer frontier was decisive in maintaining and extending the subordination of those Khoikhoi groups beyond the direct reach of the Company in Cape Town. Colonial expansion affected those Peninsulars who had fled the South Western Cape, and who were living as hunter-gatherers, other groups of pastoral Khoikhoi who had remained relatively independent, as well as San groups. The distinctions between hunter-gatherers and former pastoralists became increasingly blurred. Commando groups (first controlled by the Company (1701), and later (from 1715) more often locally organized by trekboers) crushed Khoisan resistance to the expansion of the colonists

into grazing land and water resources first on the West coast, and by the 1770s on the crucially important interior escarpment (Penn 1986:8-9).

Khoikhoi who worked on white farms between the 1670s and 1720s were often temporary labourers whose primary occupation was to hunt game for their families (Elphick 1977:176-7). This was interpreted as laziness by the Dutch. The Khoikhoi men, accustomed to the nomadic life of a pastoralist (Elphick 1977:176), were also typified as a people "for whom fixed domicile and routine were intolerable" (in Elphick 1977:176).

Slave labour, the main source of labour for the wine and grain farmers of the Western Cape in the eighteenth century, was supplemented by Khoisan labour (Worden 1983:2-3). By the 1720s, with more and more Khoikhoi going to work on the farms, the farmers pressurized the Company to help them keep the children (and therefore their parents) on the farms by apprenticing them until adulthood. This request was only heeded in 1775, when children of slave fathers and Khoikhoi mothers were legally apprenticed to the farmer. In practice, however, farmers applied this law to all Khoikhoi children (Elphick and Malherbe 1989:32).

By the end of the 1790s, Khoikhoi in the Cape, Swellendam and Graaff-Reinet areas were restricted under a pass system after agitation by farmers (Elphick and Malherbe 1989:32). They had gradually become subject to the same kind of legal and extra-legal coercion as slaves, and were subject to similar punishments (Worden 1983:3). The violent farm labour uprising in the Eastern Cape between 1799 and 1803 was an indication of the extent to which these Khoikhoi and San had not accepted the rule of the colonists.

Under British rule, things did not improve for the Khoikhoi. The coming of British rule (1795 and 1806), and the first infiltration of the LMS missionaries at the beginning of the nineteenth century marked the beginning of the end of the open frontier in the Northern Cape (Penn 1986:18). Khoikhoi were not able to own land in the Colony between 1809 and 1828, and even then they were only granted a small piece at Katriver. Without land, they could not graze their cattle, and without independent means of support and a place to live, they were vagrants.

Colonial legislation from 1803 to 1819 was designed ostensibly to protect the Khoisan from abuses by their white employers, but its main goal was to secure the burghers a cheap, stable labour force (Elphick and Malherbe 1989:41). The severe

shortage of labour between 1807 (the abolition of slavery) and 1828 was exacerbated by the arrival of British settlers in 1820 who were not allowed to employ slaves (Newton King 1980:171). Legislation in 1809 ordered all Khoikhoi to carry passes. Apprenticeship for Khoikhoi children (from 8 to 18 years) was formalized in 1809 and extended to San children in 1813 (Elphick and Malherbe 1989:41-2).

The criminalization of independent Khoisan activity was orchestrated largely through pass legislation and anti-vagrancy laws. Under the pass system from the 1790s, independent hunter-gatherers and pastoralists could not freely move around to graze their stock, or to move to better sources of roots and game. Because both pastoralism and hunter-gathering are essentially nomadic activities, in which land is used periodically rather than owned, it was easier for the colonists to occupy this land and term its inhabitants "vagrants" than it was later to dispossess the Xhosa. By the nineteenth century, when most of the Khoikhoi had lost their cattle and were living the lives of hunter-gatherers and raiders, it became increasingly easy to label these people as 'good-for-nothings', like poachers in England (cf. Hay 1975:191).

In 1828, the decisive Ordinance 50 was passed by the colonial government, under pressure from humanitarian groups, which clearly stated the right of Khoikhoi to own land, abolished the pass system and made parental consent a prerequisite for apprenticeship (Elphick and Malherbe 1989:47). According to Elphick and Malherbe (1989:50) their goal was

to suppress legal discrimination and reaffirm the rule of law. Never did they contemplate overturning a labour system which was the product of 180 years of Cape history - a system in which brown-skinned workers laboured cheaply and diligently for white-skinned farmers and entrepreneurs.

According to Worden (1983:3-4) the 1820s and 1830s were a period in which colonial legislation, influenced by humanitarian lobbies and anti-slavery agitation in Britain, restricted the control of masters over slaves. Yet the colonial infrastructure was not powerful enough to enforce this legislation. Ordinance 50 did not make conditions of employment much better for the Khoisan as it was largely ignored by farmers and poorly enforced. The British government at the Cape, who had to make the Colony pay for its occupation and administration, could not afford to ignore the interests of the settlers (Newton King 1980:172).

The fate of Ordinance 50 illustrates the tension between the humanitarian discourse of the London Missionary Society (LMS) and the British government, and the racism of the colonists. This humanitarianism was, on the surface, in direct contradiction to the racist discourses. The logical tension between the two discourses is echoed in the relationship between Western discourses of punishment which stressed equality before the law (Pete 1985:11), and racist discourses which were intertwined with colonial views of justice.

But in practice the mission stations at Bethelsdorp, Genadendal and other places provided the Khoisan with training as artisans and domestic workers for the colonists. Xhosa subjects were taught to make irrigation furrows, and the art of ploughing (Wilson 1969:239). As Monica Wilson has said (1969:239), the missionaries taught something besides the Lord's gospel: they taught the gospel of work. In 1878, James Stewart said "The object [of missionary-initiated industries] is not the value of their labour but the principle that Christianity and idleness are not compatible" (in Wilson 1969:239).

Colonial fears of an uncontrolled 'vagrant' class were especially strong before 1828 and when the abolition of slavery in 1834 liberated many farm workers from forced employment. The abolition of slavery in 1834, despite the fears of the colonists, however, had less effect on the labour force here than in the British Caribbean islands or in Mauritius (Worden 1983:6). This was because the white employers in the Colony had a monopoly both over land and the resources to exploit it (Worden 1983:6).

In 1837, a Vagrancy Bill proposed by Grahamstown settlers accurately documented (and therefore criminalized) hunter-gathering life as follows (Macmillan 1927:33):

- \* The searching for and digging for roots, or fruits ... or the searching for, taking and killing of any ... wild animal ... on any ground not being the property of the person so doing [or] not having previously obtained permission [is not] lawful employment by which any person can honestly earn the means of subsistence.

The Bill was rejected by officials who said the "Hottentots" should not be punished for leading their old way of life until other provision had been made for them (Macmillan 1927:34). But the implication was that these people should, and would, learn "the religion of work for work's sake" under colonial guidance (Macmillan 1927:34).

The Master and Servant Law (Ordinance 1 of 1841) repealed Ordinance 50, although the latter formed a basis for it (Macmillan 1927:213). The Master and Servant legislation made the breach of a civil contract (employment) a criminal offence (Marais 1957:207-8). In this new law, there was no distinction between 'white' and 'coloured' people, although it was heavily weighted in favour of the 'Master' (especially after the amendments made by Act 15 of 1853) who was, by then, invariably 'white'.

Anti-stock theft legislation (Act 16 of 1864, Act 9 of 1867, Act 17 of 1867, Act 43 of 1885), the Cattle Removal Act (Act 14 of 1870) and the Vagrancy Law (Act 23 of 1879) all affected the Khoisan, although they also applied to Africans. By 1885 at the Breakwater, crimes against property without violence were still the most common category of offence. In that year, of 1124 prisoners convicted of theft, 7,2% were "Europeans or of European descent", 40,7% were "Hottentots, Bushmen, Fingoes or Free Blacks" and 52,1% were "Natives of the Border Tribes" (C22-86, table I).

### **The Particular Circumstances of the San**

As we have seen, the fate of the San was intertwined with the fate of the Khoikhoi: indeed the two groups were often indistinguishable. The San groups on the Northern frontier (between the Sak and the Orange Rivers) are however particularly interesting for this project in that many of them were convicted of stocktheft or assault and sent down to the Breakwater between 1868 and 1870. From here, a few went to Mowbray to be interviewed by the linguist Wilhelm Bleek and his sister-in-law Lucy Lloyd.

There had been contact between trekboers and San on the Northern Frontier as early as the 1750s (Deacon 1988b:3). In 1799, missionaries at the Sak river tried to convert the San and train them in a pastoralist way of life (Penn, pers. comm.). In the early nineteenth century, Xhosa groups moved into the area too (Anderson 1987:21). Conflict between Korana, San and trekboers began to escalate at this time. There was competition for grazing land and stock raiding became common.

In 1862, Anthing was sent there to investigate rumours of atrocities against the San by Boers and Korana whose stock they stole and killed for food. Anthing presented the San case sympathetically, saying that these people had lost their traditional

means of livelihood because the Boers were shooting out the game and claiming the land from which they had gathered roots and grass seeds and from which they had drawn water in the past. They had to steal stock, or die (Deacon 1988b:4).

Meanwhile, the settlers in the area petitioned the government for aid against the Korana and the San. And they took their own revenge. The Border Police, established for the protection of the settlers, were stationed in Kenhardt by 1868, the time of the first Korana War, and many San were arrested by the Baster and Khoikhoi recruits of this police force. Those San who had not been massacred by commandos or imprisoned in the Colony, had been sent to work on farms as far away as Mossel Bay. By the end of the 1860s, the Korana had taken the place of the San as the enemy on the Northern frontier (Marais 1957:91). And by 1879 the Korana too were defeated (Strauss 1979:115).

### **The Growing Focus on the African Worker**

If Ordinance 50 reflected a superficial shift away from explicitly racist legislation against the Khoikhoi, Ordinance 49 of the same year illustrates a shifting focus towards the explicit control of black labour. It made the employment of Xhosa labour in the Colony legal for the first time since 1809, and ordered all (black) people coming from across the Fish River to carry passes. It was only in 1847 that large numbers of Xhosa became British subjects, although they were ruled under a separate administration in British Kaffraria until 1865 (Macmillan 1927:259).

From the Convict Station records, we can trace this shift quite easily. On 1 January 1861, the proportions (by race) of 858 convicts at the Breakwater were as follows:

"Prize Negroes and Foreigners of Colour":	3,4%
"Emancipated slaves":	6,3%
"Europeans and those of European descent":	12,6%
"Hottentots, Bushmen, Fingoes and Free Blacks":	52,2%
"Natives of the Border Tribes":	25,5%

(Fisk in G23-62, p.ix)

In that year, there were more white prisoners than usual, because of an influx of military prisoners (G23-62, p.v), and fewer Khoisan because of a decrease in stocktheft convictions (G23-62, p.2). Between 1849 and 1856, 54,5% of the convictions in the superior courts had been Khoisan, mainly for stocktheft offences (G14-97, p.10-11).

By 1885, the number of prisoners passing through the convict stations in general had increased. Out of 2362 convicts, the racial breakdown was as follows:

"Europeans and those of European descent":	12,4%
"Hottentots, Bushmen, Fingoes and Free Blacks":	40,2%
"Natives of the Border Tribes":	47,4%

(G44-86, p.2).

Between 1881 and 1886, white men convicted of Illegal Diamond Buying (the IDB men) dramatically increased the number of white convicts, so again they are overrepresented in the statistics. Significantly, the proportion of "Native" criminals has now risen sharply, to above that of the Khoisan.

These changing proportions of 'criminals' were constructed through new laws. Discriminatory, or quasi-discriminatory laws passed after 1865 were made with special reference to the African worker, and did not significantly affect the 'coloured' people (Marais 1957:215). The promulgation of liquor laws within the Colony (the Transkei had always had prohibition laws), Native Location Acts, curfew regulations, and the incorporation of some 'Bantu law' (Marais 1957:158) all reflected this trend. In the 1850s, Governor Harry Smith passed vagrancy laws and legalized the indenturing of Xhosa apprentices in the Colony (Peires 1989:246).

What were the reasons for this shift? There had been a chronic labour shortage in the Colony since emancipation in 1834 (Peires 1989:246). In the 1850s and early 1860s merchant capital in the form of the booming wool trade created a demand for land and cheap unskilled labour in the Eastern Cape (Dubow 1982:8) that was larger than the supply of Khoisan labour. By this time the incorporation of the African into the colonial economy was seen as essential, and its form was pre-set: the African would become a manual labourer.

This task was couched in terms of "civilization" as well as military conquest. Sir George Grey, Governor of the Colony from 1854 to 1861, was interested in the surveillance of the "native" population in British Kaffraria (Peires 1989 calls it "Xhosaland") and the spatial organization of their civilization. Roads, hospitals, mission stations, schools - all were meticulously arranged in the space of British Kaffraria, and designed to impart new lessons, new habits and new needs to their subjects (Peires 1989:9). Grey wanted to settle Europeans in Xhosaland, and to make the Xhosa into "useful servants" for them (Peires 1989:247).

The colonial government had been ambivalent in the early 1850s about the relative merits of facilitating the creation of a black as well as a white peasantry, or the creation of a black proletariat in the interests of white capitalist farmers (Dubow 1982:8). They were also worried that simply dispossessing the squatters on Crown Lands in the Eastern Cape would threaten the "general social cohesion" in the Colony (Dubow 1982:8). In the late 1850s, however, Grey's aims were made immediately possible after the Cattle Killing of 1857-8 had decimated the population of Xhosaland and destroyed their stock, which had been the kingpin of their independent pre-colonial economy (Peires 1981:4).

Starving Xhosa flocked to the Colony. In Graaff Reinet, for example, "Africans only became a significant component of the population after the ... cattle killings which forced them to move into the Colony to seek work" (Dubow 1982:4). Peires has pointed out that Grey's actions in the aftermath of the Cattle Killings cemented the unfavourable position of the Xhosa labourer. The Kaffir Employment Act registered and regulated contracts between Xhosa and white employers, and passes were issued to all, including the loyal Mfengu (Peires 1989:249). Xhosa children were apprenticed by farmers, and unscrupulous dealers sold emaciated men and women to white farmers for a few pounds (Peires 1989:250).

The impact of the mineral revolution on the Cape economy can be over-estimated, but it certainly had far-reaching effects. The capitalization of the Colony's economy after 1850, notably in the Eastern Cape wool trade, and the discovery of diamonds in 1867 and of gold in 1886, prompted an increasing need for black labour to supplement that of the Khoisan and emancipated slaves. The transition from merchant to industrial capital was crucial to the development and expansion of the prison system (Chisholm 1986:495).

The mines in Kimberley and later on the Rand began to demand higher degrees of skill and labour regulation when they turned to dry diggings and deep level mining respectively. A cheap black labour force had to be generated (i.e. black men had to leave independent production permanently) and it had to be controlled. The effect of the mineral revolution on the process of proletarianization was immense. So too were the implications of new legislation drafted to control and stimulate this process. A bigger state bureaucracy and executive arm were now both affordable and essential.

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The connections between legislation, its sanction imprisonment, and the generation of a controlled working class are clearly demonstrated in the history of mining in this country. In order to counterbalance the necessary generality of the previous section, it will now be useful to examine the specificity of these connections within the diamond mining enterprise in Kimberley during the period 1870 to 1885.

### **The Prisons and the Mines**

The case study of Kimberley is particularly interesting because the De Beers Diamond Mining Company established a convict station there in 1884 in order to utilize cheap convict labour on the mines. This was, according to the Inspector of Diamond Mines in 1885 (Worger 1987:145), "the perfection of the compound system". The closed compounds developed by the big mining companies there in 1885 and 1886 were closely modelled in design and function on the De Beers station and its disciplinary model. This reflects a broader connection which Worger (1977:16) describes as follows: "there was little difference between the compound, the location and the jail in Kimberley; all were part and parcel of the same system of labour control".

Worger (1977) supports this claim with reference to the history of labour control in Kimberley. He suggests that the state (the Law and its long arm, the Police) and first the white 'diggers', and later the big mining companies (Capital), had to work closely together in order to subordinate and control the black migrant worker by 1885.

In the early 1870s, the diggers had had little control over the cost and mobility of their labourers. Competition for what soon became a scarce commodity - the black worker - pushed wages up, and gave workers bargaining power. Blacks were typecast as criminals. With the onset of depression in 1872 and the beginning of dry diggings, the white diggers appealed for state legislation to solve the 'labour problem', and proposed explicitly racist laws (Worger 1977:114). In the same year, the Colonial Office passed these laws, although they substituted "servant" for "native" and "coloured person". They imposed curfews on, specified contract lengths for, and prohibited the buying of diamonds and effectively the ownership of claims by, "servants" (who were *de facto* black workers).

These criminal sanctions were only effective in controlling the labour force when the police force was increased in 1876, courts adopted quicker, increasingly punitive methods of operating (Worger 1977:123), and fines reduced some of the burden on already overcrowded jails. But the very effectiveness of such all-encompassing, restrictive legislation lay in its random and incomplete enforcement. Workers were constantly afraid of arrest, their insecurity contributing to their disciplining (Worger 1977:123), and pass raids could be tailored to the changing needs of employers. More legislation was passed to restrict black workers.

Yet state control was not enough. By the 1880s, a few large companies dominated the diamond mining scene in Kimberley. Competition was reduced, and they had greater access to Parliament through Representative government (Worger 1977:133). They pressurized the state to control the locations where the workers stayed. Arrests rose markedly again in 1882. On the mines, strip searching of all black workers began in the same year. Deep level digging, which began in 1884, and the increasing size of the diamond enterprise demanded a regular and disciplined workforce. In 1885, the closed compound pronounced the incarceration and disciplining of the black worker.

The closed compounds built in Kimberley formed a model for those built later on the Rand, and the labour compound (or labour hostel) has been used throughout the country in various forms until today. The connections between prisons and labour compounds are evident in their common function of labour control. Although Turrell (1982:46) has argued that the mining compounds were not built explicitly for social control, he concedes that closed compounds built in the mid-1880s at Kimberley were "structurally identical to convict stations" that were used to house convicts working on the mines (Turrell 1982:65). He argues further that the compounds were built in a period during which a "steady supply of guaranteed labour" was crucial to the success of the diamond industry (Turrell 1982:66).

The fact that the De Beers Convict station formed a model for their closed compound system in 1885 (Turrell 1982:65) is a useful indication of the impact of the prison on labour relations. Not only was the penal sanction useful for controlling the 'free' labour force, but the prison itself was a useful institutional mechanism for shaping the workers themselves. This idea will be pursued in the following three chapters.

## Conclusion

For the Khoikhoi, the San and the Africans of the Eastern frontier, entry into the colonial order (at the lowest rung) happened in several stages. First, they were incorporated, even partially, into the legal ambit of the Colony. Then their independent economic activities were criminalized and their independent political structures were colonized or destroyed. They were incorporated on a larger scale into the Colony as workers. Resistance to proletarianization, and to the harsh conditions under white employers now became a criminal activity.

A decisive stage in the process of criminalization was the 'closing' (Giliomee in Legassick 1989:247) of the frontiers in the North and the East: land was divided up, mostly among the colonists, and theft and trespassing were given boundaries and legal definition. Later, the colonial state became strong enough to control labour relations between indigenous people and their white employers too.

These processes occurred at different times on the Northern and Eastern frontiers. And the difference between the indigenous economies of the Africans and the Khoisan shaped their incorporation into the colonial economy and their resistances to it. In the last few decades of the nineteenth century the focus of colonial law, and the colonial prison, was turning towards the African rather than the Khoisan labourer. In this process, as we shall see in Chapter Four, the differences between non-white groups were gradually superseded in importance by the differences between white and non-white.

Clearly, the state was not always at the forefront of discriminatory practice and the subordination of the indigenous peoples, and state control of the working class, in the form of laws and police forces, needed the co-operation of the capitalist classes in order to be fully effective. But the historical sketch of the criminalization of the black working class in the Colony given above highlights the importance of the state prison system in providing a sanction for the transgression of pass laws, labour contracts and the pursuit of hunter-gathering activity on colonial soil.

The chronic shortage of labour in the Colony for most of the nineteenth century and the increasing demand for land by the European settlers and the trekboers, shaped the form and meaning of 'criminality'. Crucially, the main thrust of the prison sanction was directed at the black population who were to make up this working

class, and the legislation was tailored to this need. Racism thus also shaped the form and function of the prison system.

In an analysis of any colonial prison, therefore, the historian must take cognisance of its broader function within the colonial economy. In the Cape I have argued that this function was the creation and control of a cheap pliable working class. This function became more important when merchant and mining capital began to dominate the economy of the Cape after 1850. Changes in prison policy can thus be related to the changing needs of capitalism. In particular, the prison (and the labour compound) gained its distinctive character from the way in which it was articulated to the emerging industrial capitalist society in the Colony (Chisholm 1986:495).

In the following chapters I shall examine the changing policy and practice of imprisonment in the Colony with particular reference to the characteristic features of the South African penal system: racial segregation within the prison and the use of (largely black) convict labour outside the prison walls.

## CHAPTER THREE

### TWO DISCOURSES OF CONTROL AT THE BREAKWATER PRISON

*We should, I think, make our own prison laws founded on our own experience and unbiassed [sic] by the axioms of prison authorities in other countries; axioms laid down for the punishment of a class of prisoners with which we have nothing to do.*

Basil Roper, Inspector of Prisons 1896 (G53-97, Appendix A, p.iii).

#### Introduction

As we have seen in Chapter Two, the prison was part of a wider project: state control of the indigenous populations, and the generation of a wage-dependent working class. As an institution, however, the Breakwater had to re-create these relations of domination at the site on the Docks. This is what makes it specifically interesting within a general examination of colonial policy. I shall now turn to an examination of the institution itself, and the construction of specific relations of knowledge and power at the Breakwater. These relations will be analysed within a 'discourse analysis' in order to show that discourses about punishment had material, structuring effects on the development of a penal system in the Colony.

A crucial turning point for the power relations within the Breakwater and the Colony's penal system came in the 1880s and 1890s. During this period, the importance of which has been examined in the previous chapter, the "form and function" of the current penal system was set (Van Zyl Smit 1984:157). The Breakwater was an important site for the establishment of 'correct' penal practice, and for the entrenchment of colonial difference with regard to punishment.

Even today, the South African penal system is characterized by racial segregation in its prisons, and the use of (largely black) convict labour outside prisons (Van Zyl Smit 1984:146,158). This is not because South Africa developed penal policy in isolation from Britain, but because it borrowed selectively from Western notions of punishment during the nineteenth century, "as a rational response to the social and economic problems faced by the colonial government" (Van Zyl Smit 1984:147).

Although it is certainly true that socio-economic factors shaped penal policy, Colonial response to these "problems" was predicated upon their perceptions of what was problematic. Their priorities were structured and influenced by discourses on punishment whose content was not simply predictable from socio-economic conditions.

This chapter will investigate the specificity of colonial punishment within the Breakwater Prison from 1859 to 1905 with particular reference to the Colony's "selective borrowing" of punitive practice and ideology from two discourses. One of them advocated a strict European disciplinary regime, with exhaustive surveillance, classification and separation (at least at night) of the prisoners. The other discourse evoked the difference of the Native (male) prisoner: he had to be punished by hard manual labour, and was not easily reformed by conventional prison discipline. There was a complex interplay between the two discourses at the Breakwater, as officials and prisoners positioned themselves, and were positioned, as 'guards' or 'prisoners', 'black' or 'white'.

In general, the nineteenth century was a period in which there was both an increasing interest in generating a disciplined work force, and a shortage of money and of suitable colonial personnel for the Prisons Department, especially in the early years. I have periodized this discussion into two broad 'phases of control': the early years in which there was little recognizable 'disciplining', but much talk about it, and no legal racial discrimination; and the years after 1880, in which prison discipline was tightened and regulated, and in which the racist practices of the colonial prisons were codified in practice and, partly in legislation.

I shall now elaborate on the two discourses discussed above, and then show how they affected practices at the Breakwater during these two phases of colonial control.

### **The Disciplinary Discourse**

At the beginning of the nineteenth century in Europe, the "traditional, ritual, violent forms of power ... fell into disuse and were superseded by a subtle, calculated technology of subjection" (Foucault 1977:210). The new form of control was achieved through a "micro-physics" of power (Foucault 1977:139) that operated in subtle ways on the space and time of the inmate.

The state became more centralized, and more concerned with the classification and surveillance of individual subjects. Prisoners were divided from lunatics and paupers, and segregated from society in prisons. Humanitarian discourses stressed reform of the mind rather than punishment of the body (Cohen 1985:13-14). These general trends were reflected in prison organization. Prisoners were now enclosed within the prison walls. Partitioned by cells or separate bed-areas at night, they were tirelessly observed, classified, and ordered into ranks. Spaces within the institution were now set aside for particular functions, like eating, and are thus made unfree (Foucault 1977:141-145). Similar techniques of discipline were employed in factories, hospitals, schools, reformatories, asylums and military establishments in Europe.

The European discourse of disciplinary control was brought to the Colony by the British from 1806. State centralization, and the increasing surveillance and division of categories of prisoners and labourers, were important aims of the British Colonial Office. But they were not put fully into practice. Chisholm (1986) and Van Onselen (1985) have shown how patterns of disciplinary punishment emerged in specific ways within the reformatories and mining compounds of the Colony.

### **The Colonial Translation Phase One**

In the Cape, the state began to impose controls on 'unemployed' blacks and all employees by the 1820s. In particular, a Commission on Labour and Prisons in 1823-8 suggested that fines and imprisonment should become the major forms of punishment for minor offences in the Colony (Van Wyk 1963:131). Imprisonment centralized punishment in the hands of state officials, although these people were not themselves fully "disciplined" (1). The post of Superintendent-General of Prisons, an office which had ensured some regular inspections of the prisons, and a nominal centralization of prison administration, was abolished in 1868 (G36-76, p.3). Another Inspector was only appointed in 1889.

The prison nominally enclosed the convict, and separated him/her from society. At the Breakwater, however, workparties (outside the prison) often included free labourers, and there was a Mfengu ("Fingoe") location at the Table Bay docks. There was some attempt to prevent communication between the two groups (G20-61, p.2), but it was largely unsuccessful (*The Lantern*, 29 March 1884:7).

Within the prison, a routine of work and rest (G32-63, p.8) was established for the convicts, interspersed with meals that were not always regular (G2-88, Minutes of Evidence, p.423, para.8079). The school timetable seems to have been fairly regular, with all the men at first attending on Saturday afternoons (G23-62, p.6), and later one-sixth attending classes on each afternoon of the working week during the summer (Fisk, G28-65, p.12). The convicts were in bed at 20h00 every day after two hours of unsupervised leisure after supper (G32-63, p.13).

The rulings of the Commission in 1828 failed to classify prisoners, and did not emphasize rehabilitation, or try and stop irregularities in prison administration (Van Zyl Smit 1984:150). Regulations for the punishment of offenders within convict stations were made in 1854, but were unknown to many of the Superintendents interviewed in 1887-8 (e.g. Clark, G2-88, Minutes of Evidence, p.441, para. 8631). As late as 1888, Captain Penfold, Superintendent at the Breakwater, admitted that in reducing convicts' sentences by one fifth, unless they had earned black marks for misdemeanours, he was "guided by no rule", only station custom (Penfold, G2-88, Minutes of Evidence, p.438, para. 8335).

Classifications (2) were repeatedly drawn up for the prisons (e.g. CO 414 of 1828) and convict stations. The separation of the sexes, tried and untried prisoners (CO 5838 of 1848), and recidivists and first-time offenders was seen as desirable from the early days of the British occupation. These classifications were however incompletely enforced. Under Montagu in 1845 three new classes were established on the basis of conduct, and convicts were divided up into separate workparties at the convict stations. Again, these divisions were clumsily and haphazardly applied in practice.

The Commissioners of, 1887-8 were horrified when they found that the prisons were being used to house lunatics, paupers, the chronically ill, as well as convicts (G2-88, Second Report, p.xvi-xvii). Yet in 1890, Roper said it was "inconvenient" to provide separate housing for lunatics and paupers at the Breakwater (G38-90, p.15). Vaughan (1983:220) has shown how the segregation of lunatics from prisoners in Malawi, through their transfer from prisons to the Zomba Lunatic Asylum, was predicated upon a formalization of practices to deal with prisoners, and entrenchment of ideas about how a prisoner should behave within the prisons. 'Lunatics' disturbed this order and routine within the prisons, and had to be

removed. It seems that no such order was being disturbed at the Breakwater in 1890.

The desire to implement an 'orderly' regime, and exercise a micro-physics of power over prisoners in the Breakwater, motivated the classification, documentation, surveillance and education of the prisoners. Prisoners were caught within the time and coded spaces of the prison and taught the life of a worker. High-ranking prison officials were constantly concerned about the implementation of elaborate classifications, uniform regulations and strict rules of conduct.

And yet only shadows and traces of these disciplinary techniques can be seen at the Breakwater until the 1890s. Convicts were not enclosed in cells at night, or even within the prison walls during the day. The buildings of the prison were sprawled over the docks, making Panopticon-like surveillance and segregation impossible. Regulations drawn up by the Colonial Office lay forgotten or unread until 1888. Why was this the case?

Sophisticated forms of control like the disciplining Foucault describes above were not as necessary where there was no complex industrial production (Pete 1985:21). Also, the Colonial administration could not afford expensive control over prisoners when it was not deemed essential. I shall suggest that it was the discourses about the 'Native' that justified first, the incomplete application of the disciplinary discourse to all prisoners and that had structured the differential disciplining of the African by the 1880s.

### **Discourses about the "Native"**

Racism as an ideology has its origins in Greek and Roman visions of Africa (Miles 1989:14), and in sixteenth century European thought (Banton 1987:1). Miles (1989:100) has emphasized that although racism usually benefits some capitalists, it is a contradictory phenomenon that can be dysfunctional to capitalist accumulation. I shall thus place the racist discourses of the Colony within a political-economic framework, but I shall emphasize the content of these discourses, and the structuring effects that they had on the practice of punishment.

Paradoxically, it was the necessity for accurate information about Africans for the operation of the slave trade after 1600, that had provided data for the relatively unprejudiced Enlightenment and abolitionist discourses about the "Native" that

lasted well into the nineteenth century (Brantlinger 1986:189-192). These discourses were reflected in the humanist attitude of the London Missionary Society, and in attempts by the British Colonial Office to implement non-racial legislation in the Colony before 1872. They echoed the image of the 'noble savage', and were based on the idea that the difference of the African was due largely to climatic factors, and was thus not immutable (Miles 1989:30).

After abolition in 1834, however, another racist discourse came to the fore. The inferiority of the African was more clearly defined, and was increasingly seen as irreversible, its permanence supported by "scientific" data (Dubow 1989:4-5). In the Colony, this transition was associated with the capitalization of the economy, through wool and mineral exploitation. Britain granted representative government to the Colony in 1854, and responsible government to the settlers in 1872. From 1854, the colonial settler elite thus began to play a larger role in formulating policy. Their economic interests in a cheap source of manual labour, and their racism, affected the design and implementation of Colonial policy.

Brantlinger (1986:213) explains the psychological origins of this racism as follows: British guilt from the slaving era was projected onto the Americans, or back onto the Africans themselves. The devalued parts of Victorian culture were projected onto the African culture, the Other. Africa was a mirror, reflecting the best of British civilization back onto itself, but also its repressed guilt. Britain simultaneously recognized and denied a regression to its own "savage and shadowy" impulses (Brantlinger 1986:215-7).

Crais (1989:5) argues that "couplets of cultural metaphors", like civilization-barbarism, order-disorder, society-the bush, increasingly shaped colonial policy since the 1830s, as the demands for state "progress" and capitalist development grew. In 1847, for example, Governor Pottinger described the Kat River settlement (for blacks in the Eastern Cape) as in "a state of utter savageism", while earlier governors had praised African peasant production in the area (Pottinger to Earl Grey, in litt. 13 March, 14 April 1847, GH 23/17, cited in Crais 1989:24). The expansion of the wool industry between 1825 and the boom years of the 1850s had encouraged land speculation, and land purchase on a large scale (Dubow 1982:7). African peasant production was now less important than the value of their land.

But, to return to the discourse itself, these culturally mediated couplets are logical oppositions in form, but not in content: civilization, for example, includes speaking English, but not Xhosa. They are thus an example of what Hollway calls discursive "splitting" (Hollway 1984:254). Africans were typecast as the Other, invested with the negative characteristics of "barbarism", and associated with "the bush" and "disorder" by their positioning as the object of discourses about the "Native". Even when Xhosa could speak English, they would be said to be "mimicking" the European rather than using their language (Kidd in Dubow 1989:22).

Several metaphors informed discourses about the Native that disallowed equality with the European. African society was placed at a lower stage of civilization on the ladder of social evolution (Brantlinger 1986:203): it was infantile, and yet brutally oppressive under the dictatorship of the chief. The person-nation metaphor, conflating the subject with the society, allowed the transfer of these characteristics to the African person. Africans were compared to children (Brantlinger 1986:209), and thus needed paternal care from the "civilized" nations like Britain. Yet they were brutal and savage, and needed to be coerced into submission (Pete 1985:22).

There was also a comparison made implicitly and explicitly, between the savage and the English working class (Brantlinger 1986:213). With the rise of democratic government and the dawn of the Industrial Revolution, the upper classes began to fear they would lose control of the working classes. The working class was depicted as uncivilized and uncultured, a danger to the "sweetness and light" of the aristocracy (Arnold 1869:43ff.). In Africa, blacks took the place of the working class, materially and culturally. They were not encouraged to compete with capitalist farmers, and later with skilled white workers. As prisoners, they became uncivilized and socially threatening for white prisoners in the 1880s (*The Lantern*, 29 March 1884:7).

Imprisonment was thus not entirely suitable for the black offender, who could not yet understand the abstract and civilized nature of imprisonment as deprivation of liberty (Pete 1985:16). The "innocent savage" was particularly vulnerable to the corrupting influences of the prison. On the other hand, blacks were brutal and savage (Pete 1985:16), and imprisonment was not sufficiently punitive for them. As Roper said in 1896,

Imprisonment with hard labour, even in convict stations, has no terrors for the ordinary native who often returns to prison with more alacrity than he leaves it (G53-96, Appendix A, p.iii).

Naked coercion was deemed a more suitable punishment for black offenders than imprisonment (in Natal, Pete 1985:22). Flogging kept labourers out of the prisons and in circulation on the free labour market at times of labour shortage. It is not clear whether flogging replaced imprisonment as much in the Cape, and whether blacks were flogged more in prisons. Flogging was certainly still common within prisons by 1906, although blacks were no longer allowed to beat white prisoners (Van Wyk 1963:409).

It was particularly on the question of hard labour and corporal punishment that the Colony seemed to ignore humanitarian discourses that replaced physical punishment with stricter discipline and reformatory programs, such as schooling. Manual labour was a prerequisite for reform, which was impossible through education alone (G32-1863, p.11). The economic depression of the early 1840s, and the enormous colonial debt, had made the use of convicts on Public Works an extremely popular practice. It was free, and crucially, it did not remove unskilled labour from the desperate farmers and mining companies.

In 1863, George Fisk, Chaplain at the Breakwater Prison, said (G32-1863, p.11):

I am happy to state that many have left the harbour works with their hands well educated to earn their bread by honest industry. The breakwater convict station and harbour works is no place of mere punishment, but a useful school of industry, where the claims of justice are satisfied, and the community at large is benefited by the training of mechanics and good, serviceable labourers.

The Colony saw its prisoners differently, and Colonial officials were rather proud of the difference of its system (e.g. G53-96, p.17). Discourses about the "peculiarity" of the Native made strict disciplining less important than the enforcement of hard labour because control over the black prisoner had to be different. Blacks were less sensitive to operations on the mind - they needed coercive control.

The disciplinary discourse and discourses about the "Native" thus intersected at the Breakwater Prison to produce a particular system of punishment. In the Colony disciplining was incomplete, and manual labour (later, mainly for blacks) outside the prison was institutionalized. The discourse about the "Native" structured and

justified the different meaning and particular form of imprisonment in the Colony by invoking the difference of the black criminal.

Yet during this early period, black and white prisoners were both subjected to the same routine of manual labour on Public Works. How then can one argue that the specific form of colonial punishment was shaped by a racist discourse?

This is a difficult issue which I shall try and clarify in several ways. Firstly, there were few white prisoners at the Breakwater, except during war-time (e.g. 1863), until the IDB prisoners were sent down from Kimberley in the 1880s. Secondly, criminals were often represented in racial terms in European 'scientific' discourses by the late nineteenth century:

the urban poor, prostitutes, criminals and the insane were being construed as 'degenerate' types whose deformed skulls, protruding jaws, and low brain weights marked them as 'races apart' (Stepan 1985 in Cornwell 1989:12).

Similar notions of degeneracy had fuelled the institutionalization and the segregation of these groups from society (Cornwell 1989:13) earlier in the nineteenth century.

In the Colonies, white criminals were depicted as having regressed to a lower stage of civilization, in particular, to the status of an African. White offenders were even worse than the African in some senses, because they lacked the African's innocence, and were more morally culpable (G2-88, Second Report, p.xxxi). It is likely in the early years, that the racist discourse of the Colony operated within the prison in order to label white prisoners as 'blacker than black', in so far as this could justify the imperfect application of the disciplinary routine of European prisons.

Lastly, although there was a nominal equality in the treatment of black and white prisoners during the time of British rule at the Cape (an equality that was demanded by the English government), in practice different conditions faced prisoners of different cultural backgrounds. Different diets for "Europeans" and "natives" were recommended by the Commission on Convict Diet in 1867, based on the notion that the different races had different "needs" (A11-67, p.5). In 1888, a convict testified that while white prisoners had lunch sent up to them when working far away, blacks traditionally went without (G2-88, Minutes of Evidence, p.423, para.8079).

Thus, on the one hand, the few European prisoners that were at the Breakwater were treated similarly to the black prisoners in so far as they were depicted as having "regressed" to that stage of civilization. On the other hand, they often received privileged treatment in the prison. In the 1880s it was said (G2-88, Second Report, p.xxxi; *The Lantern* 29 March 1884:7) that white prisoners suffered more under the same conditions than the black prisoners, and that in order to make the punishment 'equal' for all races, whites had to receive this special treatment. By 1901, this special treatment had blossomed into special disciplining, through the construction of the Industrial Breakwater.

## Phase Two

Towards the latter half of the century, with the advent of the mineral revolution, industrial capital could finance other capital expansion, and control a bigger state bureaucracy. In this second phase of colonial control, a disciplined labour population was both affordable and more urgently needed. In particular the influx of unemployed and recently proletarianized Africans into Cape Town from the late 1870s swelled the ranks of the poor and destitute in District Six, Woodstock and Salt River (Chisholm 1986:484). The governing class in Cape Town, a merchant bourgeoisie, was not prepared to finance social services for these people and focussed on controlling their vagrancy, theft and begging through the penal system (Chisholm 1986:485). The shortage of farm labourers in the Cape during the depression years of the 1880s and again in the mid-1890s (Chisholm 1986:492) made the control of these people, as workers, essential.

Van Wyk (1963:381) characterizes the period 1854-1888 as a low point in prison administration, in which a *laissez faire* attitude towards prisoner control prevailed. But although the implementation of a "disciplinary" order in the colonial prisons was slow and incomplete, it began to take concrete form during the 1890s. The new disciplining was achieved through both mining compounds and prisons (Chisholm 1986:482). The new phase was characterized by centralization, increasing surveillance of prisoners and prisons, and better classification of inmates.

The re-organization of the prisons system after the 1887-8 Commission of Inquiry is typical of this new trend. Ordinance 23 of 1888 codified prison practice (notably, certain practices at the Breakwater) and regularized it. Prisons and convict stations were officially amalgamated, although there was little evidence of this centralization

in practice until 1910 (Van Wyk 1963:391). The new regulations were better enforced than those of 1854, partly because an Inspector of Prisons was appointed in 1889, for the first time since 1868. Basil Roper was a meticulous and energetic Inspector, who travelled to most of the convict stations and gaols of the Colony twice yearly.

At the Porter Reformatory in Tokai, Chisholm (1986:487) documents a clear shift towards increasing discipline and control after 1889. The Breakwater was, however, at the forefront of the new approach. Its prisoners were transferred to other convict stations because of their excellent discipline. In 1888, for example, all the penal (lowest) class convicts from Tokai and Kluitjies Kraal stations were transferred to the Breakwater and replaced with probation class convicts from there (CO 6871, p.6). In 1897, the Inspector of Prisons (G14-97, Appendix A, p.iii) reported that the

very thorough discipline enforced at the Breakwater convict station is bearing fruit throughout the Colony. Officers for other penal establishments are recruited from thence, and carry with them the effects of their excellent training.

After 1880, and more markedly after 1888, there was an attempt to isolate 'normal' prisoners from other offenders. Alcoholics were sent to the Tokai convict station from the Breakwater, and non-violent juveniles to the Porter Reformatory after 1882 (Chisholm 1986:482). After 1902, a special wing of the Tokai station was available for the incarceration of chronically ill prisoners (G78-1902, p.1). Act 13 of 1911 was the first to create separate institutions for homeless children, juvenile delinquents, alcoholics, the chronically ill criminal, habitual criminals and others (Van Wyk 1963:447-8).

This trend was coupled with an increasing awareness of the importance of the individuality of the criminal for his/her reform. In 1889, 20 new cells were built at the Breakwater (G38-90, p.12). Confinement in cells, often with spare diet, had been used for punishment of offenders since the 1860s (PBW vol.130), but significantly in the 1890s this practice was expanded, and the cells were used for "separate labour" as well (G38-90, p.12). Separation of inmates at work began to become important, as it was in English and American prisons, although in the Colony separation of racial groups came before the separation of individuals. By 1910, however, the Director of Prisons had recommended the cell system (in which prisoners were separated from each other) over the association system (in which prisoners worked together under supervision during the day) (Van Wyk 1963:583).

This trend coincided with a resurgence of interest in strictly penal labour in the 1890s, which Roper now recommended only for the early stages of imprisonment, in line with Du Cane's proposals in England (G47-93, Appendix A, p.9). Roper met with opposition in this regard from De Smidt (the Head of the Convicts and Prisons Department) and Graham (the Secretary to the Law Department) from 1893 until he shifted towards their position in about 1897, and recognized the need for 'productive labour' from convicts as primary (G14-97, Appendix A).

Roper's desire to see treadmills and crankshafts as part of the prisons' hard labour program never came to fruition, but at the Breakwater treadmill work was used as a punishment from 1893. The first treadmill, built in 1824, and used sporadically and ineffectually for grinding grain (Van Wyk 1963:157), had been an unpopular failure. By 1888, there were only two treadmills in the whole Colony, one of which had never been used (G2-88, p.xL). This treadmill was probably at the Breakwater (Green 1947:99), where the punishment books detail no treadmill labour until November 1893 (PBW vol.130-132).

In 1890 (Louw et al. 1983:450), a new and larger treadmill, which held six men at a time (Green 1947:99) was built at the Breakwater. This was used to punish inmates for transgressing prison rules (PBW vol.132). In 1898, another treadmill was transferred from the Cape Town Gaol (in Roeland Street) to the cell-yard of the Breakwater (G40-99, Appendix B, p.xxxii).

By 1890, however, the Breakwater was still the only convict station to have two classes of prisoners, the penal and probation classes, separated at night and during the day in work parties (Van Wyk 1963:468). By this time, the Breakwater had begun to segregate inmates on the basis of "character" rather than crime, separating recidivists from first-time offenders (Van Wyk 1963:583). This echoed a similar shift in the English prison administration towards rehabilitation of individual criminals on the basis of their particular history and emotional condition.

In 1877, Sir Edmund du Cane began to implement a new English prison law that concentrated precisely on rehabilitation, and the differentiation of prisoners' progress on a points system (Van Wyk 1963:378). This trend was strengthened by the Gladstone Report of 1895, which emphasized the individuality of criminals and the training of prison officials (Van Wyk 1963:415-6).

were disciplined 'fully' after the turn of the century, and that blacks were not. The Industrial Breakwater building, for example, was used to house black labourers at the docks after 1926 (Louw et al.1983:449). But there was certainly a differential approach to the disciplining of black prisoners. Different rules seem to have applied to their institutionalization.

This was true in practice during the early period, and was codified and regularized in the 1880s and 1890s. There were not many improvements made to convict station after 1900 (Van Wyk 1963:433), possibly because white convicts were safely segregated in the Industrial Breakwater, and safely disciplined there. The form that the racial division took (i.e. whites were taught trades, blacks were given manual jobs) was moulded by the intersection of disciplinary and racist discourses at the Breakwater.

### **Conclusion**

British models of institutional disciplining were both the template for Colonial prisons like the Breakwater, and the norm from which its deviance was documented and explained. During the first phase, senior prison officials were constantly concerned about the poor classification and poor quality of personnel in the prisons. Yet the design and function of convict stations made the construction of 'proper' prison buildings, the control and surveillance of prisoners, and the restriction of prison labour to devices like treadmills and crankshafts inside the prison, structurally difficult if not impossible.

There were sound socio-economic reasons for this 'deviance', such as the high cost of organizing intensive surveillance and classification of prisoners, and of building suitable prisons for this kind of project, in a country without England's complex industrial economy, and thus without a burning need for trained factory workers. In the years before responsible government, the Colony was meant primarily to be a money-spinner for Britain (Newton-King 1980:172), and only tangentially was the parallel generation of a disciplined working class attempted.

During the 1880s and 1890s, these socio-economic conditions changed, and disciplining became more possible, and more necessary.

As Foucault says of Europe (in Rabinow 1986:211),

The growth of a capitalist economy gave rise to the specific modality of disciplinary power whose ... techniques of submitting forces and bodies could be operated in the most diverse political regimes ... or institutions.

In the Colony, an industrializing economy generated wealth, and the mines began to demand a regular, reliable source of cheap labour. Farmers began to compete with the mines for their labour supply. The racialization of the labour market, and the racism of the employers, ensured that this labour force was predominantly black. The prison, which had always been a part of the colonial project for the control of the indigenous population, now became increasingly important as a disciplinary phase in the generation of workers for the Colony. It echoed, too, the race-class divide that had begun to crystallize in the Colony.

But the form that prison disciplining took in the Colony, and specifically at the Breakwater, was not determined by these socio-economic conditions. As Basil Roper, the Inspector of Prisons, said in 1896 (G53-96, p.4) with regard to identification methods,

It is doubtful whether even the most perfect European system of identifying criminals, such as the Bertillon or anthropometric system, would be found suitable to the conditions of this Colony. Apart from the question of time and expenditure involved, it would appear that for the coloured classes there would hardly be the necessity which exists in European countries for bringing home to the criminal the fact of his recidivism.

The racist discourse of colonial difference, which had built on the racist discourses of European expansion since the sixteenth century, structured the form that differential treatment took, firstly, for prisoners within the Colony as opposed to Britain, and secondly, for white as opposed to black prisoners. It is the question of white and black prisoners within the prison that I shall focus on in the next chapter.

## NOTES

1. This was an issue much debated in the Colonial Office, and finally addressed in about 1895 by the "appointment of efficient Europeans" (G53-96, p.16).
2. Classifications and their application will be discussed in greater detail in Chapter Four.

## CHAPTER FOUR

### "THE GREATEST BLOT OF ALL" Racial segregation at the Breakwater Prison

*The task of the Convict Department re-organized in 1888 ... [was] to remove the greatest blot of all - the indiscriminate association of Europeans and Natives by day, on work for which the former class was quite unfitted, and by night in badly constructed, overcrowded and ill-ventilated sheds.*

Henry de Smidt, Head of Convicts and Prisons Department, 1896 (G14-97, p.13).

*The task of ideology is to present the position of the subject as fixed and unchangeable, an element in a given system of differences which is human nature and ... experience, and to show possible action as an endless repetition of 'normal' familiar action.*

C. Belsey (in Pratt 1986:140).

#### Introduction

In Chapter Three we examined the specificity of colonial punishment in terms of the interplay between racism and disciplinary models of the prison. This chapter is concerned with the emergence of racial segregation, characteristic of the South African penal system even today, at the Breakwater Prison in the 1890s.

Prisoner classification was part of the general trend towards classifying and dividing people, a trend which characterized the nineteenth century state in Europe, and became part of Colonial policy. This general trend towards "disciplining" has been detailed in Chapter Three. Segregation on the basis of 'race', however, was a peculiar feature of colonial prisons. Racial segregation did not represent the only physical division of prisoners, and it was not the only proposed division. But it had become the primary focus of the prison authorities by 1888 (e.g. G2-88, Second Report, p.xxxi).

In this chapter I intend to show, on the one hand, that racial classification at the Breakwater was only one of several classifications imposed on prisoners in the Colony. Also, the division between "black" and "white" was only one of the racial classifications used at the Breakwater. On the other hand I shall investigate the

meaning and extent of a shift in priorities, towards complete racial segregation in 1901.

As we have seen in Chapter Three, the Breakwater Prison was a key institution in the development of penal policies for the Colony during the 1880s and 1890s. This is particularly evident with regard to the development of racial segregation in the prison system. On the one hand, the Breakwater was the Colony's largest prison for long-term convicts under sentences of hard labour, and housed almost all the white convicts. In 1892, white and black prisoners were separated completely from each other at night at the Breakwater (G47-93, Appendix A, p.8), but at no other convict stations. At that time there were white juveniles at the Porter Reformatory and white convicts at East London and Tokai (G47-93, Appendix A, p.8), where racial segregation only began in 1894. By 1897, all the white convicts from East London had been transferred to the Breakwater (see G40-99, p.36). On the other hand, the Industrial Breakwater was the first all-white convict station in the Colony.

The Breakwater Prison was thus to some extent, a site at which the explicit racism that characterizes the division of prison space and labour even today, was both developed and implemented. Before I turn to the specificity of these historical events, it is necessary to comment briefly on the historiography of racial segregation.

### **Theory and Method**

The "genealogy" of racial segregation is of enormous political importance today: a post-Apartheid non-racial penal system must be developed on the foundations of nearly a century of racial segregation. Since the 1960s, politicians of the Left (including academics) have tried to show that racism is not a disease of the mind (as early liberal historians claimed), but is a rational response to competition for resources (e.g. capitalism, O'Meara 1983).

The underlying idea is that racism can be eradicated in a post-Apartheid South Africa by changing the structure of the economy (into a socialist one), encouraging a racially-blind class stratification, and through educational programs ('getting to know one another') so that competition is not based on racial stereotypes. That this is unlikely to happen so easily, is borne out by the failure of anti-racist programs in socialist countries, and in Britain and America, countries without the explicitly racist colonial heritage under which South Africa suffers.

It is clear from the weaknesses of radical social theory sketched above that a more subtle, and broader, approach needs to be taken in analysing the racial division of bodies and their labour in the Colony. As Eagleton (1978:89) says of literature,

the task of criticism ... is to install itself in the very incompleteness of the work in order to theorize it - to explain the ideological necessity of the 'not-saids' which constitute the very principle of its identity.

Firstly, therefore, I shall examine racial segregation at the Breakwater in the context of other classifications of prisoners (on the basis of sentence length, conduct, sex and so on), the implications of which have been easily ignored. Secondly, I shall go beyond the teleological analysis that assumes the naturalness and inevitability of Apartheid as a companion to Capitalism. The strength and pervasiveness of Apartheid today has encouraged historians to assume it was just a matter of time and opportunity before racial segregation could be implemented (1). Although segregation is clearly associated with the industrialization of the Cape economy in the 1880s, the meaning of racial segregation is not reducible to its economic rationality (2).

Taking this as a starting point, I shall demonstrate that although racial **classification** (on paper), and differential treatment of black and white prisoners occurred in the prison from 1859, racist discourses did not depict physical **segregation** of the races as essential, or even always desirable. Some of these ideas continued to influence prison officials in the 1890s.

### **The Context of Classification**

Certain psychologists (e.g. Tajfel 1981) say that classification is a fundamental necessity for social interaction. People classify what they see and hear in order to make it understandable (meaningful) and controllable. This common-sense view highlights an important political aspect of classifications. Fabian (1983:100-101) has argued that even supposedly value-free analytical categories in Anthropology have a temporal dimension, and an evolutionary position within their classification. Knowledge, in the old cliché, is power.

In particular, prison classification was part of a new form of state power emerging during the nineteenth century in Europe, and to a certain extent, in the Colony. The meaning and extent of this disciplinary revolution at the Breakwater has been

discussed in Chapter Three. I shall now summarize briefly the models for, and practice of, classification at the Breakwater.

Within English prisons, inmates were separated from each other, at least at night, under the "separate" or "silent" systems, both imported from American prisons (Ignatieff 1978:194). The silent associated system (from Auburn, USA) demanded segregation in separate cells at night, and that prisoners work in silence and under supervision during the day. The separate system (from Philadelphia, and applied at Pentonville and Millbank) demanded complete isolation of prisoners in cells during the day and night. Work was done in cells using crankshafts, or on treadwheels with partitions for each prisoner (Ignatieff 1978:194).

At this time, humanitarian discourses stressed reform of the mind rather than punishment of the body (Cohen 1985:13-14). Inmates were individualized and controlled by an intersection of categories (e.g. type of crime, conduct, age) and by their division into cells. Ever finer classifications and the emergence of knowledges (e.g. in the social sciences) about types of prisoners (e.g. juveniles) and the experts to deal with them (e.g. social workers) accompany the formation of a "total institution" (see Chapter One).

In Australia, the division of prisoners into penal, probation and good conduct classes by Maconochie in the 1840s was part of an attempt to separate hardened criminals from their (relatively) innocent counterparts, and to encourage moral 'improvement'. Montagu brought this system to South Africa (Newman 1855:124).

In the Cape Colony, overcrowding in the prisons and convict stations (because the law was used explicitly for social control) made the segregation of classes of prisoner and of individual prisoners difficult (as it was in Natal, Pete 1985:75). Colonial prisons were structurally unsuitable for application of the silent associated system, much less the separate system. The defective nature of forty new jails built between 1859 and 1865 led to the dismissal of the Colonial Engineer and an assistant (GH 23/30, p.16).

It was clear that no rigorous system of classification could be adopted because of the ramshackle and disorganized state of the prisons (Van Wyk 1963:154). The temporary nature of road station buildings made segregation of classes expensive and difficult. The same badly built wooden houses were erected at the Docks as at temporary convict stations, and there was little "disciplinary" use of space to improve

surveillance or control the activity of prisoners. In 1865, tents were used to house extra prisoners at the Breakwater (G24-66, p.3). And as late as 1884, sleeping wards contained up to fifty prisoners, and had no partitions to prevent communication and enforce separation (*The Lantern*, 29 March 1884:7).

Montagu's system of using convict labour in workparties on Public Works outside the prison walls made the application of the silent associated system difficult in practice, and the separate system impossible in principle (as in Natal, Pete 1985:75). The Home Office sent its last directive to the Colony in 1865, concerning the advisability of introducing the separate system in colonial prisons.

#### *The Range of Classifications in the Colony*

The separation of tried and untried prisoners (CO 5838 of 1848), recidivists and first-time offenders was repeatedly proposed for the prisons in the Colony (e.g. by CO 414 of 1828). In practice, however, only men and women, long term and short term prisoners were segregated by the time the Breakwater Prison was built. They were kept in different institutions. Female convicts were sent to the House of Correction in Cape Town, although short term female prisoners enjoyed a less certain segregation in the local district jails. Only convicts (long term prisoners) were supposed to be sent to the convict stations like the Breakwater, but in practice, short termers sentenced to hard labour were sent there (Fisk, G32-63, p.12), as well as offenders sentenced by magistrates to three or more months' imprisonment (Piers, G28-65, p.4).

In 1854, three classes for convicts, the penal (lowest), probation and good conduct ticket classes, replaced Montagu's "chaingang" and "roadparty" divisions (Van Wyk 1963:237-8). The old classification divided prisoners on the basis of their crime, and their length of stay at the station. Prisoners were initially assigned to the "chaingang", where they were bound in chains at work, individually or two-by-two (Van Wyk 1963:237). The three way classification introduced by Montagu in 1854 was based on the conduct of the prisoners, although all prisoners had to spend at least the first sixth of their sentence in the penal class (Van Wyk 1963:237). In the probation and good conduct classes convicts were meant to set an example to the others, and received more privileges, such as tobacco and mitigation of up to one fifth of their sentence. Members of the latter class could also be released on probation (G28-65, p.6).

These classes were applied at the Breakwater when it was built in 1859. In 1867 the good conduct class was abolished, because it worked "injuriously and inefficiently" (Southey to the Governor, G34-68, p.3). There may have been some reluctance on the part of settlers to employ convicts on probation. By 1889 there were still only two classes of prisoners at the Breakwater: the penal class, and the probation class, who were probably separated at night (G38-90, Appendix A, p.15). By 1892, East London and the Porter Reformatory (the latter with regard to older and younger inmates) had followed suit, and all three had separated black and white inmates within these classes (G47-93, p.8).

In 1890 it was said that further classification at the Breakwater was too expensive, and that there were not enough of each class to warrant it (G38-90, p.12-13). In 1894, however, a third (good conduct) class was added at the Breakwater (Roper to Graham *in litt.*, CO 6498, 1/94). By 1896, Roper said that "in every new gaol care is taken to provide sufficient yards and cells for due separation of classes" (G14-97, Appendix A, p.ii). Electric lights were installed in the cells and large rambling barracks at the Breakwater in order to make night inspections more efficient (G53-96, Appendix B, p.xx).

The reasons for the slow adoption of a disciplinary strategy by the colonial officials are complex, and have been explored in Chapter Three. Financial considerations and the need for labour are only partial explanations. An intersection of discourses about disciplinary punishment and the difference of the "Native", for example, made British systems of punishment and reform only partly necessary and partly applicable at the Breakwater. The unsuitability of colonial prisons for classification reflects both a shortage of funds and the low prioritization of classification under the separate or silent systems. The separate system in particular and imprisonment in general were not depicted within racist discourses as particularly suitable for reforming the black offender.

### *Racial Classification*

The black-white division was not the only racial division within the prison. In the prison statistics of 1862, for example, the prison chaplain categorized the prisoners as follows: "Europeans and of European Descent" (the first entry), "Hottentots, Bushmen, Fingoes and Free Blacks", "Emancipated Slaves", "Natives of the Border Tribes", "Prize Negroes and Foreigners of Colour" (Fisk, G32-63, p.10).

This classification reflected different views on the efficacy of imprisonment for Africans and Khoisan in particular. Prisons could not reform Africans easily because they were fundamentally 'lazy' and 'thieving'. But imprisonment had even less reformatory effect on the San and Khoi. For the period 1857-62, recidivism stood at 11% (3), representing mainly Khoi and San (G32-63, p.4). In 1860, Charles Piers, the Superintendent General of Convicts, said that

little impression is made upon convicts belonging to the ["Hottentot and Bushman"] races by the system of discipline to which they have been subjected. Most of them resume their former idle ways ... immediately after their discharge from prison, and seem careless about the consequences of committing themselves again (G36-60, p.7).

This was a common complaint about all black prisoners (even in the 1890s), but in the early years it seems to have been focussed on the Khoisan as opposed to the African. In 1865, Piers said of the former, "We know they dislike very much being locked up, separated from their family and friends and obliged to observe regular habits" (G28-65, p.6). Yet "their fondness for idleness [was] innate" and they were compelled to steal sheep because of this (G32-63, p.8, G28-65, p.5). Thus he would not consider altering the system of prison discipline "to suit the peculiarities of these people" (G36-60, p.7). Perhaps the specific "peculiarities" of the Khoisan were attributed to their status on the evolutionary ladder, closer to 'ignoble' savagism and further from civilization than the African.

The distinction between "Kafirs", "Hottentots and Bushmen" and "Europeans" remained on paper, at least until the mid-1880s (e.g. with regard to numbers of prisoners, G44-86, p.2). Nevertheless, the differences between the "native" (who came to represent all black prisoners, e.g. G53-96, p.15) and the white prisoner were stressed after 1880, while differences between "Hottentots" and "Kafirs", more often noted in the official reports of the 1860s, were increasingly downplayed.

This is evident in the debate between Roper and Graham on the efficacy of strictly penal labour for convicts in the Colony (e.g. G53-96, p.13-14). Comparisons were drawn (on both sides of the debate) between the "coloured" or "native" convict and the "European" without reference to the vagaries of the Khoisan convict. The polarity of black and white had thus exerted its influence.

On the question of prison diet, this polarity became evident in practice by 1898 when different scales for "Natives" and "Europeans" (4) were applied in most of the

larger stations, with the notable exception of the Breakwater. This was largely because the Breakwater was one of only two stations to house both black and white convicts after 1898. Officials could not easily distribute different rations in the prison yards as black and white convicts worked together during the day (G40-99, p.32).

"Spare diet" (rice water or minimal food for a specified period) had long been a punishment within the colonial prisons (e.g. PBW vols.130-132) as it was in England (Pete 1985:117). In 1888, the Resident Magistrate for Peddie testified that spare diet was "much dreaded by Fingoes and Hottentots, but not by the Kafirs" (G2-88, Minutes of Evidence, para.4343). The scale for "natives" adopted after 1898 in the convict stations, and in 1901 at the Breakwater, made no distinction between these groups (5).

Designed to be punitive, the new scale had less meat and more mielie meal than the old scale (G40-99, p.30). It caused outbreaks of scurvy at Bleak House station in 1897 (G19-98, Appendix B, p.xLviii) and at the Breakwater in 1901 (G78-1902, Appendix K, p.xLii). It was justified on the grounds that it equalized the effects of punishment on different races: treating black and white convicts in the same way had in the past minimized,

in the case of the low class black or raw native, the salutary effects of imprisonment and the inconveniences attending deprivation of liberty and the enforcement of habits of industry (G40-99, p.30-1).

But the adoption of differential dietary scales depended on the segregation of racial groups within the convict stations. The Commission of 1887-8 strongly emphasized the necessity for, and the lack of, racial segregation at night within the prisons and convict stations of the Colony (G2-88, Second Report, p.xxxi). By now, racial segregation meant the separation of whites from non-whites. Classification in the gaols was better than in the convict stations (G47-93, p.8), but there were only a few convict stations, the Breakwater, Tokai and East London, which housed any white prisoners. The Breakwater was at the forefront of the new segregationist enthusiasm in the convict stations.

In 1890, the probation class at the Breakwater was partly racially segregated (Van Wyk 1963:468). Yet there was no complete racial segregation in the Breakwater at night until about 1892, when Roper reported that penal and probation classes were separated into black and white dormitories at night (G47-93, Appendix A, p.8). His

inspection of the Breakwater in January 1894 supports this (CO 6498 no.13/94). But possibly because Roper felt that the penal class would not benefit from racial segregation (CO 6498, 13/94), this class seems to have been re-integrated from 1898 to 1901 (G19-1898, Appendix A, p.iii).

In 1888, the Commissioners had suggested that racial segregation be achieved through the employment of white convicts at industrial institutions adapted for the separate system (G2-88, Second Report, p.xLix). By 1901, the Industrial Breakwater held only whites, and black convicts remained at the old station, although some black convicts worked at the Industrial station's workshops during the day (G78-1902, Appendix B, p.xi).

Classification in general thus happened slowly and imperfectly in the Colony, according to European models. It was predicated upon European divisions between criminals and non-criminals (e.g. lunatics) and between different types of criminals. The latter division was meant to aid reformation, and became increasingly focussed on the individual criminal rather than his/her crime. But, specifically, colonial classification was also based on a racial classification. This changed in form and importance over time.

Racial difference was seen as **natural** in the scientific racist discourses, but it was only in the 1880s that this difference was polarized to refer primarily to black versus white, and that it demanded a physical dimension in the prisons. By then, racial "classification" (i.e. segregation) was the primary focus of the Colonial authorities (e.g. Second Report, G2-88, p.xxxi), and the press (*The Lantern* 1884:7). The common importance of the African and the Khoisan as workers possibly overrode the perceived racial differences between them. The difference between the black and the white criminal was greater, and more important, when the two groups were polarized outside the prison walls.

Segregation of black and white prisoners began at the tail end of a century in which differential treatment of racial groups was matched by segregation on paper rather than in practice. As **classification** this reflected a broad trend during the 1880s and 1890s towards the centralization and organization of the prison system as a whole. But as **racial classification** it also reflected a trend towards racial segregation in the mines and cities of the Colony.

## The Meaning of Racial Segregation

Racial segregation within the prison, as has been suggested above, was not an inevitable corollary of racist discourses. The chaplain at the Breakwater in 1863, George Fisk, for example, suggested partitioning the men with corrugated iron screens at night, and preventing communication by placing black men **in between** the white convicts (G32-63, p.14). He felt this would aid reformation (G32-63, p.14).

For similar reasons Basil Roper, the Inspector of Prisons, argued in 1894 that racial segregation of the penal class at the Breakwater was unnecessary and undesirable. Roper said that the penal class was "dangerous and disorderly", and that Europeans were more likely to plot their escape or rebellion if they were segregated from black prisoners, and kept on their own (Roper to Graham *in litt.*, CO 6498, 13/94). At the same time, however, Roper praised the racial segregation of the probation and good conduct classes. The argument about the particular immorality of the white criminal had thus gained a class dimension by the 1890s

In 1863 Charles Piers, the Superintendent of Convicts, explained that the white military prisoners kept at the Breakwater during 1862 were separated from the other convicts at night because the officials feared a mass organized escape (G32-63, p.6) (6). Thus in so far as the prison population was already divided by barriers of language and prejudice, racial integration aided control. But in so far as black and white prisoners communicated, the prison authorities saw the white prisoners as the instigators of rebellion and organized break-outs.

In 1885 there was a strike at the Breakwater, arising from complaints about the conduct of the prison officials (G14-97:11). White and black convicts "held meetings in the yard" together (G14-97, p.11). The spectre of an organized criminal class, a vision which had encouraged integration in the 1860s, now made association between white and black "the greatest blot of all" (G14-97, p.13). On another level, however, the idea that different races also need different punishment had begun to play an increasingly important role in popular and official discourses.

By the 1880s a "settled European criminal population" began to make its presence felt (G14-97, p.12). Increasing numbers of white convicts, especially during the South African War after 1899, may well have changed attitudes towards prison segregation among the prisoners and those who guarded them. It was now more

feasible to propose separate dormitories, separate classes, separate occupations and separate institutions for the white prisoner.

There was also a shift in the meaning of racial segregation in Cape Town during the 1880s. Instead of being a class based segregation with ethnic undertones (Bickford-Smith pers. comm.), it became a division of race that extended into the working classes within the city, and thus also into the penal classes of the prisons. Poor whites were represented as the "deserving poor" (Bickford-Smith 1986:20), who deserved government aid, while the black urban proletariat, often on the edge of destitution, was pushed further and further from the city and its amenities (Bickford-Smith 1986:34-5). The provision of housing, poor relief and formal schooling in the city was increasingly administered on a racial basis (Chisholm 1986:491).

At the time, the use of unskilled black, and skilled white labour on the Colony's mines both reflected and cemented a class division along racial lines that had become increasingly difficult to cross (Bickford-Smith 1986:29-30). This barrier became more concrete within the Colonial administration during the 1890s. In 1891 the Superintendent General of Education said that black children should be taught the skills of manual rather than industrial labour (Langham Dale in Chisholm 1986:491).

The broad segregatory trend was reflected in the complete segregation of black and white convicts at the Docks in 1901. The trend towards differential training is also evident at the Breakwater. The increase in white convicts (who were often skilled labourers) encouraged the prison officials to start workshops at the Breakwater by mid 1890 (G14-97, p.14).

Skilled prison labour (e.g. cooks, plate layer assistants) had been used at the Breakwater at least since 1862 (G32-63, p.6). This work was largely confined to the Harbour Works and to repair and maintenance duties for the station. In 1888 the Commissioners stressed that proper arrangements had to be made for the hiring-out of skilled convict labour (G2-88, 2nd Report, p.xLi). By 1894 at least, skilled labour was trained in the prison as well: Roper mentions the master shoemaker in his inspection report (CO 6498, 1/94, Addendum 2, p.3).

In 1896, Roper reported that the industries (tailoring, bootmaking and carpentering) at the Breakwater were "flourishing" (G53-96, Appendix A, p.iii) under the direction

of qualified tradesmen (Foster, G53-96, Appendix B, p.xx). The scope of the work broadened considerably, and in 1896 the Breakwater provided all uniforms for officials at gaols and convict stations throughout the Colony, for example (G14-97, Appendix b, p.xxxv). In this work, 49 men were employed in 1896 (G14-97, Appendix B, p.xxxvi), but no racial breakdown is provided by the records.

Almost certainly however, there were more skilled white labourers coming into the prison (because there were more skilled whites in the Colony as a whole), and there was probably more emphasis on training white convicts in industrial skills. In the Industrial Breakwater the top floor was entirely occupied with workshops and machinery, where mainly white convicts were trained and put to work.

The close connections between the mines and the prisons also helped to cement the race-class division within the Breakwater. Action taken against illegal diamond buying in the 1880s swelled the number of white prisoners at the Breakwater to a massive one fifth of the total number of convicts by 1886 (G14-97, p.12). In 1884, an article in a Cape periodical (*The Lantern*, March 29 1884:7) stressed the "intelligence" of these white convicts, who were "entirely different from [inmates] in the larger prisons in Britain." The correspondent was shocked that

Blasting, quarrying, wielding huge blocks ... are the delicate bank manager, the ex-fashionable young criminal of the shop till of Kimberley, side by side with the Bushmen sheepstealer, ..., the murderer, the raper, the Kafir insurgent (*The Lantern*, March 29 1884:7).

It was argued that white criminals suffered more shame and social degradation in the prisons:

the coarser criminal, the black, the brute, has a more comfortable life than probably he had before his 'punishment' commenced, while ... the white man has every decent susceptibility ... everlastingly shocked and outraged (*The Lantern*, March 29 1884:7).

The Parliamentary report on convict stations in 1897 noted that because "many of [the white] criminals [in the 1880s] were men of education and intelligence, it was not to be wondered at that the old system of herding together European and coloured was unequal to the strain" (G14-97, p.12). "It broke down completely" (G14-97, p.12).

Many of the white criminals must have voiced their discontent. In 1902, the Visiting Chaplain from the Church of England at the Breakwater commented that the racial segregation effected by the construction of the Industrial Breakwater had removed

an element of ... discontent which ... to some extent hindered the due effect [of] punishment ..., arising from a feeling that an unnecessary indignity was inflicted over and above the justice of their sentence, which was felt deeply by all the white convicts, and more especially by those suffering for Military or Naval offences (G78-1902, Appendix I, p.Lii).

Thus the injustice of differential punishment documented by *The Lantern* in 1884 had been expanded to include the unfair burden for the white convict, of being put in the same prison as the black man.

### Conclusion

Racial classification at the Breakwater (on paper) thus finally led to racial segregation at night in 1892, and to complete segregation in a different institution (the Industrial Breakwater) in 1901. This was part of a general trend towards state control through classification and division during the nineteenth century, and the increasing importance of the class-race split with the capitalization of the Colonial economy in the 1880s. The growing number of white convicts during the 1880s, and the emergence of a nascent 'prisoner consciousness' that transcended racial boundaries made racial segregation important within the Breakwater because of the danger this represented within discourses about racial contamination and prisoner control.

European discourses about racial difference and the function of imprisonment influenced the form that racial segregation took at the Breakwater. Crucially, the silent association system was used as a model for racial segregation at night in the 1890s. The separate system (total seclusion of prisoners from each other) was rejected because it would not have allowed convict labour on Public works to continue. It would have been expensive, too (G23-30, 1865). But it was also not applicable to a different 'class' of prisoners, the black convicts.

The total segregation of black and white prisoners by 1901 echoed the principles of total separation night and day, although it was applied to groups rather than individuals, and to whites rather than blacks. The "blot" of racial contamination became more dangerous than criminal association within groups. Racial difference and racial segregation had finally met.

#### NOTES

1. The same type of criticism has been made by recent historians of the Afrikaner Nationalist movement, and of the gold mining industries in the latter part of the nineteenth century (Jeeves 1984).
2. As Saul Dubow (1989:1) has argued, the content of racist ideology has too long been ignored, while its function has been emphasized. And as Miles (1989:100) has shown, capitalism and racism are not always mutually functional.
3. Because of administrative irregularities in the recording and identification of convicts (see Chapter Five), recidivism was probably much higher than official reports show.
4. Although such a differentiation had been suggested as early as 1867, it had previously focussed on the desirability of uniformity in prison rationing as a whole, and was not implemented (A11-67, p.5).
5. Although when it was suggested that the "Bechuana, Koranna or Hottentot" convicts needed less food than the "full blooded Kafirs", the promise of further economy invited the authorities' attention (G40-99, p.32). The suggestion was, however, impracticable for the same reasons that the new scale itself was not applied at the old Breakwater until 1901.
6. The military prisoners were, however, distributed among the gangs during the day because they were "unfit" for hard labour, Piers said, and would not have paid for their keep if they were kept together (G32-63, p.6). Piers said there was less concern over the sailor prisoners, who mixed freely with the black convicts (a fact which worried Fisk), as the sailors would leave the Colony on discharge (G32-63, p.6).

## CHAPTER FIVE

### RESISTANCE AND WILLING COMPLIANCE AT THE BREAKWATER

*Three days' cells for two big smokes - this won't break my heart.*

Scratches on the Breakwater cell walls (Green 1947:98).

#### Introduction

The operation of the Breakwater Prison was neither fully regulated by the colonial authorities, nor fully controlled by the prison officials themselves. On the one hand, there was a certain reluctance to impose British disciplinary models in Colonial prisons, a reluctance expressed by the white settlers in the Colony and supported by the Colonial Office. This has been discussed in Chapter Three. We have seen, however, how prison life became more closely regulated and ordered during the 1880s and 1890s, a time in which the differences between Colonial and British prisons were articulated, justified and finally cemented (Van Zyl Smit 1984:157).

On the other hand, there was a complex interplay of power between officials and prisoners within the prison itself, an interplay that had both a cultural and a historical specificity (1). This chapter is concerned with these power relationships within the Breakwater, and specifically, with the interplay between resistance and "willing compliance" (Henriques et al. 1984:115).

The critique of "social control" models (Stedman-Jones in Ignatieff 1983:96), discussed in Chapter One, highlights two important, but neglected, areas of prison history that are crucial theoretical departure points for this discussion. Firstly, state coercion (which is not always the prime actor in the maintenance of social control) needs a degree of **willing compliance** from its subjects in order to be effective. Secondly, the prison, never completely successful in regulating socially "deviant" behaviour, is a site of multiple and even conflicting **resistances**.

I have argued in Chapter Two that the prison did not just build a breakwater at Table Bay: it created **workers** who would enter into wage labour in the Colony on their release. This "normalizing" function of the prison demanded some willing

compliance from its subjects in order to be successful (Henriques et al. 1984:115), but at the same time the prison was riddled with sites of resistance to it.

## Resistance

It has become a cliché in the 1980s to say that resistance is everywhere. On the one hand, it allows the historian to stretch the notion of resistance to encompass subtle forms of protest and hostile interaction. On the other hand, it may result in a loss of analytical clarity. This is an example of what Miles (1989:41) has termed "conceptual inflation" (2). How has this come about, and what are the pitfalls?

Because description in current scholarship focusses on deviance rather than the norm, topics like 'crime', 'resistance', 'the working class' and 'women' have become both a primary interest and the primary problem (Henriques et al. 1984:130-1). Many academics and activists in the 1960s and 1970s, such as labelling theorists and members of the women's liberation movement, were concerned with the erasure of (perceived innate) differences between these 'deviant' groups and the 'norm'. The political utility of presenting historically marginal groups (e.g. criminals, women and the working class) as powerful and active (just like the middle classes, the 'norm') was not overlooked.

Histories of resistance in Africa, in particular, burgeoned in the 1970s, with the neo-Marxist revisionist school taking the lead. Resistance to colonial incursion in Africa spans both primary resistance (a term popularized by Ranger 1967): initial resistance against the colonial order from a position outside of it) and secondary resistance (resistance by people already incorporated into the colonial political economy). This distinction will be useful later in examining the historical and cultural specificity of resistances within the Breakwater.

While the subject matter of these histories, the African working classes and peasantry, differed from that of the 'Great Man' histories, the early resistance studies concentrated on formal organized political movements and their campaigns, usually led by urbanized and educated men and women (Beinart and Bundy 1987:2). Later resistance studies have emphasized the covert, day-to-day, individualized resistances that often precede, and later run alongside, overt organized rebellions and protests.

Scott (1985:29) has stressed the importance of **everyday** forms of peasant resistance, resistance that requires

little coordination or planning; ... often represent[s] a form of individual self-help; and ... typically avoid[s] any direct symbolic confrontation with authority.

Charles van Onselen argues that "in settler dominated economies with repressive labour legislation" (like Rhodesia and South Africa), "the less dramatic underlying worker responses" (Van Onselen 1978:19) are key demonstrations of their "well-developed ... self-awareness of their position as exploited workers" (Van Onselen 1978:2). 'Resistance' now includes such diverse activities as social banditry, criminal activity and outright rebellion (e.g. Crummey 1986).

From the above discussion, one can isolate two major theoretical problems with the concept of resistance: Firstly, it has been expanded to cover both overt, conscious action against the social order, and covert, individualized and 'unconscious' resistances. This "conceptual inflation" reduces the necessity to examine intentionality. And it makes the identification of actions as "resistance" problematic. If resistance is not necessarily equal to, or fundamentally subversive of power relations (Henriques et al. 1984:115), and it can be 'mute' or covert, how do we identify these subtle forms of 'resistance' at all, unless we make the term somewhat of a catch-all description for the actions of 'oppressed' groups?

Secondly, and as part of this catch-all process, 'resistance' has been made a property of subordinated groups in the same way that 'power' has been unambiguously assigned to the ruling classes in the literature (cf. Minson 1986:110-111). Voluntary 'collaboration' is reserved for the rising petty bourgeoisie. Clearly, the terms 'power' and 'resistance' describe relationships which are dynamic and complex: a ruling class can be overthrown from within its own system, for example.

### **Willing Compliance**

Historians have used the term "collaboration" to describe compliance with state directives for individual gain, against broader class interests. "Accommodation" has been used to describe actions against class (and often individual) interest undertaken when the possible alternatives are unfavourable. These notions can be criticized for their functionalism. As Foucault says (in Dreyfus and Rabinow

1982:187), "people don't know what they are doing and they don't know what what they are doing does".

In a recent critique of radical scholarship on the history of prisons, Michael Ignatieff (1983:99) emphasized the importance of consensual and voluntary aspects of human behaviour in the maintenance of the social order. He quotes Adam Smith (1763 in Ignatieff 1983:98):

Punishment did not constitute the order of civil society; rather, it gave ritual and symbolic expression, in retributive form, to the moral value attached by individuals to rule-obedient behaviour.

Ignatieff argues that the state expropriated the meaning and methods of community justice (cf. Thompson 1972 in Ignatieff 1983:100) in the sixteenth and seventeenth centuries in England, and that there is a tacit sharing of punitive power among police and working class communities even today (Fine et al. 1979:118-37 in Ignatieff 1983:100). Clearly, the state does not enjoy a monopoly of the punitive sanction, and Ignatieff stresses the importance of the consensual aspect of social control in societies in which the working class has broadly "accepted the wage bargain" (Ignatieff 1983:97, see Chapter One).

He seems to imply that state coercion and the penal sanction, vital in establishing this "wage bargain" in capitalizing countries (e.g. The Colony in the nineteenth century), is indirectly proportional to the willing compliance of the proletariat. I should like to stretch Ignatieff's "consensual aspect" of social control into Henriques' et al. (1984:115) notion of "willing compliance", and thus to argue that the consensual and coercive aspects of social control are not mutually exclusive.

First, the brutal coercion of early British government in the Colony was **productive** as well as destructive, helping to create actively dependant groups of people (e.g. the puppet chiefs) who saw themselves as servants of the British. Second, the Colonial government continued to use a great deal of coercion in generating and maintaining a cheap migrant labour force into the twentieth century, but the success of this coercion was predicated upon the acceptance of the "wage bargain" by a majority of these workers.

Social constructionists (e.g. Foucault 1977) contend that people are created (3) as social subjects: as active participants in social life, but, at the same time, subject to subtle and wide-ranging limitations on the form and extent of that activity. This

argument could be used to explain the take-up of a working class subjectivity by people in a trade union meeting (they are 'hailed' as workers), and their consequent participation in strike activity (Therborn 1980:78-9). Foucault uses the term "subjectification" to describe a similar process (4) in which the subject engages in active self-formation and is at the same time classified and ordered in the "scientific" discourses of the state (Rabinow 1986:11).

This kind of argument could be applied to the operation of the prison on officials and prisoners. The prisoner is constructed through the "technologies of power" that operate within the prison, on the "bodies" of the prisoners (Lemert and Gillan 1982:80,128). The prisoner, as "subject", would also resist prison discipline, but this would often be done within certain parameters and through certain (often ineffectual) channels (Minson 1986:114).

Crucially, as Henriques et al. (1984:116) argue, the success of the normalizing power of the prison (in creating a disciplined 'worker' or 'prisoner') depends on the willing compliance of the individual. Willing compliance is thus not only useful in the disciplining of the prisoners and officials; it is essential for state force to be effectual.

In the following section I shall focus on the resistances and willing compliance of prisoners at the Breakwater. A similar analysis of prison officials is possible too, and essential to the completion of the picture, but is beyond the scope of the present paper. I shall emphasize two issues in the next section: Firstly (5), because of cultural differences, the various categories of prisoners reacted differently to prison discipline. Secondly, there were changes in the forms of prisoner resistance over time, although loafing, theft and desertion, for example, were ever-present.

### **The Evidence**

Resistance to the prison was ever-present, but did not destroy the institution itself or colonial faith in its functionality. This is a common theme in prison histories (e.g. Murton 1976), and its background has been sketched in Chapter One. Here, it will serve as a starting point for the discussion of evidence for resistance and willing compliance on the part of prisoners at the Breakwater.

As early as 1861, the Superintendent-General of Convicts, Charles Piers, complained that the Breakwater lost both its deterrent and reformatory functions

when prisoners worked and associated with free labourers at the docks. The lower classes would become familiar with "the scene of convicts at work at Green Point" and the threat of penal sanction would be softened (G20-61, p.2). The convicts, able to hear from and about their friends, would be "reconciled to their condition", unsubdued by the experience of prison discipline (G20-61, p.2). The failure of the prison was thus admitted, and accepted, with respect to the working classes, at least in the early years of its operation. Later too, the hiring-out system often allowed prisoners free intercourse with passers-by when guards were lax (G53-96, p.13). Yet Piers justified the prison's usefulness as follows: it could "make the labour of the convicts ... useful to the public" by putting them to work on the docks (G20-61, p.2).

Explanations of prisoner resistance were thus given a class dimension, but they were also, and increasingly, racialized. The high recidivism rate of the Khoisan prisoners throughout the period 1859-1900 (see below) was an indication that the prison failed to reform its inmates. Yet Piers said in 1860 that this did not present "any argument against the system of convict discipline"; and if it did, he was "not prepared to [change anything] to suit the peculiarities in the nature of these people" (G36-60, p.7).

This racist discourse allowed the officials to excuse the failure of the prison (with regard to some of its inmates) without mentioning disciplinary inefficiency, or the more general failings mentioned above (see Chapter Six). And increasingly, it was the difference of the Native prisoner that became the standard excuse for the failure of the prisons to reform or deter criminals in the Colony (e.g. G47-93, p.8), allowing the emphasis to be shifted increasingly to the economic utility of prison labour, and to the need for harsher forms of forced labour and prison discipline (G47-93, Appendix A, p.8).

I shall now turn to a discussion of specific resistances at the Breakwater, and the willing compliances that ran alongside them. In order to create a disciplined worker consciousness, the prison exercised more control over the prisoners than was minimally necessary to make them construct the breakwater (6). It ordered their time after working hours; it dictated the way they should sleep and dress (PBW vol.132, pp.85,122). Resistance to the prison thus concerned more than just refusal to enter the labour market, or to work hard at the docks. It concerned, too, attempts to subvert the organized time and space of the prison itself.

What I have termed 'willing compliance' forms the context for these resistances within the system. It involved an active acceptance of the boundaries of justice and truth set by the institution, through the take-up of a 'prisoner' or 'worker' subjectivity. Resistances were couched with certain agreed limits and common understandings. A certain balance of power, a give-and-take, was possible between the prisoners and their guards. I shall now turn to the cultural and historical specificity of these resistances and willing compliances at the Breakwater.

### *The Cultural Dimension*

Especially in the early years of the prison, one cannot say that the Khoisan convicts, who were mostly charged with stocktheft, had "accepted the wage bargain" (see Chapter Two). And it is arguable, even in the 1880s and 1890s, whether the Khoi who were still being convicted on stocktheft charges had yet relinquished their 'independent' way of life completely. Recidivism for Khoisan was always high: between 1858 and 1859, nearly half of the Khoisan prisoners were recidivists (G36-60, p.7); in 1890, stocktheft still carried the highest recidivism rate (G38-90, pp.34-5). Yet, in 1860, the annual Report on Convicts described the "Hottentots and Bushmen" as "the most easily managed men at the [convict] stations [because they] are seldom punished for anything but laziness, smoking without permission and want of cleanliness" (G36-60, p.7).

How does one interpret this strange combination of a higher recidivism rate than the African or European prisoners, and a record of less important disciplinary infringements within the prison? The evidence on recidivists is not very reliable, for the prisons seem to have identified recidivists on a hit-and-miss basis, especially in the early years. It was only in the 1890s that photographs and identification marks were kept in prisoner files (G53-96, p.4). Nevertheless, most recidivists gravitated to the larger convict stations, where they were recognized (G53-96, p.4). Secondly, the later records do not register recidivism figures of "Khoisan" versus "European", for example, but of "Native" versus "European" (e.g. G38-90, p.51). So the distinction between those of Khoisan descent and those of Xhosa or Zulu descent is lost. And yet recidivism for stocktheft (the crime for which most Khoisan were convicted) remained high well into the 1890s. There seems to have been a difference in the prison experiences of these groups, and it needs to be examined.

One could argue that the resistance the Khoisan put up against the prison, in ignoring its message of 'reform and work for wages', was a primary resistance against the colonial definition of criminality itself. There was no other way of life for many of the Khoi groups, who had always lived by raiding others' cattle, or whose natural resources had been taken by the colonists. For many of the San, it was 'steal or die' (Anthing Report, Deacon 1988b:4). These people did not always understand a system in which for stealing sheep, they were taken away and fed mutton on their way to Cape Town (//Kabbo in Bleek and Lloyd 1911:291). Prison was not a moral experience for those whose morals were focussed elsewhere, in radically different discourses, and for whom there was no sense or justice in colonial rule.

The resistances within the prison that Piers documents above support the argument that the Khoisan were strangers to the discourse of the prisoner, and tried simply to carry on their cultural practices of smoking and sitting talking, as normally as possible within an abnormal environment. Most were probably not 'hailed' as prisoners by the discourse of control within the Breakwater, which is not to say they were naive of the opportunities it may have afforded them. Using Hollway's approach, one could say that they had an historical "investment" in being positioned within the discourses of San or Khoi life, and that these discourses were not readily translatable into the life of the prison: they existed alongside of it. This theme is addressed in Chapter Six.

### *The Historical Dimension*

Having examined the cultural dimension of resistance, let us turn now to the historical-specificity of resistance and willing compliance at the Breakwater.

In Charles van Onselen's analysis of worker consciousness among miners in Southern Rhodesia, he demonstrates how Africans avoided the adverse working conditions on Rhodesian mines, and used an extensive popular communication network to choose the mines where wages and working conditions were the most favourable (Van Onselen 1978:5). Within the mines, labourers resisted bad conditions by deserting, sometimes *en masse*, and by striking work. Enclosed in the compounds, and under the control of "boss boys" underground, the workers resorted to loafing (Van Onselen 1978:14), drinking (also on the Rand, cf. Harries, forthcoming) and other forms of "passive" resistance.

Similarities between the mining compound and the colonial prison have been discussed in Chapter Two. In general, the compound and the prison were similar in design and function, although the intentions of their controllers were not always the same. Specifically, one can see the complementarity of function between the labour compound and the prison in the historical usage of the same buildings: the buildings of the Industrial Breakwater were used as a labour hostel after 1926 (Louw et al. 1983:449), for example.

At the Breakwater, as on the mines, prisoners resisted bad conditions by striking (e.g. in 1882, on the issue of stale bread, and in 1885, probably about abuses of power by prison officials), and by escaping (although I have not found examples of mass escapes). Ordinance 7 of 1844 (before the Breakwater was built) had detailed suitable punishments for desertion, insolence and destruction of property by prisoners: these offences continued to be punished throughout the period in question. The Breakwater records show too that laziness, smoking without permission, destroying tools and "kit" (i.e. clothes and eating utensils), insolence, theft and neglect of orders were common offences (e.g. PBW 130, G20-61, p.5).

Genovese (1961:74) shows how the formation of a slave culture in the American South was a form of resistance to slavery itself:

side by side with ordinary loafing and mindless labour went deliberate wastefulness, slowdowns, feigned illnesses, self-inflicted injuries and the well-known abuse of livestock and equipment.

Similar "sub-cultures" were operative in the mine compounds (Van Onselen 1978), the Porter reformatory and prisons in South Africa (Chisholm 1986, Van Onselen 1982, 1985).

During the course of the 1880s, it is clear that the prisoners within the Breakwater began to develop a culture that recognized their right to be punished fairly. In 1888, the Commission of Inquiry was "greatly struck by the jealousy with which the convict cherishes and watches the few rights and privileges left him" (G2-88, Second Report, p.xL). One of the prisoners interviewed by the Commission at Tokai (a Branch Station of the Breakwater), Jan Bob, argued that "it is not right to remind me of what I had done [a minor infraction of prison rules] after I had been punished for it" (G2-88, Minutes of Evidence, p.425, para.8091). From Bob's evidence it appears that it was easier to lodge a complaint about prison treatment at the Breakwater than at Tokai (G2-88, Minutes of Evidence, p.425, para.8091).

The prisoners thus used the models of justice upon which the prison was predicated: the notion of 'cure' through punishment, for example, lies behind Bob's logic, and was also one of the three major functions the prison was meant to perform: punishment, deterrence and reform. In accepting this model, the inmate of the prison was positioning himself as object ('prisoner') in the discourse of the prison. But the prison also bent to the prisoners' demands in establishing the intricacies of conduct that were only suggested by these 'models of justice'.

Because the prison regulations were badly drafted and poorly distributed in the convict stations at the time, even the bigger stations like the Breakwater worked according to "station custom" (Penfold, G2-88, Minutes of Evidence, p.438, para.8335). This often meant a compromise between the prisoners and the officials, in which a certain amount of leeway was sometimes given to the former. In 1887, for example, two men charged with "fighting" pleaded clemency on the grounds that they were merely "skylarking" (PBW vol.170, November 19). Their excuse was accepted and they were only "cautioned", thus avoiding a sentence of two days' cells.

On the rather larger question of racial segregation, the officials were also influenced by the prejudices of the prisoners. The Resident Magistrate of Cape Town, Mr Crosby, said to the Commissioners (G2-88, Appendix K, p.9) that the placing of the "off-coloured" prisoner in a racially segregated prison was difficult because whatever "colour he be put with, the other will be aggrieved". The implementation of segregation itself may have been hastened by the complaints of the white prisoners that they were put with the "natives" (G2-88, Second Report, p.xxi). This has been discussed in Chapter Five.

Officials were not insensitive to prisoners' 'rights', and were involved in a delicate balance of power. In 1886, the new Superintendent, Captain Penfold, complained about the privileges received by Jewish prisoners (20 extra days' holiday a year and special food from outside) because he said it was "unjust that one section of the community should receive these privileges to the detriment of the rest" (Penfold *in litt.* 28 Sept 1886, PBW 14). Other reasons for changing this practice were that friends smuggled tobacco, sweets, cigars, money and newspapers in with the Passover rations; and that Gentile prisoners said they were Jewish in order to qualify for the extra privileges (Penfold *in litt.* 28 Sept 1886, PBW 14).

It must have been difficult for the authorities to simply remove customary privileges, however. In 1896, Roper welcomed the new kitchen at the Breakwater because variety in food could now replace tobacco rationing as a privilege. Roper called tobacco "the most bitter and successful foe to discipline in a convict station" (G53-96, Appendix A, p.iii), and yet it had been issued by the prison as an indulgence since 1859.

In 1882, the prisoners at the Breakwater staged a "partial revolt" (Webb to Commissioner of C.L.& P.W. *in litt.* 12 Jan 1882, PBW vol.14) because bread rations for three days had been delivered before the New Year holiday: an agreement reached between the store keeper and the baker. Later, Webb was reluctant to change the delivery time for the bread from 16h00 to 08h30 because the late delivery "had never caused problems before". The prisoners obviously had a clear idea of what rations they expected from the prison, and the Superintendent was anxious to avoid further trouble.

The prisoner culture of the 1880s and 1890s crossed the colour barrier. In late 1885, "both white men and Kaffirs held meetings in the yard and arranged to strike" at the Breakwater (G14-97, p.11). Judging from the subsequent transferral of officials like Madden to other convict stations (East London, in Madden's case), and the fact that an Inquiry (under Mr Graham) was conducted into the matter (G2-88, Minutes of Evidence, p.423, para.8074), the main reason for the strike was probably discontent with the conduct of prison guards. Some of the "ringleaders" were transferred to the Clifton branch station where, in 1887, the Superintendent was stabbed in an uprising. Here, the "grievances of the convicts, many of them Europeans, mainly lay in the petty tyranny to which they were subjected by officials" (G14-97, p.11).

The punishment records of 1885 register two work stoppages at the Breakwater. In August, nine men refused "to dō lawful work" and were given four days' cells each (PBW vol.131, 22 August). Their names suggest that some were English (e.g. "James Brown"), some were African (e.g. N'gonzana) and some were Boers or descendants of slaves (e.g. William Visagie). In November, five men who refused to work were tried by the Visiting Magistrate, and three of them were merely reprimanded, although they were found guilty (PBW vol.131, 5 November). This suggests that the Magistrate found acceptable reasons for their refusal, such as misconduct of officials. The letter book for that year records an unusually high

turnover due to dismissals and transfers of prison employees (PBW vol.14), which suggests that many were found unsuitable.

Crisp (1979 in Crummey 1986:11) says that strikes are incidents which reveal major aspects of working class formation and consciousness. Racial segregation in 1892 may thus have been an attempt both to break this non-racial prison culture (as it was at Porter, Chisholm 1986:491), and to split a nascent working class consciousness along racial lines. Yet the influx of white IDB prisoners from 1882 onwards, many of them small-time entrepreneurs ("men of education and intelligence" G14-97, p.12), may also have contributed to the spirit of defiance that sparked the strikes of the next five years.

The IDB men were a "prison aristocracy" according to the popular author Lawrence Green (1947:96), and they may have used their status and wealth to influence both prisoners and officials, and to manipulate the prison system. By 1897, the number of white convicts at the station had dropped from 307 (in 1886) to 196 (G14-97, p.12). In the same year, Roper remarked that "at the Breakwater convict station, the diminution in the number of charges against officials has been most marked, and the discipline of the station has certainly not suffered in consequence" (G14-97, Appendix A, p.iv). By 1902, the complete separation of white and black convicts was hailed as a disciplinary victory for the prison officials (G78-1902, Appendix I, p.Lii).

## Conclusion

In this chapter I have examined the cultural and historical specificity of the prisoner resistances in the Breakwater prison. I have shown that not all the prisoners' actions could be seen as resistance, even of the covert variety. I have used the term "willing compliance" to describe those activities that are predicated upon a certain agreement with the prison authorities about what is right, or what is it is permissible for a prisoner to do or feel.

Resistance to the prison was especially evident among those black prisoners, notably the Khoisan, who were not already 'disciplined' as workers in the mines or as farm labour on white-owned farms. And resistance within the prison was initially more evident in the 1880s, when the definition of prison discipline first became more detailed, and it was better enforced. Yet the reasons for the rise of organized

resistance in the 1880s are complex, and not simply reducible to the impact of a nascent 'working class consciousness' or to better prison disciplining.

There were clearly different types of resistance practiced by those who had "accepted the wage bargain", or who had been interpellated as workers, and those who had not. This distinction is comparable to that between primary resistance (against the system) and secondary resistance (within the system). Once prisoners had accepted and modified the justice of the prison 'system' they resisted according to transgressions of its rules, for example by the prison warders. The use of strikes (against stale bread or unfair treatment) demonstrates both the realization of a common cause as prisoners, and the assertion of a common complaint of injustice that made sense only within a system of right and wrong that was accepted by officials and prisoners alike.

#### NOTES

1. Beinart and Bundy (1987:3) make a similar point with regard to resistance in general.
2. In his text, with reference to the term 'racism'.
3. "Interpellated" is Althusser's term (Henriques et al 1984:96-7).
4. The differences between the approaches of Althusser and Foucault do not concern us here.
5. Although the differences between Khoisan, African and white prisoners were exaggerated, and their ascribed meanings (e.g. the primitiveness of blacks) are no longer accepted today, I feel that one can make broad cultural distinctions on the basis of these colonial categories.
6. Foucault (1977) makes a similar argument.

## CHAPTER SIX

### CONCLUSIONS: BIOGRAPHY AND HISTORY

*Social science deals with problems of biography, of history and of their intersection within social structures.*

C. Wright Mills (in Van Onselen 1985:63).

#### Introduction

Most of this thesis has been concerned with broad historical movements that are reflected in, and influenced by, events at the Breakwater. It has only briefly dipped into the lives of individuals like Charles Piers, men who recreated colonial relations of domination, compliance and resistance at the prison itself. By way of conclusion I now turn to the importance of biography (and autobiography) in social science, and its essential contribution towards the theorization of penal practice at the Breakwater. I then discuss the major contributions of this thesis, as a whole, to the related body of empirical and theoretical work discussed in Chapter One.

In the crudest sense, biography intersects with and reflects historical trends. The story of //Kabbo, for example, a Bushman who was captured for stocktheft in the Northern Cape and brought to the Breakwater in 1868, echoes that of many other Bushmen between 1867 and 1870 (1). Often, biography is used as the "typical case", as in Hans Grimm's (1937 [1913]) story of the Gaika man John Nukwa, who went first through the mines and then through the Breakwater in his passage towards spiritual growth. This use of part-fiction, part-fact biography colours popular accounts of prison life too, as in the stories of Lawrence Green (1947) and Frank Robb (*The Southern Suburbs Tatler* 14 September 1989:5).

But it is the specificity and peculiarity of biography that makes it different from 'history', and essential to it. For without the specific instance, generality fails as generality, and becomes specific itself. This common-sense point is expressed in the theoretical view of Henriques et al. (1984), in their attempt to transcend individual-social dualism, discussed briefly in Chapter One. Here, I shall elaborate on their

theoretical contribution, and attempt to show how these insights can inform a history of the Breakwater in particular.

First, therefore, I shall illustrate the general arguments made in the thesis with reference to biographical material, some of it fictional. Second, I shall demonstrate how micro-histories of individuals are crucial to our understanding of their participation in broader historical movements, such as the increased application of the disciplinary model to the Breakwater in the 1890s. These insights will complement those of the previous chapters, and will reflect some of the same themes. But they will also provide an indication of where detailed institutional histories can demonstrate the interplay between individual and society, between specific and general events, without essentializing either.

### **Biography as History**

The story of John Nukwa is interesting here in so far as it illustrates and summarizes the more general arguments of the previous chapters. Nukwa is a fictional character, although Grimm may have based the tale on the experiences of his Gaika servant in East London, "Johnny" Nyule.

Set in the 1880s or 1890s, the story is an account of the life of an African man and his 'development' through Western influence. Nukwa, a Gaika man from the Transkei (Kentani), who wants to buy cattle for bridewealth, seeks work on the goldmines in Johannesburg. On his return, he is tricked out of most of his earnings by some travelling Jews. They are later attacked and robbed, and name the innocent Nukwa as the culprit. He is convicted and sent to the Breakwater prison in Cape Town. On his release, he kills the 'witchdoctor' who had promised to retrieve his money, and then a missionary who cannot help him avenge his wrongs. He then moves to Johannesburg where he gets a steady job, attends church regularly and marries a Christian woman.

The theme which dominates the story as a whole, and the developmental process, is that of work. The message is clear: the African's life should be a working life, over which the European's notion of order should have control.

In die myne het die eerste jare van sy lewensskool verbygegaan, op die Breekwater bring hy die tweede helfde deur; die lewe gee hom die res (Grimm 1937:91) (2).

The prisons were not just for incarcerating criminals, but those who interfered with the expansion of the colonial order and later, the capitalization of its economy. The mineral revolution ushered in a new phase of disciplining at the Breakwater, as we have seen in Chapters Three and Four. The passage of Nukwa towards civilization, towards his role as a manual labourer, is thus aptly punctuated by a stretch on the Rand, and then on the Table Bay breakwater. These were two of the arms of colonial control.

In the story, Nukwa learns positively through his various working experiences (migrant labour on the mine and forced punitive labour at the prison), and fails (or learned negatively) primarily through its antithesis, the "play" of the Jewish tricksters. The crude moral of the story is that a "kaffer" must work for his money, and cannot win the 'work-dodging' game against the European, here represented by the archetypal money-maker, the Jew. The story does, however, present a sympathetic picture of the innocent savage cheated of his well-earned money, unfairly accused of doing the same to the Jews in turn, and unable to make proper redress without falling deeper into sin. These two images, Ariel (Man as pure spirit) and Caliban (Man as beast) (Mannoni 1964 in Ridley 1973:581), are reflected in the racist discourse sketched in Chapter Three.

In particular, the benefit of the Breakwater phase of Nukwa's education was drawn from two sources. Firstly, the Breakwater provided European company: the IDB criminals ensured a "gemengde ["geselskap"] in die goeie sin van die woord" (Grimm 1937:90) (3). Secondly, the prison provided an European-inspired routine of "gedwonge gelykvormigheid" (Grimm 1937:90) (4). The idea that the white convict was different from the African had two dimensions, as has been discussed in Chapter Four. Grimm's picture illustrates both: Nukwa learns civilization from the IDB men, but also learns how to be a better criminal, and to free his mind while he works.

At the Breakwater Nukwa learns the deviousness that is necessary for his success in later life. On his release he manages to kill two men without being caught, and to get a good job and a (free) wife in Johannesburg. The prison is both his punishment (for innocence), and his cure. This point also illustrates the argument that the prison creates criminals: inmates are interpellated as fellow criminals by the discourse of the prison culture, discussed in Chapter Five. It also shows that resistance to discipline is ever-present.

The prison routine is also highlighted by Lawrence Green (1947:95) as one of the reasons the Breakwater deterred (white) inmates from committing future crimes. Green (1947:95) describes the routine as follows:

05h00	"Rouse bell" sounds
05h30	Doors of barracks unlocked and "mieliepap" breakfast served.
06h00	Work starts: mostly quarrying and loading stone.
12h00	Lunch for an hour
17h00	Dinner: soup and bread
20h00	"Herded" back into the barracks.

From the discussion in Chapter Three, this focus on routine takes on a special meaning: it denoted increasing control of the inmates' time and space within the prison on the model of the "total institution".

Nukwa's story embroiders on the racist theme of the suitability of manual labour for the African, while recognizing their resistance to "die vloek van die arbeid" (Grimm 1937:78) (5). It illustrates the connection between the mines and the prisons in creating a controlled working class, and on the effectiveness of prison routine in this process. The story also stresses the multi-racial nature of prison culture at the Breakwater during the 1880s and 1890s and its 'educative' function.

### Changing the Subject

Henriques et al. (1984) argue in their recent book Changing the Subject that individual subjects and broader social influences need to be re-theorized in order to bring the active subject back into history without re-invoking the essentialist humanist actor. Crucially, their construction of a de-centered subject (following Lacan) that can take up contradictory positions in different discourses (following Foucault), focusses on the historical specificity of that subject's positioning within these discourses (Hollway 1984:238).

This theoretical advance allows the social scientist to examine the interplay between the macro-world of discourses and the micro-world of the active subject. Specifically, I shall use it to show how the 'social worlds' of ideologies about punishment intersected with the 'individual worlds' of colonial officials involved in the Breakwater. The investigation will thus complement the discussion begun in Chapter Three. But first, let us examine the theory.

Hollway's (1984) notion of investment provides an account of why people position themselves in particular discourses, and why they take up certain positions within those discourses. Briefly, people have an emotional commitment, for historical reasons, in occupying a certain position in a discourse (Hollway 1984:238). The "choice" of positioning is not rational, conscious or simple: it is based on unconscious desires, and may be contradictory (i.e. people can have an investment in positioning themselves in two contradictory discourses). In this discussion, investment will be presented as a recurrent desire to gain power through discursive positioning, here specifically in relation to the Other (Hollway 1984:251): power to suppress devalued or repressed significations, and project them onto the Other.

In order to avoid a "mechanical circulation of discourses through practices" (Hollway 1984:251), however, it is also necessary to examine the historical positioning of subjects (here, colonial officials) in discourses to show that their investment "is relatively independent of contemporary positions available" (Hollway 1984:251). In other words, to show that people don't just have investments in positioning themselves in the dominant discourse, one must examine their biographical positionings.

The dearth of detailed personal historical data (especially for the black prisoners) that would reveal such a 'history of positioning', is the major stumbling block to the application of 'investment theory' to the Breakwater. This makes an historical study more dependent on crude 'social' factors (such as class or schooling) in analysing subjectivity, and therefore still prone to "discourse determinism" (Hollway 1984:251).

Nevertheless, I shall attempt an 'investment' analysis with regard to the first Superintendent-General of Convicts, Charles Piers. I have based the analysis on a close reading of the following quotes from his official reports in the 1860s, quotes selected to prove a particular point that has been discussed in Chapter Three. In 1860, Piers said (G36-60, p.7) that

little impression is made upon convicts belonging to the ["Hottentot and Bushman"] races by the system of discipline to which they have been subjected. Most of them resume their former idle ways ... immediately after their discharge from prison, and seem careless about the consequences of committing themselves again.

He said (G28-65, p.6),

We know they dislike very much being locked up, separated from their family and friends and obliged to observe regular habits.

Yet "their fondness for idleness [was] innate" and they were compelled to steal sheep because of this (G32-63, p.8, G28-65, p.5). Thus he would not consider altering the system of prison discipline "to suit the peculiarities of these people" (G36-60, p.7).

Piers positions himself as subject in the disciplinary discourse by implying that he could alter the "system" of discipline if necessary. He also infers that the prisons instil "regular habits" in the San (although he must have been aware of irregularities). It is probable that such a high-ranking official was chosen precisely for his military or public school training in England - training that would provide him with an historical investment in this subject positioning. Also, his job as Superintendent-General conferred power on him only in so far as the prison system was regulated and centralized. But the fact that it was difficult to build up the necessary infrastructures, and expensive to apply discipline properly, may have evoked fears of disorder (and the rise of the working class), normally suppressed by this positioning.

Piers thus positions himself as subject in the discourse about the "peculiarity" of Khoisan prisoners. Disorder and laziness are projected onto the black man. This allows Piers to suppress the notion (from the disciplinary discourse) that disciplining should be improved in the Colony in order to reduce recidivism. Recidivism can be explained by the innate idleness and kleptomania of the Khoisan: they are the source of the irregularities. Some disciplining is good for them, but too much is unnecessary. This allows Piers to remain positioned in the disciplinary discourse, while denying that discipline had regressed in the Colony. The difference of Colonial punishment resided in the Native.

By saying, "We know they dislike ...", Piers asserts his authority from the subject-position of the discourse about the "Native". Knowledge about the Khoisan is presented as though the European were a passive observer (a common technique in travelogues of the nineteenth century, see Pratt 1986). This allows Piers to forget, curiously, about some of the reasons for Khoisan stocktheft, and about colonial incursion on their land.

Piers positions the Khoi and San as object in the discourse about the "Native" by claiming that they childishly "disliked ... regular habits", and (like wild animals) disliked "being locked up" in the prison. Discursive splitting here invests the Khoisan with negative, strange characteristics, and the colonial officials with positive ones. Disorder, laziness, kleptomania, all are projected onto the Native, while the prisons become orderly and regular, and colonial theft of land is forgotten and repressed.

Piers' investment in positioning himself as subject in both the disciplinary and racist discourses of punishment allows him to repress fears of the consequences of incomplete disciplining, and also to justify colonial intervention in the lives of Khoisan prisoners. For him in particular, as a man 'suitable' for the post of Superintendent-General, it was important to resolve the tensions between the humanist discourse of equal punishment for all, and the racist discourse of Khoisan inferiority.

A similar approach could be used in Chapter Five to suggest that most Khoisan prisoners in the early phase of the Breakwater had little historical investment in positioning themselves within the discourse of discipline in the prison. They were hunter-gatherers or struggling pastoralists who stole sheep to recover their independence from the settlers, or simply to survive. They had not accepted the "wage bargain" (Ignatieff 1983:97) and most of them were not going to do so, certainly not through prison discipline, shaky as it was.

Besides summarizing the major points made in the thesis through the story of John Nukwa, this chapter has made the theoretical point that power relations must be reproduced at each site of control. This is not done simply or automatically, but depends on the "investments" of actors in certain discursive positionings. Biography is thus crucial in avoiding "discourse determinism" in which power (or resistance) is simply an effect of discourse.

## Conclusion

Biography and history intersected at the Breakwater to produce specific relations of domination. Crucially, these relations were re-produced within reformatories (Chisholm 1986), mining compounds (Van Onselen 1978) and other institutions in the Colony. Together with the reformatory and the labour compound, the colonial

prison was a key institution in the production and control of a black working class. It was, in particular, closely articulated with the emergent industrial capitalism in the Colony after 1880. The shift towards increasing control and finer disciplining in all three institutions during the 1880s and 1890s is associated with the need for a bigger and better controlled workforce for the industrializing Colony.

But the prisons and convict stations had their own history too. This was closely related to, and in some ways increasingly divergent from, the history of the penitentiary in Europe. As in Europe, the Colony adopted more 'humanitarian' modes of punishment at the end of the eighteenth century. Imprisonment became the major penal sanction in the early nineteenth century, although flogging was still widely used for black men and slaves. This shift reflected the notion, in Europe, that "punishment ... should strike the soul rather than the body" (Mably in Foucault 1977:16).

Nevertheless, the Breakwater and its fellow prisons were never organized in the same way as the great English prototypes, Millbank and Pentonville. In the early years of the Breakwater, for example, enclosure of prisoners, rigid classification and segregation of prisoners, and strict routine and discipline were constantly suggested but never put into practice.

At this time the penal sanction was designed to punish and control 'vagrants', especially the Khoisan, and to force them to leave their stock-raiding or hunter-gathering existence. The shortage of land and farm labour in the Colony made the prisons doubly useful in proletarianizing the indigenous population. The racist discourses that documented the difference of the black man as prisoner and labourer shaped this process. But there was no need at this stage for a disciplined workforce for complex industrial production in factories or on the mines. Because the Colony was financially straitened, it was more concerned, initially, with the labour of the convicts than with their training as labourers, once it had them inside the prison. This was soon to change.

After 1890, the industrialization of the Colony made the provision of a disciplined working class increasingly important in general (see above). In the prisons, stricter classifications resulted in segregation and differential treatment for various groups of convicts. Juveniles and lunatics were removed from the convict stations. Regulation, inspection and discipline became the catchwords of the Prisons

Department. The Breakwater in particular became a site of "disciplinary" control in so far as the prisoners were segregated on the basis of conduct and more strictly watched for transgressions of a new set of prison rules codified in 1888.

But the buildings of the old Breakwater and its organization as a hard labour station precluded the application of the English "separate system" even at this stage. Now, other changes were brought about, however; they were changes that marked the difference of colonial punishment (from the European model) in general and of the black prisoner (from the white prisoner) in particular.

Notably, the emphasis was now on racial segregation in legislation and practice. Differential treatment was meted out to groups within the stations, not on the basis of conduct or character, but on the basis of race: black prisoners were given a less nutritious diet, for example, and were trained in manual rather than industrial labour.

The particularity of the colonial system of punishment caused it to diverge from the European disciplinary model in two senses. Firstly, the practice of racial segregation kept the emphasis on groups rather than on the individual criminal (as the disciplinary regime demands), especially for the black prisoner. Broadly speaking, the disciplining of white prisoners was given primary attention. But although the new Industrial Breakwater in 1901 enclosed convicts more firmly within a disciplinary space, its white prisoners were still kept in dormitories at night, rather than in cells. Secondly, manual labour outside the prison walls (largely for black convicts after c.1896) violated the rule of exclusion of the convict from society in the "total institution", and encouraged the irregular and inefficient disciplining of the convicts when hired out to various enterprises as labourers rather than convicts.

Although the Breakwater was never strictly a "total" or "austere" institution, its deviance was recognized and documented in terms of that model by the colonial officials. In the early years, they were constantly concerned about the "defective" nature of prison design and discipline. They justified the difference of colonial prisons after 1888 very carefully in terms of the difference of the black prisoner.

The "total institution" is thus useful both as an analytical comparison and an indication of the models colonial officials were using for the prisons. Some authors have argued that smaller institutions in Europe and America did not operate in the same way as Pentonville or Foucault's Panopticon ideal (Perrot 1980, DeLacy 1980

in Ignatieff 1983:82). The example of the Breakwater thus points both to the specificity of the colonial prison, and to the possibility that the "total institution" was in practice less widespread than Foucault's (1977) work suggests.

The account of resistance and willing compliance in Chapter Five illustrates the culturally specific forms that resistance to the prison took. It also demonstrates the pervasiveness of resistance even within the stricter disciplinary regime that was applied at the Breakwater in the last decades of the nineteenth century. There is little evidence in the Breakwater records of prison gangs, which Van Onselen (1982, 1985) has documented for the Transvaal. Yet the Breakwater evidence supports Van Onselen's argument that there were close connections between working within the prison system and working against it.

Clearly, the emergence of a specifically South African penal system by the 1890s was influenced by the political, economic and social conditions prevailing in the Colony at the time of the mineral revolution, and by racist discourses that shaped the priorities and problems of the colonial government and its electorate. This statement needs two qualifications. Firstly, the prison was (and is) not necessarily functional to capitalism (Ignatieff 1983:96), although I have argued that in the pre-industrial and industrializing Colony it was a crucial and useful arm of the coercive state. The usefulness of the colonial prison (e.g. in providing labour and labourers) lay partly in its divergence from the European norm. Secondly, racism was (and is) a "contradictory phenomenon" (Miles 1989:100), not always functional to capitalism either, and even then not functional to all sectors of capital.

The idea that the prison generates an easily controllable class of delinquents (Foucault 1977:277), or controls and disciplines the working class, thus needs to be carefully qualified today if one is to use the analysis as a basis for changing the penal system.<sup>2</sup> One should examine the social and political profiles of those delinquents, and the specific benefits, if any, of ruling class definitions of criminality for various sectors of that ruling class.

For the prison and its racist premises have a life of their own, not determined by the economy or by the discourses of (conservative) official rationales and (radical) academic explanations that surround it. Imprisonment and racist practices will not therefore be automatically transformed through a transformation of the economy or of the government. The prison will not easily be changed by pointing out its failure

as a criminal deterrent and reformer, just as 'race' will not be easily eliminated from popular (and even academic) discourse by discrediting it as 'unscientific'.

It is now generally accepted in Europe and America that the prison should be scaled down, and that non-violent inmates should be offered non-carceral alternatives (Murton 1976). But besides the fact that community alternatives have been slow in coming to this country, the modern South African prison has two additional complicating characteristics. It is still largely segregated on the basis of 'race', and still sends black prisoners out under harsh and unsupervised conditions as farm labourers (*The Weekly Mail* 27 October to 2 November 1989:2-3). In designing alternatives to imprisonment in a post-Apartheid South Africa, one needs to address these issues because they are structurally entrenched in the current design and operation of the penal system. In particular, these issues must be examined in the context of the qualifications discussed above (6).

The history of the articulation between the institution of the prison, its racist discourse, and the emergence of capitalism can inform such an analysis. Racial segregation was not an inevitable corollary of racist discourses, and did not emerge smoothly and automatically in the 1890s. This suggests that racist practices in South African prisons will not go smoothly or automatically either, and that their functionality is complex and obscure. The history of the Breakwater Prison and its role in the emergence of the current "form and function" of the penal system, has also suggested that this penal system was closely associated with the particular conditions of an industrializing economy. The form of the South African prison may have remained static over the last hundred years while its functionality has certainly been altered, and may well have been reduced.

Perhaps the question of functionality and the associated question of causality are vexed issues. But in so far as they underlie analyses of prisons, their efficacy and their transformation, models of function and cause must be carefully addressed and criticized. This analysis of the Breakwater Prison and its operation within the colonial economy from 1859 to 1905 has criticized and overturned both economic and discursive determinism, and has critically adopted models of prison purpose and function for limited and qualified use. In this light, it is crucially important for more contemporary analyses of South African prisons to take account of both the differences and the continuities between colonial and modern prison systems.

## NOTES

1. I have not discussed //Kabbo's story in this paper because its analysis demands an extensive ethnographic background that is beyond the scope of the thesis.
2. "On the mines, the first years of his education (in life) went by; and at the Breakwater he experienced the second half; life itself taught him the rest." (my translation).
3. They ensured a "mixed company in the best (good) sense of the word" (my translation).
4. "enforced conformity" with particular reference to 'work', and an emphasis on 'force' (my translation).
5. "the curse of Work" (my translation).
6. One also needs to address the implications of the current public image of the prison system in the light of the historically significant, and continuing use of the prisons by the state for controlling the black proletariat (through the pass laws until 1986) and political activists (through the Internal Security Act, for example).

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