Pieter Spierenburg's Contribution to the History of Confinement in Early Modern Europe

Falk Bretschneider

Electronic version

URL: <https://journals.openedition.org/chs/2587>

DOI: 10.4000/chs.2587

ISSN: 1663-4837

Publisher

Librairie Droz

Printed version

Date of publication: 18 December 2019

Number of pages: 123-130

ISSN: 1422-0857

Electronic reference

Falk Bretschneider, "Pieter Spierenburg's Contribution to the History of Confinement in Early Modern Europe", *Crime, Histoire & Sociétés / Crime, History & Societies* [Online], vol. 23, n°2 | 2019, Online since 06 May 2020, connection on 01 April 2022. URL: <http://journals.openedition.org/chs/2587> ; DOI: <https://doi.org/10.4000/chs.2587>

This text was automatically generated on 1 April 2022.

© Droz

Pieter Spierenburg's Contribution to the History of Confinement in Early Modern Europe

Falk Bretschneider

AUTHOR'S NOTE

This text was presented in 2014 at a session of the 10th European Social Science History Conference, Vienna, organised in honour of Pieter Spierenburg. It appears here for the first time in print. I thank Anja Johansen for her generous assistance with the translation.

- ¹ Pieter Spierenburg's contribution to the history of confinement in early modern Europe can only be adequately assessed if one views his work in the context of his creation. His first study, a history of imprisonment in Amsterdam, was published in 1982.¹ These years were the heyday of the so-called "revisionist historiography". This concept was promoted by historians, sociologists, and philosophers — such as Michel Foucault and Michelle Perrot in France;² David J. Rothman in the United States;³ and Michael Ignatieff in Canada;⁴ to name just the most important. Their main aim was to deconstruct the dominant interpretation that the history of imprisonment was characterised by continuous progress and ever greater humanitarianism. In line with the movements of social protest in the sixties and the seventies, they introduced a new master narrative: namely that incarceration was an effective means of repression, social control, and the disciplining of society. Three features characterised this new, critical view of the history of the prison:⁵ 1. the assumption that imprisonment emerged in Europe and North America as part of processes of rapid change in the decades around the turn of the 19th century, 2. the claim that this transformation constituted a fundamental change, developing alongside new power structures within society, 3. the idea that the essence of the modern prison could be adequately described in terms of "coercion", "control", "surveillance", and "disciplining". To the advocates

of the revisionist perspective, the prison was as much a sign of rapid modernisation processes, as it was a symbol of the dark side of modern society.

- 2 Pieter Spierenburg has convincingly shown that this interpretation is not sufficient to capture the complexities of the phenomenon. His numerous articles, book chapters, and other publications — notably his 1991 book *The Prison Experience: Disciplinary Institutions and Their Inmates in Early Modern Europe*; reprinted in 2007⁶ — constituted important milestones on the path towards a more nuanced assessment of the history of confinement. In addition to the Dutch examples which empirically occupy the most prominent place in his research, he has always included other regions of Europe, especially early modern Germany. Four aspects of this oeuvre seem to me to be particularly noteworthy: 1. the chronological extension of the early modern period; 2. the integration of carceral institutions into the social model of the early modern era; 3. the role of the social actors; 4. finally the attempt to provide a comprehensive explanatory model for changes to European prison systems using Norbert Elias' paradigm of the civilising process. I will go in to more detail on these four points below.

The chronology of imprisonment

- 3 Pieter Spierenburg, like his colleague and friend Herman Diederiks, has repeatedly emphasised that the history of imprisonment did not begin in the last third of the 18th century (i.e. in the Age of Enlightenment and the French Revolution). He was not primarily referring to the practice — already widespread in the middle ages — of locking up suspected individuals awaiting trial or using prison as punishment for debtors or minor rebels. Rather, his attention was directed towards a completely new type of institution that he termed the “prison workhouse” — *houses of correction* in England; *tuchthuizen* and *beterhuizen* in Holland; *Zuchthäuser* and *Arbeitshäuser* in the Holy Roman Empire; *hôpitaux généraux* and *dépôts de mendicité* in France. Such institutions existed since the 16th century throughout Europe, and for Spierenburg they mark the birth of the prison and of modern confinement.⁷ However, these establishments were often a combination of several types of institution, i.e. they served many purposes: relief for the poor, the old, or the sick; the education of children and adolescents; and the disciplining of beggars and vagabonds. In most of these institutions — including the most famous one, the *Rasphuis* in Amsterdam, founded in 1595 — there were convicted criminals among the inmates; so Spierenburg speaks rightly of these institutions as “prisons”.⁸
- 4 The fact that the origins of the modern prison dates back to the early modern period is no discovery of Pieter Spierenburg's. This was already pointed out by the German legal historians Robert von Hippel, and Gustav Radbruch around the turn of the 20th century.⁹ In contrast to their works, which were strongly influenced by the History of Ideas, Spierenburg takes a broader socio-historical approach to the transformation of European penal systems since the early modern era. He links the arrival of prison institutions to a process of long-term change that is tantamount to a long period of experimenting with various forms of punishment.¹⁰ This offered a wide range of options over three centuries: the death penalty, corporal punishment, banishment, fines, public dishonour, etc. In his analysis Spierenburg has always remained attentive to the differences between European countries. There was not just *one* path in the history of prisons, but a multiplicity of different developments depending on regional

context. (For instance, France, which was massively influenced by the Mediterranean, resorted to the use of galleys; whereas in England and in the Holy Roman Empire incarceration closely followed the repressive measures against begging adopted by the authorities; and the punishment of criminals through the confinement in the *tuchthuizen* was employed in Holland earlier than anywhere else.) In addition, he has repeatedly emphasised that the transition from the death penalty and corporal punishment to imprisonment was not linear. Both forms existed side by side for a long period of time and were utilised against different types of offenders.

“Prison workhouses” as households

- 5 Since the 16th century, as imprisonment established itself as a form of punishment, it continued to compete with the use of galleys; incarceration in fortresses; or forced labour. All these forms of punishment had one thing in common: forcing convicts to work. The obligation to work has long been recognised by (criminal justice) researchers as a central feature of confinement since the early modern period. The Marxist tradition of prison history (especially the work from Georg Rusche and Otto Kirchheimer¹¹) even described the exploitation of prisoners through hard labour as the single most important element. In this perspective, the prison was not primarily an efficient means of social control, but an instrument that allowed rulers either to compensate for the prevailing problem of early capitalism — namely labour shortages — or to profit from the prisoners’ work. Later, critical interpretations developing this view argued that carceral institutions were precursors to the factory system, in which the unruly proletariat became accustomed to the production methods of industrial capitalism.¹²
- 6 Pieter Spierenburg never denied the central role of work in early modern institutions of incarceration. However, he does not see the basis for this in the capitalist idea of maximising profit, but rather, in the embedding of the prison in the early modern social model. His template for this is the household and the family, which is why Spierenburg conceptualises the “prison workhouses” as households.¹³ This interpretation was also directed against another influential theory of prison history: namely Erving Goffman’s paradigm of the “total institution”,¹⁴ which to a great extent rests on the assumption that prisons and other closed institutions were characterised by insurmountable cultural and social differences between staff and inmates. Spierenburg, however, explicitly emphasises the paternalistic nature of the relationship between these two groups — so, for example, in many of these establishments, the head of the institution was known as the “housefather”; and throughout Europe, it was common practice that the institutional leaders were a married couple (husband and wife), who together formed an extended “family” with the inmates.
- 7 There, the innovative content of Pieter Spierenburg’s research is particularly evident — which I have subsequently used in my own research when talking about *Einhausung* in early modern society, i.e. the forcible confinement of individuals who were outside the social framework of households into these institutionalised households (typically orphans, but also taking in unfrugal or alcoholic husbands).¹⁵ Understanding *houses of correction*, *tuchthuizen*, and *Zuchthäuser* (i.e. institutions that bear the term “house” in its name) as households avoids the widespread anachronistic interpretation of them as

pre-modern factories. This of course does not exclude that these institutions also had productive and disciplinary functions (which is evident, for instance, from the common practice of grating dyewood in such establishments). However, purpose of making inmates work was, above all, a moral one. Therefore, despite the significant costs of the “prison workhouses” (which had to be covered through local taxes, donations, and money for food provided by relatives of the inmates), and despite their failures as manufacturing institutions, their fundamental existence was never seriously questioned. These establishments were notoriously unprofitable — but this was not a problem, because they were not an economic, but a moral and social enterprise.

Incarceration and social actors

- 8 In other respects, Pieter Spierenburg has contributed to move the prison, in its various historical forms, closer to the society from which it emerged and to which it belonged. Almost simultaneously with Arlette Farge and Michel Foucault¹⁶ he was interested in the social uses of confinement. The prison was never exclusively an instrument in the hands of the authorities to punish and discipline criminals or otherwise deviant individuals; it was also used by many to solve private conflicts. In Holland there were two noteworthy institutions: the hospitals¹⁷ and the privately run *beterhuizen*.¹⁸ These institutes included numerous inmates, whose families had requested their institutionalisation, perhaps because they drank too much, were mentally ill, or behaved “slovenly”. Confinement in these institutions on the request of the family depended on a number of factors: financially better-off families put their relatives into such facilities where they did not need to work, and enjoyed a relatively comfortable lifestyle; members of the poorer classes, however, had to make do with municipal institutions, where conditions were significantly harder. In all cases, the practice of this form of imprisonment continued until the 19th century as a means of saving the honour of family when it was put at risk (by the uncontrollable conduct of a family member), or by financial ruin. In this way the families colluded with the authorities, in their social and cultural definition of the regrettable misconduct (of the institutionalised individual).
- 9 In this context, it was pointed out by Spierenburg that in 19th-century Amsterdam a considerable number of inmates lived voluntarily in the *werkhuis* (“workhouse”). They provided labour and paid a small sum of money and received therefore board and lodging. Here, as in other places¹⁹, he analysed the living conditions of the prisoners, as well as their room for manoeuvre. In contrast to a historiography that saw the inmates only as passive victims of a repressive institutional machinery, he presented a contrasting vision of a “prison experience” which recognised the inmates as active participants who also individually shaped their conditions within the prison. Prison life, therefore, was not only limited to the idealised image in the minds of the authorities and administrators, but also included disobedience, opposition and escapes, as well as conflict resolution and sexual relationships between inmates. Instead of referring to this as a prison “subculture”, today we would probably describe this as the *Eigensinn* or particular reasoning that individuals assign to themselves and to others²⁰ and as their capacity to improvise within a situation of captivity.²¹ This led to the development of certain practices which always involved the overseers and other members of staff. Here too, Spierenburg shows us that the inmates and the staff of the

“prison workhouses” did not form two hermetically separated and hostile blocs; but rather their actions were causally related and intertwined.

Confinement and the civilising process

- 10 Spierenburg based his interpretation of the social relationships within carceral institutions on Norbert Elias' theory of the interdependence of human actions,²² which I too consider very useful for understanding what was going on behind the walls of prisons and penitentiaries.²³ Nevertheless, Spierenburg went one step further and situated his interpretation of incarceration in Elias's alleged “civilising process”.²⁴ To Spierenburg, key aspects of this theory — such as the monopolisation of violence, or the state-building process — are important in explaining the rise of imprisonment in Europe and North America.²⁵ Moreover, Spierenburg has always emphasised the role of the urban elites. Since the 16th century local elites in cities such as Amsterdam or Hamburg sought for solutions to problems of begging and for (appropriate) punishment to minor offenses. To him, the emergence of imprisonment as the norm was an important indication of the general changes in European attitudes to the body during the early modern era. Increasing scepticism towards corporal punishment, greater sensitivity to violence and reluctance to apply it, the retreat into the private sphere, and the expression of a culture of intimacy, are all key features of this development.²⁶
- 11 In many respects, his view approximates the theses of Michel Foucault, which Spierenburg has since defended against the simplifications of their adherents. In line with other scholars,²⁷ he points to many similarities between Foucault's ideas and Elias' theory such as the attention given to the body, or the attempt — through the study of history — to understand our own present.²⁸ In contrast to many other representatives of “revisionist historiography”, he describes Foucault not primarily as a theorist of social control, but instead as an astute observer and analyst of certain physical techniques. In addition, Foucault had fully realised that the social foundations for the emergence of prison sentence as the norm had been laid in the early modern period. Spierenburg remains critical of only two aspects: first, Foucault's tendency to believe in a rapid modernisation of the penal system in Europe; and secondly his diffuse and unwieldy conception of power. Here, Spierenburg foregrounds Elias' sociological perspective, for good reason: like Foucault, Elias also speaks of a ubiquity of power, but associates it with specific actors who are intertwined in dynamic power relations. But Spierenburg does not stop here. He sees the historically mutable interdependencies of social actors as the source for a process of emancipation of prisoners, as described by his Amsterdam colleague, Herman Franke, in relation to the 20th century.²⁹ The central argument is that, social movements beyond the prison, allowed inmates access to a measure of self-determination, which led to improvements in their position and their rights. To Spierenburg this development confirmed the centuries-long change of mentality towards a society in which the suffering of others — and thus the suffering of prisoners — has become intolerable.
- 12 I confess this element of Spierenburg's reasoning has always remained alien to me. It is not my intention to question the actual improvements in the physical and legal situation of prisoners in the 20th century (which only occurred in some countries, but not in others; in France for example, the press speaks regularly of prisons as “waste

dumps” of the society). However, I have my doubts, as to whether these can be interpreted as the result of a deliberate process. My own work has let me to the conclusion that the historical development of prisons was marked by a constant ebb and flow between repression, and a humanitarian ethos (which corresponds with studies of other forms of punishment, such as Richard J. Evans’ work on the death penalty³⁰). I also share general doubts about the empirical data on which the theory of the civilising process is based.³¹ Thus, I am sceptical as to whether an emancipation of prisoners over long periods of time can be demonstrated as empirically valid at all. To give one example: Due to the lack of appropriate sources, we can only guess at how prison inmates in the 18th and 19th centuries individually experienced their situation. We can say little about whether they were subjectively better or worse off than their counterparts today.

- 13 Nevertheless, these few critical remarks do not detract from the insights that can be, and should be, drawn from Spierenburg’s work to date. I myself have always benefited from his advice in not entirely trusting to mono-causal explanations, and instead remain alert to links in the historical process, which were superimposed upon, and influenced by, each other. With great virtuosity, he has also repeatedly made clear the sheer scope of the phenomenon of confinement in the early modern period, which was in no way limited to the prison and its precursors. There are also other aspects of his work (in particular, his constant interest in historical terminology, and its cultural meanings), which I unfortunately have not been able to discuss, but for every prison historian there are many profound insights. Therefore, one may agree or disagree with Pieter Spierenburg’s theoretical approach. But his work is, and will remain, an important and fundamental contribution to the study of the history of confinement in early modern Europe and beyond.

BIBLIOGRAPHY

Bretschneider, F., *Gefangene Gesellschaft. Eine Geschichte der Einsperrung in Sachsen vom 18. bis zum 19. Jahrhundert*, Constance, UVK, 2008.

Bretschneider, F., Das “gemeinsame Haus”. Insassen und Personal in den Zuchthäusern der Frühen Neuzeit’, in Bretschneider, F., Scheutz, M., Weiß, A.S. (Eds.), *Personal und Insassen von “Totalen Institutionen” — zwischen Konfrontation und Verflechtung*, Leipzig, Leipziger Universitätsverlag, 2011, p. 157-196.

Certeau, M. de, *L’Invention du quotidien, 1. : Arts de faire*, Paris, Gallimard, 1990.

Diederiks, H., Spierenburg, P., L’enfermement non criminel en Hollande, 18^e-19^e siècles, in Petit, J.-G. (Eds.), *La Prison, le bagne et l’histoire*, Geneva, Librairie des Méridiens, 1984, p. 43-55.

Elias, N., *Über den Prozeß der Zivilisation. Soziogenetische und psychogenetische Untersuchungen*, Basel, Haus zum Falken, 1939. Second edition with new introduction Bern, Francke, 1969.

Elias, N., *Was ist Soziologie?*, Munich, Juventa, 1970.

- Evans, R.J., *Rituals of Retribution: Capital Punishment in Germany, 1600-1987*, Oxford, Oxford University Press, 1996.
- Farge, A., Foucault, F., *Le désordre des familles. Lettres de cachet des Archives de la Bastille*, Paris, Gallimard/Juillard, 1982.
- Foucault, M., *Surveiller et punir. Naissance de la prison*, Paris, Gallimard, 1975.
- Franke, H., *The Emancipation of Prisoners. A Socio-Historical Analysis of the Dutch Prison Experience*, Edinburgh, Edinburgh University Press, 1995.
- Goffman, E., *Asylums. Essays on the Social Situation of Mental Patients and Other Inmates*, Garden City (N.Y.), Doubleday and Co., 1961.
- Hippel, R. v., Beiträge zur Geschichte der Freiheitsstrafe, *Zeitschrift für die gesamte Strafrechtswissenschaft*, 1898, 18, p. 419-494, 608-666.
- Ignatieff, M., *A Just Measure of Pain. The Penitentiary in the Industrial Revolution 1750-1850*, London, Macmillan, 1978.
- Lüdtke, A., *Eigen-Sinn. Fabrikalltag, Arbeitererfahrungen und Politik vom Kaiserreich bis in den Faschismus*, Hamburg, Ergebnisse-Verlag, 1993.
- Melossi, D., Pavarini, M., *Carcere e fabbrica. Alle origini del sistema penitenziario*, Bologna, Il Mulino, 1977.
- Perrrot, M., *L'impossible prison. Recherches sur le système pénitentiaire au XIX^e siècle*, Paris, Seuil, 1980.
- Radbruch, G. v., Die ersten Zuchthäuser und ihr geistesgeschichtlicher Hintergrund, *Elegantiae Juris Criminalis. Vierzehn Studien zur Geschichte des Strafrechts*, Basel, Verlag für Recht und Gesellschaft, 1950.
- Rothman, D.J., *The Discovery of the Asylum. Social Order and Disorder in the New Republic*, Boston, Aldine de Gruyter, 1971.
- Rusche, G., Kirchheimer, O., *Punishment and Social Structure*, New York, Columbia UP, 1939.
- Schneider, U.-J., *Michel Foucault*, Darmstadt, Primus-Verlag, 2004.
- Schwerhoff, G., "Zivilisationsprozess und Geschichtswissenschaft. Norbert Elias" Forschungsparadigma in historischer Sicht, *Historische Zeitschrift*, 1998, 266, p. 561-605.
- Spierenburg, P., Voorlopers van de Bijlmerbajes: Amsterdam als Bakermat van de Gevangenisstraf, *Ons Amsterdam*, 1982, 34, p. 260-263.
- Spierenburg, P. (Ed.), *The Emergence of Carceral Institutions: Prisons, Galleys and Lunatic Asylums, 1550-1900*, Centrum voor Maatschappijgeschiedenis, Erasmus Universiteit Rotterdam, vol. 12, 1984.
- Spierenburg, P., Imprisonment and the Family: An Analysis of Petitions for Confinement in Holland, 1680 1805, *Social Science History*, 1986, 10, 2, p. 115-146.
- Spierenburg, P., From Amsterdam to Auburn: An Explanation for the Rise of the Prison in Seventeenth Century Holland and Nineteenth-Century America, *Journal of Social History*, 1987, 20, 3, p. 439-461.
- Spierenburg, P., Elias and the History of Crime and Criminal Justice: A Brief Evaluation, *IAHCCJ Bulletin* 20, 1995, Spring, p. 17-30.

Spierenburg, P., Four Centuries of Prison History: Punishment, Suffering, the Body and Power, in Finzsch, N., Jütte, R. (Eds.), *Institutions of Confinement. Hospitals, Asylums and Prisons in Western Europe and North America, 1500-1950*, Cambridge, Cambridge University Press, 1996, p. 17-35.

Spierenburg, P., Punishment, Power and History: Foucault and Elias, *Social Science History*, 2004, 28, 4, p. 607-636.

Spierenburg, P., *The Prison Experience. Disciplinary Institutions and Their Inmates in Early Modern Europe*, New Brunswick, London, 1991 [Reprinted by Amsterdam, Amsterdam University Press, 2007].

NOTES

1. Spierenburg (1982).
2. Foucault (1974); Perrot (1980).
3. Rothman (1971).
4. Ignatieff (1978).
5. This re-evaluation also included the history of modern psychiatric institutions which I do not address here, as it only plays a marginal role in the work of Pieter Spierenburg.
6. Spierenburg (1991).
7. Spierenburg (1984).
8. Spierenburg (1996, p. 17).
9. Hippel (1898), Radbruch (1950).
10. Spierenburg (2004).
11. Rusche/Kirchheimer (1939).
12. Melossi/Pavarini (1977).
13. Summarised in Spierenburg (1991, p. 105-135).
14. Goffman (1961).
15. Bretschneider (2011).
16. Farge/Foucault (1982).
17. Diederiks/Spierenburg (1984).
18. Spierenburg (1986).
19. Especially Spierenburg (1991, p. 171-219).
20. Lüdtke (1993).
21. de Certeau (1990).
22. Elias (1970).
23. Bretschneider (2008).
24. Elias (1939).
25. Spierenburg (1987).
26. Spierenburg (1995).
27. For example Schneider (2004, p. 133-134).
28. Spierenburg (2004).
29. Franke (1995).
30. Evans (1996).
31. Schwerhoff (1998).

AUTHOR

FALK BRETSCHNEIDER

Maître de conférences (Associate Professor)

EHESS Paris

bretschn[at]ehess.fr