

Spheres of Hope in Spaceless Prisons

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In the movie **The Shawshank Redemption** (1994), the veteran prisoner Red, brilliantly played by Morgan Freeman, narrates the story of Andy, played by the admirably politicized Tim Robbins, and Shawshank prison. In one scene, when Andy gets raped by physically superior prisoners, Red sensitively anticipates the viewers' disappointment at the unsuccessful struggle of the new prisoner against his attackers:

“I wish I could tell you that Andy fought the good fight, and the Sisters let him be. I wish I could tell you that, but prison is no fairy-tale world.”

But **The Shawshank Redemption**, based on Stephen King's story “Rita Hayworth and Shawshank Redemption”, was essentially a fairy-tale entailing a simplistic glorification of the human spirit and of the initiative, wit and resourcefulness of one individual. Its ultimate happy ending was inevitable. Andy managed to scratch his way out of prison to a secure and wealthy freedom, but not before obtaining privileges as a prisoner by lending his accounting skills to the prison authorities. The warden's desire to be free from the economic reach of the government created new possibilities for the talented inmate. A classical music fan, the imprisoned accountant succeeded to create, for a few minutes, a deconstructed free prison, as opposed to the repressed modern one.

Andy accomplished the “American Dream”. A hard working individual (he spent years digging a tunnel in his cell wall), who overcame all obstacles, against all odds, towards wealth and the pursuit of happiness. Andy also happened to be a very nice person, not harmful to others, but at the same time was strictly individualistic. An attempt to collaborate with others for a joint challenge to the prison's authority did not cross his mind, not even once. For other inmates, Andy was the spirit that contributed a sense of normality to prison life. He was the unordinary that brought refreshing regularity with his imprisonment. Andy was the embodiment of “normal” society meeting its walled “otherness”, which resulted in highlighting the vagueness of the boundaries separating the two.

For the past 30 years the prison and its two main regulating instruments, law and power, have provided academics with research and reflection in at least two fields of thought: history and philosophy. Painstakingly excavating archival documents, philosophers reached a deconstructed theory of the prison. The understanding of the prison that emerged from this analysis was of an institution that existed not as a guardian of society, but rather as a reflection of it. The prison's architecture as well as its inhabitants and the various power relations encompassed there are not in fact an ‘other’ society, nor the failed products of it. Instead the very walls, guards, and prisoners themselves are reflections of a modern society seeking security and stability

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by attempting to lock and repress those truths and desires that accompany the human condition.

The prison's social role is not security, but control. The control of the prison extends from the body to the epistemological. The prison's role is also to maintain and reproduce the value system, privileges, and negations in society. In prison the already tense relationship between the body and the mind is regularly violated and even abused by those prison authorities and inmates who share the space of imprisonment. The public and private spheres of the prison's inhabitants are hard to distinguish one from the other; a fact that corresponds to the prison's tactic of severing the body – mind tense interaction, as well as tightening control over the prisoners.

Punishment, discipline, and control are a global phenomena. The control of personhood and the parameters of inclusion and exclusion in a given society stretches beyond law through time and geography. The British Court of Appeal has recently provided the international community with yet another example of law's mastery in the creation of unconvincing distinctions. In a 2 – 1 majority decision dismissing the appeal of immigrants and asylum seekers being held in indefinite administrative detention, the Court ruled that British public officials could not rely on evidence obtained through torture, unless such information has been obtained by non-British authorities. In his ruling, Justice Laws legitimizes the evidence of torturers. In so doing, he affirms the enlightened Self, and excuses its lack of control over the questionable practices of a savage Other:

"It is the most elementary principle in our books. It is that the law forbids the exercise of State power in an arbitrary, oppressive or abusive manner. This is, simply, a cardinal principle of the rule of law. The rule of law requires, not only that State power be exercised within the express limits of any relevant statutory jurisdiction, but also fairly and reasonably and in good faith. Consequently the courts will not entertain proceedings, or receive evidence in ongoing proceedings, if to do so would lend aid or reward to the perpetration of any such wrongdoing by an agency of the State...

But I am quite unable to see that any such principle prohibits the Secretary of State from relying...on evidence coming into his hands which has or may have been obtained through torture by agencies of other States over which he has no power of direction."²

It is highly questionable whether the British court would have ruled similarly, had such information been gathered by foreign agencies relating to British citizens. The Court has contributed to the globalization of the investigative techniques of tortures, despite the absolute and total prohibition on the use of torture and the inadmissibility of evidence obtained through it in international human rights instruments including

² C2/2003/2796 A, B, C, D, E, F, G, H, Mahmoud Abu Rideh Jamal Ajouaou and Secretary of State for the Home Department, paragraphs 248, 253. See <http://www.courtservice.gov.uk/judgmentsfiles/j2769/ajouaou-v-sshd.htm> (last visited on 16.8.2004).

the United Nations Convention Against Torture (CAT) (1984). Article 15 of CAT excludes evidence obtained through torture during any decent criminal or administrative procedure, while Article 2 definitively prohibits torture:

"Article 2

1. Each State Party shall take effective legislative, administrative, judicial or other measures to prevent acts of torture in any territory under its jurisdiction.
2. No exceptional circumstances whatsoever, whether a state of war or a threat of war, internal political instability or any other public emergency, may be invoked as a justification of torture.
3. An order from a superior officer or a public authority may not be invoked as a justification of torture."³

Following the revelations of the investigative practices in Abu Gharib prison in Iraq, it is even clearer that the binary distinction between Rule of Law nations and Rule of Man nations is too simplistic to be considered seriously. Moreover the processes of dubious information gathering by security agencies if not engagement in outright lying, together with media spin, combined to accelerate the drum beat towards an illegal invasion of Iraq, creating a false dichotomy between a "Law abiding us", as distinct from *them* who comprise "Violators of law".

A Matter of Principle

On the week commencing August 15 thousands of Palestinian political prisoners held in Israeli jails began a hunger strike as a protest against the harsh and degrading treatment they received from prison authorities. Naked strip searches in front of fellow inmates, increasing limitations and outright bans on family visits, together with a harsh fining policy are only few of the measures directed at the Palestinian political prisoners by the Israeli prison authorities.

Among the Palestinian political prisoners are more than 730 who administratively detained prisoners. Such detention in the 1967 Occupied Territories is conducted by the Israeli occupying military based on a decision made by the military commander. The military commander can issue an order to detain a person administratively according to a 1988 military order that vests an almost limitless power in the hands of the military commander. Recently, the Israeli military administratively detained Mr. Abdullatif Geith, a 63-year-old resident of East Jerusalem, who heads the board of Addamir, the human rights support organization for political prisoners.

The Israeli Supreme Court routinely legitimizes these military decisions to administratively detain people under occupation. The court's decisions are flowered with democratic discourse emphasizing the harsh violation of liberty inherent to administrative detention. Yet this discourse is easily undermined by the same court through its flawed process and consistent detaining decisions. The evidence is never shown to the detained or to his lawyer. Only the judges and the Israeli security agencies that is part of the occupation rule get to share this information, with no

³ United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (10.12.1984)

opportunity to cross examine it, contest it, or even present alternative information to it.

The prison authorities have been preparing for this hunger strike. Their preparations, however, do not center on considering the quest of the political prisoners, rather it focuses on how to crush their struggle, and winning the battle for public opinion simultaneously. Large forces are at the disposal of the Israeli prison authorities who are ready for any command. At the same time, media spin is pivotal to the strategy of the prison authorities, notwithstanding that the vast majority of the Israeli media is already spinning on the side of the wardens and their subordinates. In the midst of these preparations, Tsahi Hanegbi, the minister responsible for the prison authorities, proudly countered the commencement of the political prisoner's struggle with an apathy and obvious lack of self confidence inherent to challenged people in power. In his words, "as far as I'm concerned, they can strike for a day, a month, until death. We will ward off this strike and it will be as if it never happened."

In one scene in **The Shawshank Redemption**, Red talks to several prisoners in the jail's yard, just before Andy is registered as an additional inmate there. In Freeman's wise resonant tones, he says "they send you here for life, that's exactly what they take". The Palestinian political prisoners are challenging this common wisdom. From hugging their children to securing their tooth brushes, from demanding their right to read as well as their right to proper sanitation, these prisoners are strenuously asserting their dignity as human beings by the only option left before them: the path of defiance and hope.