

THE MIND OPPRESSED: RECIDIVISM AS A LEARNED BEHAVIOR

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“[W]ho overcomes [b]y force, hath overcome but half his foe.”

—John Milton, *Paradise Lost*¹

I’ve been writing this Article for twenty-nine years. It began when I was sentenced to life imprisonment for a crime I was convicted of when I was nineteen years old, and my research has continued for the last three decades in state prisons across Georgia. I was sentenced to prison in order to protect the public interest; by incapacitating those convicted of offenses against the state, the community is ostensibly kept safe. Of course, punishment intends to rehabilitate in addition to incapacitate because most of us sentenced to life eventually re-enter our communities. The paradox is that the means by which the state incapacitates our bodies also incapacitates our minds.

In this Article, and through the lens of both Michel Foucault and Paolo Freire, I explore a power dynamic that has not been considered or debated in the mass incarceration discourse to date: the inmate’s oppressed mind. As Foucault spent his life researching power economies and how those economies are practiced and maintained, I too have spent my life considering these elements of the carceral power economy. Just as Foucault claimed that the law follows the convict into the prison,² I argue that an oppressed mind follows the released offender back into the community that he re-enters. I argue that it is the re-entering

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1. JOHN MILTON, *PARADISE LOST* 648–49 (Hurd & Houghton eds., 1886) (1667).
2. MICHEL FOUCAULT, *DISCIPLINE AND PUNISH: THE BIRTH OF THE PRISON* 248 (Alan Sheridan trans., Pantheon Books 1977) (1975).

citizens' oppressed minds that contribute in part to our nation's soaring recidivism rate.

I. EDUCATION AND RECIDIVISM

The Bureau of Justice Statistics indicates that 67.8% of all prisoners who are released from prison will be re-arrested within three years, and 76.6% will be re-arrested within five years.³ Christopher Zoukis argues that our recidivism rate can be significantly reduced through prison education programs.⁴ Quoting from a report issued by Emory University's Department of Economics, Zoukis explains that an inmate that has at least some high school education recidivates at a rate of 55%.⁵ When the inmate adds some vocational training to his educational toolbox, the offender's recidivism rate falls to 20%, and the rate continues to fall with each additional level of education.⁶ Again—quoting from a secondary report—Zoukis acknowledges that the recidivism rate is dramatically reduced when prisoners are afforded the opportunity of participating in post-secondary education.⁷ An inmate who earns an associate's degree presents a recidivism rate of only 13.7%; earning a bachelor's degree reduces that rate to 5.6%; and an inmate who earns a master's degree presents a recidivism rate of 0%.⁸ Understanding the inherent value of the normalizing potential of education, one is left to question former President Bill Clinton's decision to specifically ban inmate eligibility for Pell Grants in 1994, effectively ending almost all of the college-in-prison programs in the United States.⁹

Notwithstanding that decision, an inmate's inability to pursue education in prison directly correlates to the recidivism rate. As I will explore in this Article, the relationship between education and recidivism is genuine because one of the primary components of what Paulo Freire calls the "pedagogy of the

3. Christopher Zoukis, *Pell Grants for Prisoners: New Bill Restores Hope of Reinstating College Programs*, 26 PRISON LEGAL NEWS (Human Rights Def. Ctr., Lake Worth, Fla.), Aug. 2015, at 34.

4. *Id.*

5. *Id.*

6. *Id.*

7. *Id.*

8. *Id.*

9. *Id.* at 32.

oppressed” is the oppressed’s arrival at a state of “critical consciousness,” which can only be achieved through education.¹⁰ Because the inmate is submerged in the oppressor-oppressed dialectic upon arrival at prison and, further, because the inmate is deprived of educational opportunities capable of mentally liberating him from his oppression, his return to prison is far more likely—a side effect of our carceral incapacitation dynamic.

A 2013 RAND Corporation study emphasizes the positive economic impact that education produces in the carceral community. The RAND Corporation found that prisoners who attend educational programs while incarcerated are 13% more likely to gain post-release employment than their non-educated peers.¹¹ Ron Krannich not only agrees with the RAND study but also stresses that “[e]ducation is closely associated with earnings—the higher the education, the higher the annual earnings.”¹² Becoming educated while incarcerated, then, not only ameliorates an ex-offender’s employability but also improves his opportunity for obtaining a living-wage job.

Improving an inmate’s ability to find work upon re-entering his community while reducing his chances of recidivism serves the individual interests of both the ex-offender and also the collective public interest. I argue that any policy initiative that rehabilitates the offender and improves the welfare of society is a win-win policy. If rehabilitation and improved social welfare were the only benefits produced by our educational programs in prison, education would be an indispensable social tool.

But education is more. Education *alone* reduces recidivism, and the statistics demonstrate that “lower rates of recidivism are independent of post-release employment.”¹³ This seems to be true because education “normalizes” the offender.¹⁴ Daniel Karpowitz

10. PAULO FREIRE, *PEDAGOGY OF THE OPPRESSED* 73 (Myra Bergman Ramos trans., Bloomsbury Acad. 2000) (1970).

11. Zoukis, *supra* note 3.

12. RON KRANNICH, *BEST JOBS FOR EX-OFFENDERS: 101 OPPORTUNITIES TO JUMP-START YOUR NEW LIFE* 7 (2009).

13. DANIEL KARPOWITZ & MAX KENNER, *BARD PRISON INITIATIVE, EDUCATION AS CRIME PREVENTION: THE CASE FOR REINSTATING PELL GRANT ELIGIBILITY FOR THE INCARCERATED* 6, http://www.prisonpolicy.org/scans/crime_report.pdf (last visited Apr. 3, 2016).

14. I thank Peter Lindsay for debating my objection of “abnormal” as a descriptor of incarcerated people. His insight is directly responsible for my understanding of education’s power in returning the inmate to “normalcy.” *See also* FREIRE, *supra* note 10, at

suggests that “prison education program participation normalizes [inmates] by offering relief from the pains of imprisonment and by helping inmates to *appreciate and adopt pro-social norms*.”¹⁵ Lia Epperson notes that education “awaken[s] [our] cultural values, . . . prepar[es] [us] for later professional training, . . . and . . . help[s] [us] to adjust normally to [our] environment.” She stresses that “it is doubtful that any [person] may reasonably be expected to succeed in life if [he] is denied the opportunity of an education.”¹⁶ Epperson also notes that “[e]ducation is the teaching of overall citizenship, *to learn to live together with fellow citizens, and above all to learn to obey the law*.”¹⁷ Finally, Deborah Stone notes that “the most important goal of education [is] creative and *critical thinking*.”¹⁸

All of these perspectives establish a common theme, and that theme crystalizes the concept of social normalcy. One thing is clear: education is more than abstract ideology or job training. Education is a concrete principle that births tangible, measurable change in people. I agree. But my agreement is not rooted in the eloquence of the scholars or the argument about how education normalizes. It is rooted in my personal witness of the transformative power of education inside a prison, both in my personal life and in my life as an intellectual.

II. COLLEGE IN PRISON

Seneca the Younger once said, “While we teach, we learn.”¹⁹ During my incarceration, I have earned my paralegal degree and participated in a college-in-prison program called Common Good Atlanta, a program that connects Atlanta-area professors to those of us serving time in prison who wish to take

74 (suggesting that oppressors seek to avoid providing an education to inmates in order to avoid critical consciousness).

15. Daniel Karpowitz, *Prison, College, and the Paradox of Punishment*, in 37 STUDIES IN LAW, POLITICS, AND SOCIETY: CRIME AND PUNISHMENT: PERSPECTIVES FROM THE HUMANITIES 305, 322–23 (2005) (emphasis added).

16. Lia Epperson, Brown’s *Dream Deferred: Lessons on Democracy and Identity from Cooper v. Aaron to the “School-to-Prison Pipeline,”* 49 WAKE FOREST L. REV. 687, 691 (2014).

17. *Id.* at 696 (emphasis added).

18. DEBORAH STONE, POLICY PARADOX: THE ART OF POLITICAL DECISION MAKING 94 (3d ed. 2012) (emphasis added).

19. Annie Murphy Paul, *The Protégé Effect: Why Teaching Someone Else is the Best Way to Learn*, TIME (Nov. 30, 2011), <http://ideas.time.com/2011/11/30/the-protége-effect>.

college classes. Over the past four years, I have studied literature, writing, algebra, political science, civil rights, philosophy, economics, and other subjects. Along with many of my peers in the college program, I also teach and tutor other inmates who are preparing to take their GED. Sometimes I find myself growing impatient with the inmates I teach. In particular, they often fail to carefully and correctly cite the sources they are using in their writing. I find myself wanting to say, “Just follow MLA, stupid.” But, in fact, the meaning behind MLA format did not become apparent to me until I explained the rhetorical triangle to one of my students during a mentoring session in the prison library. “The works cited page establishes your ethos,” I explained, “because it identifies the corpus of knowledge that you have learned about the subject. That’s why it’s essential to cite your sources and to do so correctly. You are establishing your credentials.” That explanation opened up the concept of MLA to *me* as well as to my student. Rather than intimidating my student to follow grammatical rules by brute force, I instead attempted to instill in him how—and perhaps more importantly *why*—citation is crucial. “It’s MLA, stupid” is the oppressor’s way. But a liberal arts education teaches people to become critical thinkers about the very structures and institutions that govern their behavior.

I have been influenced by many of the works that I have read in the college program. As I read *Paradise Lost*, for example, I realized that the fall of Satan reflects the social fall of each student in our class, even if metaphorically. When Satan awakens on the lake of fire, we observe that he, like us, is forever changed—he is mentally oppressed, physically disenfranchised, and reduced to lower-class citizenry, as our convictions reduce us.²⁰ I am influenced by Mary Shelley’s *Frankenstein* and her creature’s desire to be accepted, not according to his physical, horrendous appearance, but for the content of his character, his intellect, and his humanity.²¹ I relate to the creature’s striving for normalcy—full humanity if you like—only to be further ostracized for issues that are beyond his control. The more the creature strives for normalcy, the less he is accepted. His actions are never enough.

I am influenced by Plato’s “Allegory of the Cave” and its message of never settling for others’ expectations *for* us and never

20. See generally MILTON, *supra* note 1.

21. See generally MARY SHELLEY, *FRANKENSTEIN* (1818).

ceding to their control *over* us. The clear, resounding message is to always think outside the box and to accept previous knowledge only as a starting place, never as an ending place. Plato teaches us to question knowledge, debate knowledge, expand knowledge, and, at times, refute knowledge.

I have learned similar lessons from every text, handout, lecture, writing studio session, and class discussion that I have attended. Every course, from poetry to algebra to psychology to political science, has influenced my thinking and development. But perhaps no two texts have affected me more profoundly than Michel Foucault's *Discipline and Punish* and Paulo Freire's *Pedagogy of the Oppressed*. When I read these two books, I was not only enlightened, but many of the seemingly inexplicable things that I have witnessed over the last three decades in Georgia prisons began to make an unlikely kind of sense.

III. RECIDIVISM AS A LEARNED BEHAVIOR

While Foucault's work is well-known in the legal field, education theorist Paulo Freire may be less known. Freire lived from 1921–1997.²² He was born in Recife, Brazil—the center of one of the most extreme situations of poverty in the developing world.²³ In 1929, Freire was plunged into the lowest depths of poverty and oppression.²⁴ Notwithstanding his personal struggle, in 1959, Freire earned his doctorate in Pedagogical Philosophy from the University of Recife, where he remained to teach until 1964, when the occupying coup force jailed him for his pedagogy of the oppressed.²⁵ He was released after seventy days and instructed to leave Brazil.²⁶ Freire went into exile in Chile for five years.²⁷ During his Chilean exile, Freire worked with the United Nations Educational, Scientific, and Cultural Organization (“UNESCO”) and the Chilean Institute for Agrarian Reform in

22. Leslie Bentley, *A Brief Biography of Paulo Freire*, PEDAGOGY & THEATRE OF OPPRESSED (Dec. 1999), <http://ptoweb.org/aboutpt/a-brief-biography-of-paulo-freire>.

23. *Paulo Freire Biography*, FREIRE INST., <http://www.freire.org/paulo-freire/paulo-freire-biography> (last visited Mar. 29, 2016).

24. Bentley, *supra* note 22.

25. SOCIOLOGY OF EDUCATION: AN A-TO-Z GUIDE 291 (James Ainsworth ed., SAGE Publications 2013); Bentley, *supra* note 22.

26. Bentley, *supra* note 22.

27. *Id.*

programs of adult education.²⁸ Freire's central work is *Pedagogy of the Oppressed*.²⁹ Freire insists that simply releasing the oppressed from their physical oppression cannot liberate them.³⁰ Rather, the oppressed must first be mentally liberated.³¹

Within Foucault's and Freire's philosophies, I now turn to the contemporary problem of recidivism. I considered the social crisis of recidivism from my own perspective, and I have also attempted to consider this topic from other positions as well.³² I have both studied and lived through our failed criminal justice system: the astronomical incarceration statistics; the disproportionality of the sentences; the dynamics of poverty and the lack of education as social factors that lead to the commission of crime and recidivism; substance abuse and mental health factors; the school-to-prison pipeline; the correlation between slavery and the prison experience; and the marginalization and disenfranchisement of the former offender. Foucault refers to the former offender and his secondary citizen status as *homo criminalis*, while I, and several of my colleagues, refer to the former offender, as well as the incarcerate, as the "Felon race," or simply the "F-Race."³³

Here I wish to explore the question—or rather the cause—of recidivism. Specifically, I wish to concentrate on the question: Is recidivism a learned behavior? If so, how, if at all, does it affect the offender, society, both, or neither?

Foucault implies that the prison complex cannot *not* create recidivists.³⁴ He alleges that prisons create recidivism through several factors:

- The treatment and abuse of the inmate by prison staff;
- The inmate's work in unmarketable trades;

28. PETER MAYO, GRAMSCI, FREIRE AND ADULT EDUCATION: POSSIBILITIES FOR TRANSFORMATIVE ACTION 14 (1999).

29. FREIRE, *supra* note 10, at 30–33.

30. *Id.* at 46.

31. *Id.* at 49.

32. This Article stems from my longer project tentatively entitled, "The Injustice of the Justice System: Neoslavery in the Carceral State Economy."

33. "F-Race" is a term that was initially coined by my colleague and friend Bryce Bonaparte. I use it with his express permission.

34. FOUCAULT, *supra* note 2, at 255.

- The inmate's return to poverty with no means of escaping it;
- The inmate has no residential or support plan;
- Because the inmate is ostracized from the community, he cannot gain employment; and
- The inmate is angry with, and resentful for, his treatment by the judicial system, by the parole authorities, and by society.³⁵

I admit that authentic change can only come from the depths of critical consciousness. Simply, one will change only when one wants to change. Change can only come from critically assessing one's reality, one's position in that reality, and one's perception of that reality. But what if one is unable to perform such an assessment? What if assessing one's reality creates a paralyzing fear of freedom or change so terrifying that performing such an assessment is out of the question? What if one fears freedom so much that he chooses to remain captive? Paulo Freire posits such theories in *Pedagogy of the Oppressed*.

"[H]ow were people made to accept the power to punish, or quite simply, when punished, tolerate being so[?]"³⁶ Foucault posed this question forty-one years ago, and it is as relevant today as it was then. Why *does* the inmate succumb to the carceral power, allowing it to subjugate him, to reduce his humanity, and to objectify him? That is—to follow Freire's terminology—why do we allow the submersion of our human consciousness in the abyss of carceral prescription?

There is a power dynamic at work that is part mental and part physical—the violence of the law that results in domination of the mind and domination of the body. This power dynamic consists of a social ostracism component, a mental component, and a physical component. Here I wish to focus on the mental component.

"Prison . . . [is] a machine for altering minds."³⁷ Upon arrival, the objectification of the inmate immediately begins. The inmate's identity, individuality, and humanity are effaced. Immediately upon arriving, the inmate's name is replaced with a

35. *Id.* at 264–67.

36. *Id.* at 303.

37. *Id.* at 125.

number, and all incarcerates are expected to answer to “hey, you” or “inmate” when addressed by staff. The staff shaves the inmate’s head and all facial hair so that no inmate retains his individual appearance. While effacing identity, the staff explains that nobody in prison is unique or special and that all are equal in their worthlessness. The inmate learns that he is a stupid, cowardly, homosexual nobody with no hope of improving himself. He is informed that his life and health are subject to the discretion of prison staff. The staff is quick to chastise inmates for banding together, intending instead to divide and conquer. Intimidation is common. The inmate is frequently reminded that the prison staff is in control of the prison environment and that the inmate is subject not only to their authority but also to their whims. I have lost count of all the times that a staff member has threatened me and attempted to galvanize the threat by reminding me that I have no rights. For many people, such intimidation creates a horrible sense of hopelessness and fear, and it robs them of their self-confidence. More importantly, the inmate loses his senses of belonging, community, safety, and identity, and his reality is blurred.

The prison authority also dehumanizes its inmates. In Georgia, the inmate is required to strip when he enters prison. The clothes are disposed of. The inmates, while naked, are told to stand in a line, one behind the other. They are subsequently sprayed with a chemical and told to shower. Afterwards, the staff begins intimidating the inmate as described in the preceding paragraph. Dehumanization, loss of identity, and loss of reality create the vacuum into which oppression is sown and from which it will grow. Ultimately, this vacuum is filled with the oppressor and his guidelines.

The subject-correctional-authority acts upon the object-inmate by proscribing conduct that the inmate must adhere to. Prison staff seeks to control the inmate through implementing rules that prescribe acceptable conduct and that establish and maintain a safe environment. However, the inmate soon learns that the rules are often enforced arbitrarily. The capriciousness of rule enforcement quickly leads to open defiance by those inmates who feel that they have been, or are being, treated unfairly. Prison authorities respond to such situations in large numbers and with physical force. These events cause more mental trauma that leads inmates to deny their reality. The inmate will not accept or even

confront a reality in which he is helpless and completely dependent on others. This dependency is the central theme of oppression.

Prison staff does not so much seek to control the prison environment but seeks to dominate the inmate. Philip Zimbardo traced this “domination protocol” through his widely known Stanford Prison Experiment in 1971.³⁸ The prison authority restricts, *inter alia*, movement, eating, sleeping, bathing, recreation, group participation, visitation, financial accounts, and clothing. I agree that enforcement of these restrictions holds the potential for establishing structure, which is a necessity. Without more, there could be no complaint. But the inmate is reduced to a *thing* owned by the carceral authority with no value beyond whatever is ascribed to him. The objectification is brought to fruition through the violence of the carceral authority’s repression of the inmate’s full humanity.

If the carceral authority is successful in its objectification, the inmate will be totally submissive and docile, and he will immediately obey any directive. The inmate will adhere to what Freire calls a “fictitious reality” and will be completely submerged within it.³⁹ In fact, the inmate grows to love his warden and accepts any reality the warden presents.⁴⁰ The oppressed inmate will defend the warden—or oppressor—at all costs because a threat toward the oppressor is interpreted as a direct threat toward the oppressed inmate and his fictitious reality.⁴¹ Such conduct is

38. Maria Konnikova, *The Real Lesson of the Stanford Prison Experiment*, NEW YORKER (June 12, 2015), <http://www.newyorker.com/science/maria-konnikova/the-real-lesson-of-the-stanford-prison-experiment>.

39. FREIRE, *supra* note 10, at 52. Freire explained that the “fictitious reality” felt by the oppressed results from “having internalized the image of the oppressor and adopted his guidelines.” *Id.* at 47. The “oppressor’s guidelines” can be defined as
self-depreciation . . . which derives from . . . internalization of the opinion the oppressors hold of [the oppressed]. So often do they hear that they are good for nothing, know nothing and are incapable of learning anything—that they are sick, lazy, and unproductive—that in the end they become convinced of their own unfitnes.

Id. at 63.

40. *See id.* at 45 (stating that the oppressed “adopt an attitude of ‘adhesion’ to the oppressor”).

41. *See id.* at 135. In other circumstances, the oppressed “become frightened by a ‘word’ which threatens the oppressor housed within them.” *Id.* “The presence of someone . . . who can threaten the oppressor ‘housed’ in the people is sufficient for the latter to assume destructive positions.” *Id.* at n.9.

rewarded by the warden's false generosity.⁴² The inmate informant, or the "snitch," is born from this oppressed body.

As any oppressed group or individual, the inmate equates true humanity with the oppressor. Thus, the inmate sees the staff as the definition of the upstanding citizen.⁴³ After all, the staff is tolerated and accepted by the society that exiled the oppressed inmate.⁴⁴ As a result of the inmate's internalizing the guidelines of his oppressor, the oppressed learns to treat others as he was treated and learns that to be free is to oppress.

And then . . . the inmate is released.

Freire insists that simply releasing the oppressed from their physical oppression cannot liberate them.⁴⁵ Rather, the oppressed must first be mentally liberated through pedagogy of the oppressed.⁴⁶ And yet that rarely happens. The inmate is released *without* being mentally liberated from oppression, so, as the mentally un-liberated oppressed do, they become free according to their understanding of the concept and become more brutal versions of their oppressors and oppress society.

The carceral authority, then, programs the inmate to function within the oppressor-oppressed contradiction.⁴⁷ After release, the inmate practices that which he was taught during his incarceration.⁴⁸ The oppressed inmate is physically liberated from confinement, but he has not been exposed to a pedagogy capable of mentally liberating him.⁴⁹ Thus, he carries the artificial reality—the oppressor—with him.⁵⁰ In sum, the inmate is oppressed, is physically liberated (released), and oppresses (commits new crimes against society). The cycle comes full circle with the inmate's returning to oppression. That is, they recidivate as they were taught to do.

But I have broken this cycle, as have so many of us who have had the opportunity to read, think, write, research, study,

42. *Id.* at 44.

43. *Id.* at 45.

44. *Id.* at 46.

45. *See id.* (stating that despite liberation from a "concrete situation of oppression," the "shadow of [the oppressed's] former oppressor is still cast over them").

46. *Id.* at 48.

47. *Id.* at 45–46.

48. *Id.* at 46.

49. *Id.* at 48.

50. *Id.* at 46.

and make our way out of Plato's cave by taking college courses. I have witnessed one of my own students at the prison resist this cycle. When I began working with him, he could not read at the third grade level and had no hope of living beyond a hapless life of extreme poverty and multiple incarcerations. He has since risen to become the editor of his own magazine—to express his own artistic and intellectual ideas enriched by deep reading and thinking.

Freire insists that “[t]here would be no oppressed had there been no prior situation of violence to establish their subjugation.”⁵¹ Jean Paul Sartre argues that “[oppression] denies human rights to human beings whom it has subdued by violence, and keeps them by force in a state of misery and ignorance that Marx would rightly call a subhuman condition.”⁵² Personal success anecdotes of those of us who have resisted becoming oppressed or who have successfully ended the oppressive cycle have their place in this narrative. However, on a personal note, I call upon this Article to testify to my academic achievements and to my place within the intellectual community. I choose to conclude, instead, by positing authority that I believe is capable of emancipating the mind-oppressed.

The most obvious solution to the oppression problem is not to create the oppressor-oppressed dialectic in the first place. But once this contradiction has been established, its resolution becomes more problematic. The ostracism and disenfranchisement that the inmate faces upon reentering the community works to complicate the matter even further. I admit that there is no easy resolution, but I argue that, in the short term, we can take steps to reduce the effect of oppression. We achieve this short-term goal by returning educational opportunities to our prison complex. Foucault rationalizes that the purpose of incarceration is to normalize the offender.⁵³ He cautions that “[o]ne must take into account not the past offence, but the future disorder.”⁵⁴ He concludes that “one punishes not to efface the

51. *Id.* at 55.

52. Jean Paul Sartre, *Introduction* to ALBERT MEMMI, *THE COLONIZER AND THE COLONIZED* xxi, xxiv (Howard Greenfeld, trans., Orion Press 1965) (1957).

53. FOUCAULT, *supra* note 2, at 170.

54. *Id.* at 93.

crime, but to transform a criminal.”⁵⁵ Submerging the inmate into oppression does not normalize him and instead works to transform him negatively. Not only does education present a track record of demonstrable, statistically significant results, but it is also the only medium that emancipates the oppressed, normalizes the offender, and teaches “pro-social norms.”⁵⁶ But more importantly, it teaches us to live in our communities with our fellow citizens and to obey the law. What could be more normal than that?

55. *Id.* at 127.

56. Karpowitz, *supra* note 15.