

On Prison Democracy: The Politics of Participation in a Maximum Security Prison

Christopher D. Berk

Walpole

At approximately 10 a.m. on 14 March 1973, a volunteer civilian observer noted that high-ranking officials from the prison officers' union were gathering at the entrance of the Massachusetts Correctional Institution at Walpole (MCI-Walpole), a maximum security prison about fifteen miles outside of Boston.¹ Rumors had been circulating for days within the prison that the officers were going to strike.² A few hours later, the entire day shift of prison officers called in sick. Reverend Ed Rodman, the head of the civilian observer program, remembers: "That morning, I had set up a table after the first shift of observers went in. We let the second shift in at three and I was sitting at the table. One of the guards came up to me with a big manila envelope. He dropped it on the desk with a big clunk, saying, 'I think

1. I follow Kelsey Kauffman in using the term "prison officer" instead of guard or corrections officer.

My use of the term "prison officer" reflects my orientation toward those I studied and their role within prisons. "Guard" is too suggestive of a static relationship, something one does with inanimate objects. In any case, its connotations are derogatory and belittling. "Correction officer" conveys a fanciful (and, to my mind, unseemly) notion of the relationship between keeper and kept. "Prison officer" simply denotes an individual granted official authority within the specific domain of a penal institution. [Kelsey Kauffman, *Prison Officers and Their World* (Cambridge, Mass., 1988), p. 5]

2. See Shift 1, 15 Mar. 1973, Observer Program Files (OPF), American Friends Service Committee, Cambridge, Mass. I quote extensively from the files in the footnotes and text so readers can get a sense of the evidence used to support my descriptions and inferences.

these belong to you.’ In the envelope was every key to the prison.”³ The inmates were now running the asylum, so to speak.

At the time, Walpole was the most violent prison in Massachusetts, perhaps even the most violent in the country.⁴ Murders were frequent, stabbings even more so. In the week leading up to the strike, observers noted again and again how both inmates and officers lived under psychologically stressful conditions of fear and uncertainty. Compounding matters, the physical conditions inside the prison were intolerable; as a result of both protest and neglect, many cell blocks were ankle-deep in trash and corridor walls were stained with feces and urine.⁵

That afternoon, Commissioner John Boone declared a state of emergency.⁶ The state police were sent outside the prison. The prison officer union was in a protracted dispute with the Department of Corrections,⁷ headed by the recently appointed commissioner. The union hoped the mass sick leave and ensuing breakdown of security would draw negative media publicity to the Boone administration’s policies.⁸ Boone, conversely, saw the strike as an opportunity to break the prison officers’ union, which he saw as standing in the way of implementing large-scale prison reform in Massachusetts.⁹ Boone took a risk. Instead of sending in the state police he turned over the management of the prison to the newly formed and elected prisoners’ union (the Walpole chapter of the National Prisoner Reform Association [NPRA]), a skeleton crew of officers and trainees from other institutions, and civilian observers.

3. Quoted in Jamie Bissonette, *When the Prisoners Ran Walpole: A True Story in the Movement for Prison Abolition* (Cambridge, Mass., 2008), p. 132; hereafter abbreviated *WP*. After being given the keys, Rodman immediately passed them over to the state police.

4. See Kauffman, *Prison Officers and Their World*.

5. See Shift 2, 10 Mar. 1973, OPF.

6. See Jerry Taylor, “Boone Declares Emergency at Walpole as Strike Looms,” *The Boston Globe*, 15 Mar. 1973, p. 1.

7. Prison officers were represented by separate locals of the American Federation of State, County, and Municipal Employees (AFSCME, AFL-CIO) and representatives of the locals met monthly in the Penal Committee of Council 41; see Alan Konefsky et al., *Massachusetts Department of Correction (III): Strategy, Structure, and Executive Manpower* (Cambridge, Mass., 1977).

8. See John D. Carver, letter to the editor, *The Boston Globe*, 17 Mar. 1973, p. 8.

9. See Konefsky et al., *Massachusetts Department of Correction (III)*.

CHRISTOPHER D. BERK is a postdoctoral fellow in political philosophy, policy, and law at the University of Virginia. He received his PhD from the Department of Political Science at the University of Chicago in the fall of 2016 and holds a Master of Legal Studies from the University of Chicago Law School.

Between 15 March and 19 May, the NPRA was the central force governing the inmates at Walpole. There were no murders and little violence, and the prisoners ran the kitchen and foundry, maintained security, deliberated over policy and action, and negotiated with the prison administration.¹⁰ During this time civilian observers were continuously present in the institution, logging over 10,000 hours inside Walpole.¹¹ These volunteers informally interviewed inmates and recorded various events that took place. The handwritten notes of the observers are not easily accessible, and no academic attention has yet been paid to them.¹² One observer described the process of interpreting his own experience within the prison as trying to drink from a fire hose, and that description also aptly characterizes my experience reading through the observers' notes. The observer files contain historical fragments in raw form: torn scraps of paper, sometimes dated, sometimes not; typewritten drafts of reports authored by the ad hoc committee; observer program rosters, recruitment fliers, and draft press releases; and a host of other documents, many of which are annotated, left by the NPRA during the 1970s. Scattered among a dozen musty filing boxes in a closet in Cambridge, Massachusetts, is a hastily created archive of a prison reform movement in full swing.

The historiography that exists on Walpole, while both limited and controversial, is embroiled in a philosophical conflict over what it means in a democracy for a group to become an object of care or custody. For some, the events at Walpole are exemplars of Hobbesian anarchy and bureaucratic failure.¹³ This account usually takes one of two forms, either a call to increase law and order within prisons or a push to reallocate goods and services to the task of treatment. In other words, inmate participation is understood as a symptom of a failed treatment or control regimen. Call this the conventional liberal narrative. However, an alternative account emerges from a close reading of the Walpole episode. In this narrative Wal-

10. See Konefsky et al., *Massachusetts Department of Correction (III)*.

11. The estimate in the official report of the observer program was 4,600 hours between 8 and 25 March. See "Comments of Observers Present at MCI Walpole, March 8–Mar 25, 1973," OPF, p. 126. Participation in the program was not constant between March and May; participation was heaviest in the initial weeks of the program. 10,000 hours is a conservative estimate.

12. The only work that makes any reference to the files is Bissonette's *When the Prisoners Ran Walpole*. Howard Zinn describes his personal experience as an observer in Howard Zinn, *Justice in Everyday Life: The Way It Really Works* (New York, 1974). Bissonette's book provided the initial inspiration to examine the observer files.

13. For instance, see Leo Carroll, *Lawful Order: A Case Study of Correctional Crisis and Reform* (New York, 1999), or, for a classic, see John J. DiIulio, Jr., *Governing Prisons: A Comparative Study of Correctional Management* (New York, 1987); hereafter abbreviated GP.

pole is an experiment in participatory democracy and community control.¹⁴ Call this less familiar view the radical narrative.¹⁵

What are we to make of these two narratives? The present essay offers some answers, drawing upon the archival documents and oral histories left by the inmates, observers, and staff at Walpole. Unlike its liberal counterpart, the radical narrative was never systematically enunciated. However, as I'll detail below, its central principles can be reconstructed from a close reading of the tumultuous events of that spring in 1973. The final pages forward the claim that the radical narrative offers a promising alternative account of the relationship between democracy and punishment.

Return of the Repressed

Prisons and reformers fit hand in glove. Each generation rediscovers the horrors of confinement anew, each generation has its own special set of circumstances that prick its conscience and spur it into action.¹⁶ Our moment is no exception.¹⁷ Disgust over the deaths of Kalief Browder and Sandra Bland, exposés on private prisons, uncovering systematic abuse of inmates inside major jails like Rikers Island, the damning description of the California prison system in the *Brown v. Plata* decision, and increasing activism and attention to the churning of black and brown bodies through the prison system have incensed the public.¹⁸

14. For instance, see Zinn, *Justice in Everyday Life*; J. E. Baker, "Inmate Self-Government and the Right to Participate," *Journal of Criminal Law, Criminology, and Police Science* 55, no. 1 (1964): 39–47; or WP.

15. As with democratic theorists generally, most reformers can be arrayed on a spectrum, from liberal to radical, depending on their theoretical priors. David Miller defines the two ends of the spectrum as "R-Democrats" and "L-Democrats." For the former, the value of democracy is best understood instrumentally, in terms of the content of the decisions that will result from following democratic procedures; for the latter, "democracy is valued intrinsically, and the idea of collective self-determination stands at the heart of democratic theory" (David Miller, "Democracy's Domain," *Philosophy and Public Affairs* 37 [Summer 2009]: 205). This is not to deny, of course, the existence of various hybrid positions (like the radical narrative I describe in this essay).

16. See David J. Rothman, *Conscience and Convenience: The Asylum and Its Alternatives in Progressive America* (New York, 2013) and "The State as Parent: Social Policy in the Progressive Era," in *Doing Good: The Limits of Benevolence*, ed. Willard Gaylin et al. (New York, 1978); and Michel Foucault, *Discipline and Punish: The Birth of the Prison*, trans. Alan Sheridan (New York, 1979).

17. Here I'm speaking directly to circumstances in the United States, but many of these beliefs extend to other contexts.

18. See, for example, Jennifer Gonnerman, "Before the Law," *The New Yorker*, 6 Oct. 2014, www.newyorker.com/magazine/2014/10/06/before-the-law; Dana Goldstein et al., "Rikers Island: Population 9,790," *New York Magazine*, 29 June 2015, nymag.com/daily/intelligencer/2015/06/inside-rikers-island-interviews.html; and, generally, Jonathan Simon, *Mass Incarceration on Trial: A Remarkable Court Decision and the Future of Prisons in America* (New York, 2014).

Mass incarceration is our defining circumstance, and our current common sense is something like the following: policing works and prisons don't.¹⁹ The "nothing works" claims of the mid-1970s were overblown; rehabilitation policies can have an impact, albeit limited, on recidivism and desistance.²⁰ The interactions between individuals and criminal justice institutions (police, prisons, courts) constitute a kind of civic education, encouraging or discouraging active citizen participation.²¹ And there is an increased confidence that careful curriculum building by the criminal justice bureaucracy can promote trust and legitimacy, factors that predict compliance with criminal law.²² With consecutive years of declining prison census figures, the decreased ideological credulity of law and order politics, and increasing awareness of the financial and social costs of mass incarceration, there is a note of cautious optimism among reformers about addressing democratic deficits created by both crime and the excesses of punishment.²³

The contemporary concern for democracy in the context of punishment is an instance of the return of the repressed. In criminology and sociology

19. See Franklin E. Zimring, *The City That Became Safe: New York's Lessons for Urban Crime and Its Control* (New York, 2012).

20. See for example Ann Chih Lin, *Reform in the Making: The Implementation of Social Policy in Prison* (Princeton, N.J., 2000), and Mark A.R. Kleiman, *When Brute Force Fails: How to Have Less Crime and Less Punishment* (Princeton, N.J., 2009).

21. See generally Joe Soss, *Unwanted Claims: The Politics of Participation in the U.S. Welfare System* (Ann Arbor, Mich., 2002); Tom R. Tyler, *Why People Obey the Law* (Princeton, N.J., 2006); Vesla M. Weaver and Amy E. Lerman, "Political Consequences of the Carceral State," *The American Political Science Review* 104 (Nov. 2010): 817–33; Alan S. Gerber et al., "Can Incarcerated Felons Be (Re)integrated into the Political System? Results from a Field Experiment," *American Journal of Political Science* 59 (Oct. 2015): 912–26; Benjamin Justice and Tracey L. Meares, "How the Criminal Justice System Educates Citizens," *The Annals of the American Academy of Political and Social Science* 651 (Jan. 2014): 44–73; Kitty Calavita and Valerie Jenness, *Appealing to Justice: Prisoner Grievances, Rights, and Carceral Logic* (Oakland, Calif., 2015); and Amy E. Lerman and Vesla M. Weaver, *Arresting Citizenship: The Democratic Consequences of American Crime Control* (Chicago, 2014). Moreover, rehabilitation is framed as building or rebuilding citizens, new policing tactics are couched in the language of empowering communities and promoting legitimacy, and more attention is being given to the people prisons make. See Dan M. Kahan and Tracey L. Meares, "The Coming Crisis of Criminal Procedure," *Georgetown Law Journal* 86 (June 1998): 1153–84; Steve Herbert, *Citizens, Cops, and Power: Recognizing the Limits of Community* (Chicago, 2009); and Amy E. Lerman, "The People Prisons Make: Effects of Incarceration on Criminal Psychology," in *Do Prisons Make Us Safer?: The Benefits and Costs of the Prison Boom*, ed. Steven Raphael and Michael A. Stoll (New York, 2009), pp. 151–76.

22. See Andrew V. Papachristos, Tracey L. Meares, and Jeffrey Fagan, "Why Do Criminals Obey the Law? The Influence of Legitimacy and Social Networks on Active Gun Offenders," *Journal of Criminal Law and Criminology* 102 (Spring 2012): 397–440.

23. Though, for many, this might be better described as "cruel optimism"; see Lauren Berlant, *Cruel Optimism* (Durham, N.C., 2011). For a near exhaustive review of troubled state of the contemporary politics of prison reform, see Marie Gottschalk, *Caught: The Prison State and the Lockdown of American Politics* (Princeton, N.J., 2015).

there is a modest, now defunct, line of scholarship on inmate participation from the 1970s and '80s.²⁴ Revisiting this literature, I suspect, can help us recover a part of our inherited collective unconscious. In response to the conclusions of the Attica Commission, activists, scholars, and policymakers²⁵ debated if and how to include inmates' voices in the management of prisons. An exemplary work in this vein is *Who Rules the Joint?: The Changing Political Culture of Maximum-Security Prisons in America*. In that text, Charles Stastny and Gabrielle Tyrnauer use a participatory management experiment at Walla Walla Penitentiary in the early 1970s to argue for the "detotalization" of prison culture. They cautiously embrace the unfulfilled promise of what they call "prison democracy," the idea that democratic processes are, in themselves, rehabilitative.²⁶

The general response to Stastny and Tyrnauer was that inmate participation is an unsuccessful compromise position, satisfying neither liberals nor antiprison activists. Liberal critics on the political right, as I'll discuss below, made the case that inmates are not a part of the *demos* and including them in institutional governance degrades both democracy and the basic conditions of confinement. Critics on the Left argued that participatory reform experiments fail to escape the continuing choice between conscience and convenience. To these thinkers, participatory management at Norfolk, Silverlake, and Walla Walla are testaments to the hubris of Enlightenment thinking, exemplars of misguided attempts at social engineering.²⁷ Ulti-

24. For example, see Clarence Schrag, "Leadership Among Prison Inmates," *American Sociological Review* 19 (Feb. 1954): 37–42; Elmer H. Johnson, "Potential of Inmate Self-Government," *Criminology* 15 (Aug. 1977): 165–78; Baker, "Inmate Self-Government and the Right to Participate"; Robert Coulson, "Justice Behind Bars: Time to Arbitrate," *American Bar Association Journal* 59 (June 1973): 612–15; John Irwin, *Prisons in Turmoil* (Boston, 1980); Charles Stastny and Gabrielle Tyrnauer, *Who Rules the Joint?: The Changing Political Culture of Maximum-Security Prisons in America* (Lexington, Mass., 1982); and *GP*. For more recent reviews of the topic, see Hans Toch, "Democratizing Prisons," *The Prison Journal* 74 (Mar. 1994): 62–72 and "Inmate Involvement in Prison Governance," *Federal Probation* 59 (June 1995): 34–39; and Chad R. Trulson and James W. Marquart, "Who Rules the Joint Revisited: Organizational Change and the Importance of Prison Leadership," *International Journal of Punishment and Sentencing* 6, no. 3 (2010): 71–84.

25. Sometimes figures were all three. Take John Irwin, author of *The Felon* (Berkeley, 1970), for example.

26. They write:

The [participatory] experiments of the past have generally been judged failures by administrators (except by those who initiated them). As we have seen, however, these historical reform experiments have as often succumbed to external assault as internal contradictions. We cannot say conclusively whether "democracy," any more than other forms of remediation, can be rehabilitative. We can only observe that, like "treatment" in general, it has yet to be fully tried. [Stastny and Tyrnauer, *Who Rules the Joint?* p. 212]

27. See Howard B. Gill, "The Norfolk State Prison Colony at Massachusetts," *Journal of Criminal Law and Criminology* 22 (May 1931): 107–112; LaMar Empey and Steven G. Lubeck,

mately, both viewed calls for prison democracy as naively utopian, replacing wishful thinking with hard-nosed political realities. And the liberal argument ultimately won the day.

This forgotten intellectual moment has an unrecognized double character. For one, the ambitions of the Progressive-era prison reformers were finally interred—so many dreams collapsed, so many democratic experiments cruelly refuted by history. For another, the iconoclasts that discredited the progressive prison never articulated an alternative democratic vision, only a series of boundary conditions for state intervention. The response to inmate participation, ironically, only consolidated what some have come to call our “carceral imagination.”²⁸ As a step towards thinking beyond our inherited categories, it behooves us to return to the politics of prison democracy. Enter Walpole.

15 March to 18 May 1973

We want a prison community as cool as the street. We want a voice in our prison “society.” Treat us like men and we’ll act like men.²⁹

You’ve got to have rules and you’re not dealing with rational people. These are men who have usually been unable to accept the word “NO.” I tell an inmate to do something and he tells me “fuck you!” I write a disciplinary report on him, but there’s no administration response. There is a total breakdown in order here.³⁰

By 16 March, the day after the strike, the media coverage was constant and its pitch shrill. Newscasts reported that Walpole was in chaos and that drunk and drug-addled inmates were roaming around the prison. The observers inside the prison, however, tell a different story in a series of words: “calm,” “relaxed,” “joy.”³¹ This is in contrast to observer reports from the previous week of high tensions and repeated impressions that “the place could blow” at any time. Almost every observer present that day noted high levels of unity among the inmates. “The atmosphere in the prison was almost that of a Roman holiday. Much bustling back and forth, noisy talk-

The Silverlake Experiment: Testing Delinquency Theory and Community Intervention (Chicago, 1971); and Stastny and Tyrnauer, *Who Rules the Joint?*

28. “We have certain moral desires—visions of a moral order, yearnings for the comportment of others and ourselves—and we seek to impose those moral desires on the world in whatever idiom we believe to be the most persuasive” (Bernard E. Harcourt, “Carceral Imaginations,” *Carceral Notebooks* 1 [Oct. 2005]: 10).

29. Shift 2, 17 Mar. 1973, OPF.

30. Shift 3, 28 Mar. 1973, OPF.

31. Shifts 1–3, 16 Mar. 1973, OPF.

ing and good humored jostling. All the cell block doors were open and the men roamed about freely in the hall.”³²

There was an outpouring of political talk inside in the prison, particularly during those first few weeks after the strike. Both inmates and observers felt like they were witnessing history in the making.³³ Some, like the infamous Albert DeSalvo, focused on the potential power of the prisoners’ union: “they don’t know what we’ve got here. Rhode Island’s prisons are unionized; we’re unionized; Norfolk . . . Concord . . . Vermont. We’ll be able to call a national prison strike.”³⁴ A few turned to discussions of class and race, noting that most of the inmates at Walpole were poor or had a working-class background, that a large number of inmates were black, and that “richer people would get off for what they did . . . most of the men admitted that they were guilty of crimes and deserved to be punished, but the fact that others consistently got off . . . built a strong resentment in them.”³⁵ And others focused on the potential of the union to push for smaller remedies within the prison, from fixing the heating system to providing basic vocational training:

The NPRA is fighting with the administration. But I’m fighting another battle. I see that yard out there. It’s being used for nothing. They could just put a single story building there, away from the fence, and how many fucking classrooms could they put there? We’re not asking for any silver platter, or ladder to get out of here. Give me the tools and I’ll work and compete in the society I’m supposed to live in. I’ll build my own ladder.³⁶

Over time the torrent of conversation did slow, but it never stopped.³⁷

32. Shift 1, 16 Mar. 1973, OPF.

33. Consider the following excerpt: “The place currently is like no other joint in the world (as one young social worker serving as an interim guard put it, ‘This is much more important than Woodstock.’). What’s happening here is true behavior modification. The prisoner’s image of himself is changing radically” (Shift 3, 18 Mar. 1973, OPF). “Several claimed that the ‘eyes of the country’ were on Walpole, and that the inmates were determined to ‘pull it off’ successfully” (ibid).

34. Shift 1, 22 Mar. 1973, OPF. Unfortunately, the prisoner unionization movement during the 1970s is largely ignored in scholarship on prisons. For a recent treatment, see Donald F. Tibbs, *From Black Power to Prison Power: The Making of Jones v. North Carolina* (New York, 2012). DeSalvo was more widely known at the time as the Boston Strangler.

35. Shift 2, 4 Apr. 1973, OPF. This was not just a perception; prison census figures back this claim up: 73.9 percent of inmates at Walpole did not make it to the twelfth grade. See Joseph Higgins, “A Description of the Residents of Massachusetts Correctional Institutions on January 1, 1973” (Massachusetts Department of Corrections, August 1973).

36. Shift 3, 25 Mar. 1973, OPF.

37. After a month, one increasingly finds references to inmates being tired of talking to observers. “The novelty has worn off,” said a long-term inmate who requested anonymity.

The civilian observers recorded hundreds upon hundreds of inmate ideas, suggestions, and comments concerning prison reform, both at Walpole and beyond. Perusing the notes of the observers, one is struck not only by the creativity of many of the proposed reforms but also the sheer number of ideas.³⁸ Inmates cared. The simple possibility of having a seat at the bargaining table, by some accounts, was a motor for inmate deliberation and expression.³⁹

Beyond the initial euphoria of having control of the prison and the outpouring of conversation, the observers noted a deeper level of unity (“unprecedented solidarity,” “a truly remarkable esprit de corps,” a “pride in con-unity”) among the inmates.⁴⁰ Observers noted that inmates were not just united because of a mutual hatred of the “screws” (slang for regular prison officers) but also because of a widely held sense of shared political purpose.⁴¹ In a speech given to the general inmate population a day after the prison officer walkout, NPRA external board member Obalaji Rust

firmly spoke informing the inmates of the one thing they all had in common: They were all[,] all of them[,] Black, White, or Puerto Rican[,] oppressed and that the guards were also oppressed. But the only way the inmates can aid in bringing about prison reform is by getting their shit together. Any differences they may have among each

It’s getting boring. Wednesday night, all the guys in my block were asleep at nine o’clock. You could hear a pin drop” (Taylor, “Walpole: The Prison Where There’s Nothing To Do,” *Boston Globe*, 16 Apr. 1973, p. 3).

38. One suggestion that was never realized, for instance, was a prison canteen where profits would be used to fund an area halfway house. Many, many observer reports are dominated by long numbered lists of inmates’ ideas for various reforms.

39. The presence of observers inside the prison, of course, shaped what was said and how it was said. For one, having members of the community on hand—young and old, and from various walks of life—that were willing and eager to listen offered encouragement and validation to inmate political expression. For another, civilian observers produced classic observer effects; both inmates and guards tried to play to their audience. Michael Ignatieff, who during this time was working on his dissertation research that would eventually culminate in *A Just Measure of Pain: The Penitentiary in the Industrial Revolution 1750–1850* (New York, 1978), noted in one of his reports moments of “rather unreal politeness and cooperation between inmates and guards, unreal because neither side conceals for long its real contempt for each other . . . both sides play a sort of subtle charade for the benefit of the observers” (Untitled note, 30 Mar. 1973, OPF). Third, as one observer rightly points out, “a process of self-selection impacts the informational value of conversations held between an observer and inmates” (Shift 2, 20 Mar. 1973, OPF). That is, observer and inmate interactions are not random. Prisoners and observers choose with whom they will talk.

40. Shift 3, 16 Mar. 1973; Shift 3, 18 Mar. 1973; and Shift 3, 16 Mar. 1973, OPF.

41. In particular, hostility toward the policies of the previous Superintendent of Walpole, Raymond Porelle, was a key galvanizing force for the inmates. In one inmate’s words, “Porelle came in like Wyatt Erp and left the place shaking like a motherfucker” (Shift 2, 18 Mar. 1973, OPF).

other would have to be overlooked, because only by sticking together could they come out on top. Otherwise, they'd go down the drain.⁴²

Rust received a standing ovation from the inmates both when he entered the assembly hall and when he left.⁴³ The inmates were under no illusion that this period of self-rule would last. Most expected self-rule to end in violence; references to the Attica rebellion two years earlier are peppered throughout the observer reports.⁴⁴ Inmates believed that their fates were linked.

On individual cellblocks this cohesion took a variety of forms. Murders, stabbings, and sexual violence stopped, membership in the various NPRA committees ballooned, and, as mentioned above, observers captured in their notes a flood of fragments of everyday conversations about local politics. Inmates engaged in various protest behavior, from work stoppages, to hunger strikes, to collectively resisting “behavioral modification” tactics on disciplinary blocks.⁴⁵ And organizations like BANTU (Black African Nations Toward Unity) and the Muslim Brotherhood were integral to political consciousness raising among black inmates.⁴⁶

42. Shift 2, 17 Mar. 1973, OPF.

43. This exhortation to unity was not an exception; a week later an observer jotted down the following:

NPRA meeting in auditorium—400–500 inmates—theme was “we all stick together, black and white, stay cool, cause no incidents, show the world we can control ourselves and we will get concessions. . . . Don't let the ‘games’ the guards play upset anybody—stay cool all the time. We can control ourselves[,] by ourselves. [Shift 2, 23 Mar. 1973, OPF]

44. “Several also stated flatly that if the state police were brought in here there would be bloodshed. Perhaps another Attica” (Shift 2, 18 Mar. 1973, OPF). “More than a few fully expected another Attica” (Shift 2, 5 Apr. 1973, OPF). “It'll make Attica look like a picnic” (Shift 3, 5 May 1973, OPF).

45. “Rap with internal board of NPRA—admin propose that the inmates go to work the next day. After much discussion and a vote by the block captain (13–13) the proposal was taken to the inmate population. They after 45 min voted to go back to work for one week provided negotiations continue in good faith” (Shift 3, 8 Mar. 1973, OPF). “Inmates in the P.C. [protective custody] corridor told me that senior officer [JL] has been on duty in 10 Block the day shift (7–3) since Tuesday, even though he has been banned from inmate contact by Boone, the NPRA, and the prison administration. They have not been eating any meals since Wednesday” (Shift 2, 5 May 1973, OPF). “He spoke particularly of his experience on block 9 where people on phase 1 refused to accept any privilege or move to phase 2 unless everyone on phase 1 was granted the privilege” (Shift 3, 10 Apr. 1973, OPF).

46. “I attended a BANTU meeting (Black American [African] Nation To [Towards] Unity) held in the visiting room. . . . The organization is concerned with helping themselves achieve those [social] services within and without the institution necessary to rehabilitation. . . . The meeting dealt with areas of low education, medicine, medical psychiatric services etc.” (Shift 2, 11 Apr. 1973, OPF).

This solidarity persisted for over two months; from 15 March, the day of the officer walkout, to 19 May, the day the state police took control of Walpole, general group cohesion was maintained among the approximately 560 inmates at Walpole.⁴⁷ And it is this solidarity that inmates, observers, and trainee cadets credit as a condition of possibility for NPRA governance. It's important to note that this solidarity was not a logical outcome of the prison environment; quite the opposite, the observer reports highlight a series of splits that had to be mended, or at least papered over, to make unity possible.

For one, the postracial vision of collective resistance so eloquently articulated by Rust (described above) downplays the significance of racial politics at Walpole after the walkout. Observers recorded, for example, that inmates largely self-segregated by ethnicity during chow and that the vast majority of recreational activities were uniraical.⁴⁸ Additionally, the freedom to move between cells on each block resulted in racially homogeneous enclaves within the prison.⁴⁹ However, even if claims of crossracial solidarity among the inmates were exaggerated, or aspirational, given the context even a minimal level of cooperation is difficult to fathom. For one, the vast majority of prisoners at MCI-Walpole came from the Boston area, and the streets of Boston during the early 1970s were entangled in gang politics between the Irish and Italian mob.⁵⁰ While this did not entail open conflict inside the prison, it meant that, as with neighborhoods on the outside, the prison community was largely divided into groups with discrete spheres of influence.⁵¹

Furthermore, racial tensions in the city of Boston were high—just one year after the Walpole strike, Boston would be mired in open conflict over compulsory busing aimed at desegregating the schools of Massachusetts.⁵²

47. There are a continuous stream of reports of high morale and togetherness among the inmates between March and May, including the weeks immediately preceding the lockdown. For example, "The prisoners still continue to relate very well to each other and all seem very responsive to both the cadet guards and the observers" (Shift 2, 2 May 1973, OPF).

48. "One white prisoner remarked during a softball game that too much racial separation exists here and prejudice can be observed even on the ball field. One team was made up of all blacks, the other was all white[,] except one" (Shift 2, 30 Apr. 1973, OPF).

49. See Shift 2, 27 Mar. 1973, OPF.

50. See Higgins, "A Description of the Residents of Massachusetts Correctional Institutions on January 1, 1973." Also, this is after a decade of internecine Irish mob conflicts and the rising strength of the Italian mob in Boston. The gang network of "Whitey" Bulger was particularly influential; see generally Dick Lehr and Gerard O'Neill, *Black Mass: Whitey Bulger, the FBI, and a Devil's Deal* (New York, 2012).

51. "Talk about bitter Italian-Irish conflict, Mafia, is now outdated" (Shift 3, 16 Mar. 1973, OPF). Thanks to Robert Delello for pointing this out in a conversation in February 2013.

52. See Ronald P. Formisano, *Boston Against Busing: Race, Class, and Ethnicity in the 1960s and 1970s* (Chapel Hill, N.C., 2004).

Prisons are embedded in a wider community, and shifts in that wider community play out in the prison in complex ways.⁵³ The New York State Special Commission on Attica described the relationship as follows:

For the black inmate in Attica, the atmosphere on September 8, 1971, was not unlike that in the cities before the holocausts of Harlem, Watts, Newark, and Detroit. Sit-ins, demonstrations, and petitions had been met with excuses, delays, and repression. Organized, peaceful efforts had been rebuffed or ignored. Inmates and guards alike later commented, “The tension was so thick around here you could cut it with a knife.” No organizers were necessary; no plans were required; no leaders needed. As in the cities in 1967, the situation itself was explosive. All that was needed was a spark to set it off.⁵⁴

Drawing on the arguments of the Attica Commission, a group of public policy researchers make the point that wider social conflicts likely played a significant role in undermining traditional inmate-staff relations at Walpole prison.⁵⁵

The tension between racism and solidarity at Walpole is nicely evinced in the following vignette provided by one observer’s notes:

In my block (5) there was a white guy who during the course of a conversation said to a black man, “Go do this for me, we brought you over to be slaves anyway.” A very dangerous thing to say, so I thought. Later on, . . . [a man in the next cell over] pleaded with me to listen carefully to what he was saying . . . : “Sure, they (we, everyone probably) are racist and prejudiced, and when the cons can’t get over that they play games. But these men are brothers underneath all

53. For more on this point, see Donald Clemmer’s masterwork *The Prison Community* (Boston, 1940).

54. *Attica: The Official Report of the New York State Special Commission on Attica* (New York, 1972), p. 141.

55. While their analysis is not particularly convincing on this point, Konefsky et al., *Massachusetts Department of Correction (III)* is illustrative:

This increasing militancy affected traditional inmate social organization and attitudes. First the new political approach contradicted the maxim, “do your own time,” to which “right guys” subscribed and which the correctional staff itself admonished prisoners to follow. Second, the militant politicized prisoner tended to assume the role of “gorilla,” the aggressive inmate who uses violence. Third, such a prisoner would tend to refuse to cooperate with correctional staff in the traditional network of unofficial contacts and relationships. Taken together, the trends demonstrated a shift in power away from “right guys” and the “thief” subculture toward the “gorillas” and a general erosion of the traditional system of social control. [P. 14]

that. Brothers in a deeper sense than most people ever experience, because their love for each other is constantly being tested.”⁵⁶

Racially charged language was hardly exceptional; the observers captured both moments of crossracial cooperation and fragments of racial anxiety.

Yet despite these fissures and frictions the inmates stood together in the spring of 1973. But what did self-rule look like? First, consider the formal structure. The internal board of the NPRA, the leaders of the inmate union, consisted of twenty-one seats. The seats were divided by race: “nine Whites, nine Blacks, and three Spanish.”⁵⁷ The individuals that filled each seat were selected by their own ethnic or racial group and were, by various accounts, the notables within the institution.⁵⁸ In each cell block there was an elected block representative or “block captain” that was responsible for managing any issues that arose on the block. In addition, there were thirty-some committees, overseen by the internal board, which managed particular features of prison life: a kitchen committee, an education committee, a black problems committee, and a hospital committee, among a slew of others. Any committee could call a general assembly of the prisoner population for deliberation and a vote, and attendance at these assemblies would range between 50 and 500 inmates.

The mood of wider deliberative assemblies ranged from sedate to cantankerous but were largely civil. If an inmate was intoxicated or threatened another inmate, he was told to leave. Everyone that wanted time to speak on an issue was granted it, and decisions were ultimately reached via a voice

56. Shift 3, 18 Mar. 1973, OPF. “One black prisoner informed me that he felt that racial bias was in evidence. He felt that blacks were left out of certain programs” (Shift 3, 7 Apr. 1973, OPF).

57. John McGrath, a member of the NPRA internal board, said:

At first, the discussion revolved around representation of Black prisoners on the board. I advocated for a twenty-seven-member board—nine Black, nine white, and nine Spanish. I kept getting overruled because the white prisoners were afraid that the Blacks and Spanish would unite and overrule them. Eventually, the Spanish guys said they only wanted three representatives because of the small number of Spanish guys in the prison. So the board had twenty-one members—nine Black, nine white, and three Spanish. The guys agreed they would vote from their hearts as men not because of their skin color. And it worked, too. But I really think if I hadn’t been so stubborn, it might have fallen apart because the NPRA had to be about equality not about *equal opportunity*. That didn’t work on the street and it sure wasn’t going to work inside. [Quoted in *WP*, p. 86]

58. On the initial election of the NPRA board, one observer writes, “I talked to an inmate who said one of the reps asked him about NPRA and was it a viable force; the inmate said yes. Then the rep asked if it was a democratic election. The inmate said yes—as democratic as possible” (Shift 2, 11 Apr. 1973, OPF).

vote or a public show of hands.⁵⁹ The assemblies were used to bring major issues to inmate population; the vast majority of day-to-day business was conducted within committees or by the internal board.

The formal structure of NPRA governance was the child of a negotiated truce among various factions at the beginning of the prison officer strike. One observer wrote, “Several inmates told me that there are many inmate conflicts that are being put aside during this crisis—and that when the crisis ends, there will be more stabbings, beatings, and murders.”⁶⁰ Dellelo remembers:

The racial tension in the prison was thick. Black Power was bouncing. What happened is I said, “There is only one color and that is blue.” The guards wore khaki, which was brown; the prisoners were wearing blue. It was blue versus brown. “You are either blue or brown. There is no in-between ground. We are all in this together.” . . . I explained to everyone, “We can’t have no more beefs for six months. We have to agree no beefs. Everyone backs off.” The question was, “What if someone nails someone during that truce, what happens?” My answer was, “Anyone who violates the truce, we will take him down.” And they knew I would and could. We had the hard core on call, so even if I couldn’t take someone down myself, I had someone to do it. That made a lot of people feel very, very safe. The guards could not work us like before. If we refused to fight each other, they lost a lot of their power. There was a peace across the prison that never was there before.⁶¹ [Quoted in *WP*, p. 78]

This negotiated truce created a credible alternative to the existing social order. Beyond a guarantee of security, each ethnic group had to ensure that they kept “their house clean”—that is, that they would refuse to allow “stoolees” (as in stool pigeons, informers) and “molesters” (sex offenses involving children) into their ranks.⁶² The truce was a reimagining of, but not a departure from, the basic tenets of the convict code.⁶³

59. See Dellelo, conversation with author, Feb. 2013.

60. Shift 2, 18 Mar. 1973, OPF.

61. “Shortly after the walkout, the NPRA sent out the following verbal message: ‘If an inmate kills an officer or anyone else during the walkout, we’ve lost and we’ll kill that inmate. If an inmate knifes a guard or anyone else during the walkout, that inmate will be knifed. We have too much to lose. We’re not playing little kiddy games anymore. We got one hell of a lot to lose’ (Peter Remick and James B. Shuman, *In Constant Fear* [New York, 1975], p. 106).

62. Dellelo, conversation with author, Feb. 2013. On sex offenders: “Feels strongly that you cannot mix all kinds of offenders within one prison. Told me of how some inmates beat up another because he was a sex offender” (Shift 3, 20 Apr. 1973, OPF).

63. A central inertial force moving against unity was the hegemony of the so-called convict code in the inmate population. With maxims that include “do your own time” and

The norms around this truce, however, did not uniformly prohibit violence. If two people had a conflict, and both parties were about equal size, then it was fine that they square off—"the word was that if there was to be a showdown between him and the one he allegedly stabbed that it would be 'one on one' and if anyone entered in to it that the one who interfered would get it. . . . The population would enforce this."⁶⁴ After the fight, the two should "shake hands, smoke a joint, and move on."⁶⁵ The idea was to contain conflict, to prevent small fires from turning into blazes.

Most minor incidents, like petty theft, were addressed by appeals to solidarity, mixed with embarrassing the rule breaker in front of his peers on the block: "we educated the cons into not ripping off their brothers, because we are ripped off by the system. . . . If a con rips off another con for his personal belongings he becomes what the system is, he becomes a pig, and so we educate the cons into not becoming pigs."⁶⁶ However, calls to solidarity were also backed up, if need be, with harsher discipline: "Prisoner who had been transferred from Norfolk because of his petty stealing, started stealing things from inmates at Walpole (towels, food, etc.). Last night a group of inmates caught him in the gym and beat him up. Wanted to teach him a lesson."⁶⁷ Similarly, an inmate on the hospital committee suspected of stealing medicine was booted from his position and ended up with a black eye. Other examples are scattered throughout various observer reports.⁶⁸

The NPRA formed a Tactical Committee, headed by Ralph Hamm and Larry Rooney, which shouldered the herculean task of maintaining order in the prison.⁶⁹ Remember, once again, that despite an inmate population that had significant access to weapons, no stabbings or murders took place during those two months.⁷⁰ One incident recorded by two observers is par-

"don't snitch," and stay away from "lowriders"—those convicts engaged in interpersonal disputes—the convict code doesn't exactly lend itself to collective action (John Irwin, *The Felon*, p. 69). The backbone of the convict code is a logic of social order; while atomistic, it provides a means to resolve disputes, assign status, and maintain dignity in a difficult and uncertain environment. As I'll describe in more detail below, the convict code was revised but not abandoned in the new social order established after the walkout.

64. Shift 1, 4 May 1973, OPF.

65. *Ibid.*

66. *Three Thousand Years and Life*, dir. Stephen Ujlaki (1973).

67. Shift 1, 1 May 1973, OPF.

68. "I noticed that at least 6 persons had Black Eyes, a swollen jaw or cuts on the forehead" (Shift 1, 15 Apr. 1973, OPF).

69. "A rep. of the NPRA (Jerry Sousa) has told us of a tactical patrol by NPRA to prevent and/or intervene should there be any incidents in halls or blocks" (Shift 1, 27 Mar. 1973, OPF). See Ralph Hamm, quoted in *WP*, pp. 143–45.

70. "Brief trip with [PB] to min avocation area. Several inmates in corridor called out 'cop[,] moved into Jewelry room. Inmate at grinding wheel was grinding what appeared to

ticularly illustrative of how a small conflict can snowball. After a fight between three men, two black inmates and one white,

A white man came down. . . . He mingled with the blacks. Talk was alternately accusing and indifferent. Place nearly full now. Eventually someone hit someone and the white and a black faced off. Almost immediately both drew large, heavy machete-type knives. This made it hard for the others (who displayed no like weapons) to come between them. I and [F] moved outside the door. They were going to cut each other's heads off. Much movement inside. Somehow the fight was averted. It seemed to me that at the end the white group just walked away. About 100–200 must have been there.⁷¹

Talking with inmates the next day, another observer reported that the initial incident, the conflict among the three men, was understood to be “a personal beef and not any type of racial outbreak.”⁷² While incidents like this are exceptional in the observer files, moments like the one just cited reveal an important general point. Simple deterrence was not enough to guarantee security—order at Walpole required both an ability and a *desire* to deescalate conflict among the major factions within the prison.⁷³

In all, the scope of governance touched almost all facets of prison life during this time: distribution of medicine, dispute resolution, recreation, outside visitors, food distribution, even the daily block counts. Creating a credible social order also bought the NPRA leverage in negotiations with the prison administration, and made the call for inmate unionization credible. On 18 May, with Boone's blessing, the acting superintendent of the prison decided to bring in the state police and lock down Walpole. Observers were expelled from the prison for a week, and when they were allowed to return, they were only permitted selective access to the institution. On 10 June, the observer program was disbanded.

“The Inmates Are Running the Prison”

The politics of participation at Walpole prison is probably not what democratic theorists would create in a vacuum.⁷⁴ As others have elabo-

be a knife. I did not enter but continued through corridor to Leather, then out. Grinding continued” (Shift 1, 26 Apr. 1973, OPF).

71. Shift 2, 3 May 1973, OPF.

72. Ibid.

73. This cuts against the claim that a few inmates, the “wrecking crew,” could hold the population in check through fear and brutality (*Carlo v. Gunter*, 392 F.Supp. 871 [D. Mass. 1975]).

74. One reviewer for this journal noted the peculiar resonance of the Walpole episode with Henry Fielding's fictionalized account of Jonathan Wild. In “The Life of Mr. Jonathan

rated, the government of liberated spaces can entail practices of discipline that some might find bizarre or distasteful.⁷⁵ The facts related to inmate self-rule shaped but did not determine how the Walpole episode was narrated. Consider this reflection by a civilian observer:

Strange, what different meanings can attach to the phrase “the inmates are running the prison.” A number of men said this to me in a quiet, undefiant way, to indicate that they are assuming responsibility for some the routines . . . formerly carried out by guards. The inmates are in effect maintaining order. I imagine that what the guard was trying to convey to me by his reference to the “present situation” was that the inmates had taken over something vital that belonged to the guards.⁷⁶

Two dominant narratives were used to interpret the events at Walpole, the two narratives I described earlier as the liberal narrative and the radical narrative.⁷⁷

The Liberal Narrative

The traditional narrative of prison reform is closely aligned with the second interpretation of the phrase “the inmates are running the prison” described by the above observer. For those primarily concerned with the distribution of goods, with providing order, amenity, and service, inmate

Wild the Great,” Fielding uses the figure of the notorious thief Jonathan Wild to parody the recently disgraced prime minister Robert Walpole—the namesake for the town of Walpole, Massachusetts. Chance linkages demonstrate a common theme: a Walpole characterized by political corruption, decay, and “every kind of villany” along with counter-forces warring for the soul of democratic society (Henry Fielding, *Miscellanies, by Henry Fielding Esq.*, 3 vols. [London, 1743], 1:xxix).

75. In particular, I have in mind Bernard Harcourt’s discussion of discipline within the Occupy Wall Street movement; see Harcourt, “Political Disobedience,” *Critical Inquiry* 39 (Autumn 2012): 42.

76. Shift 1, 30 Mar. 1973, OPF.

77. I use the term *narrative* here with purpose. My ambition in the discussion below is less in formalizing a narrative sequence for the sake of inference than in making explicit the latent assumptions that underpin that narrative. The plot of the Walpole episode, as narrated in the newspaper coverage and policy discussions reviewed above, is a particular application of a wider story about how punishment functions in a liberal-democratic regime. To tell a story about an event is, at least in part, to explain it. A narrative organizes an event in a chronological sequence and channels that sequence into a plot with a beginning, a series of intervening events, and an end, usually with to infer cause or interpret meaning. “Plot,” according to Ricoeur, is “the intelligible whole that governs a succession of events in any story” (Paul Ricoeur, “Narrative Time,” in *On Narrative*, ed. W. J. T. Mitchell [Chicago, 1981], p. 167). Importantly, the narrative mode of comprehension is “configurational,” it “puts its elements into a single, concrete complex of relations” (Ricoeur, *Time and Narrative*, 3 vols. [Chicago, 1984], 1:159).

self-rule at Walpole was, at best, a haphazard attempt to muddle through in the face of maladroitness management by the Massachusetts Department of Corrections.

A significant amount of the newspaper coverage of those turbulent months takes this approach, and elements of case study presented above can surely be shoehorned into this narrative. One *Boston Globe* journalist made this point using an officer's perspective: "Who runs Walpole? The inmates? I don't know who else is,' Officer Arthur Dunn said. 'They're getting tired of running the place. They have problems, medical problems, drug problems. They don't want to handle the junkies either.'"78 The leader of the prison officer union cast the problems of inmate governance in more stark terms: "[McLaughlin] said the 'permissive policy' instituted by [State Secretary] Goldmark and [Commissioner] Boone has given control of the prisons to 'the scum of the inmate population.' He said he was not referring to the 98 percent of the inmates who 'are no problem. They want to do their time and go home.'"79 From this perspective inmate self-governance was mob rule, in both senses of the term *mob*.80

The politicians and administrators that initially supported Commissioner Boone offered a similar diagnosis. The Walpole situation was about program implementation and bureaucratic politics, not political recognition. Boone's management style, his attempt to sidestep (or step over) the concerns of prison officers, and a racially toxic institutional climate all but ensured conflict and disorder.81 The fracas at Walpole was ultimately seen as a distraction to a wider correctional reform agenda.82 Among these elites, officer and inmate strikes were viewed as a kind of growing pain, a symptom of a treatment regime in transition.

One of the clearest and most thoughtful expositions of this wider liberal narrative is John DiIulio's *Governing Prisons*.83 Inspired by Alexis de Tocqueville and Gustave de Beaumont, DiIulio's book frames the central problem of prison reform as a problem of governance. He asks, "is it possible for prisons to be governed at an acceptable human and financial cost?" His answer, in brief, is yes; poor prison conditions are produced by ob-

78. Taylor, "Walpole: The Prison Where There's Nothing to Do," p. 3.

79. Richard Ray, "Guards Call Conditions 'Intolerable,'" *The Boston Globe*, 15 Mar. 1973, p. 1.

80. The Irish and Italian mafias both had influence inside of the prison.

81. See Konefsky et al., *Massachusetts Department of Correction (III)*.

82. The Omnibus Prison Reform Act passed in 1972 involved implementing provisions such as a furlough system and the construction of community halfway houses.

83. DiIulio's text is particularly appropriate because the turmoil in Walpole prison in the late '70s and early '80s was one of the central motivations for his work.

servable and remediable defects in the way that prisons are organized and managed. Specifically, he argues that “high-custody” (hierarchical, restrictive) forms of prison organization are most effective at stemming prison violence.

The frame of governance and governability in DiIulio’s account is useful, and I find that the conceptual metaphor of “prison as a constitutional government” is particularly revealing (*GP*, p. 235).⁸⁴ At a glance, one might think that a government with subjects that have little control over the conditions of their lives is more akin to an authoritarian regime than a constitutional democracy. For DiIulio, however, the reference public that holds administrators democratically accountable is *outside* the prison, and consequently for him there is no democratic deficit created by paramilitary forms of prison management. Inmates simply are not part of the demos, of civilized society: “Given the lawless and uncivilized character of their citizens, inmate societies ought . . . to be subject to strong official controls and a tight, mandatory regime of work and programs” (*GP*, p. 46). From this interpretive perspective, it’s unclear what response or recognition—as administrators, as members of public on the outside, or as inmates—befits a group exercising voice outside the constitutional foundation of the prison polis. While the evidence presented in the case study above is not dispositive, it seems clear that something like a participatory culture emerged at Walpole during those early months of 1973.⁸⁵ Deliberation and democratic decision-making were prominent features of inmate self-rule, and an election was even held. Thus, the claim that inmate unions like NPRA are a simple example of mob rule seems untenable. In DiIulio’s vision of democracy, inmates become the “part that has no part” of a prison political order “forged by revenge and cooled by forgiveness” (*GP*, p. 262).⁸⁶

84. “If one is interested in improving the quality of prison life, the best way to think about the prison is not as a mini-society but as a mini-government” (*GP*, p. 235). Tom Wicker makes a similar note about the organization of inmates during the Attica rebellion:

When Schwartz and Eve arrived in D-yard about 3 P.M., they found a rough social and political order functioning, although six hours earlier all its inhabitants—alienated, angry men, many of them unschooled, violent, and admitted lawbreakers—had been prisoners of the state of New York, under constant surveillance, and reduced to little more than lockstep circumstances. [Tom Wicker, *A Time to Die* (New York, 1975), p. 23]

85. A participatory culture is a culture with low barriers to expression, support for sharing expression, informal mentorship for knowledge transfer, and where members both believe their contributions matter and feel a connection to one another; see Henry Jenkins, *Confronting the Challenges of Participatory Culture: Media Education for the 21st Century* (Cambridge, Mass., 2009).

86. Jacques Rancière, *Disagreement: Politics and Philosophy*, trans. Julie Rose (Minneapolis, 1999), p. 14; hereafter abbreviated *D*.

The concepts of governance, exclusion, and democratic accountability that delineate DiIulio's account are revealing but limited. A key difficulty is DiIulio's narrow vision of political governance. Consider three dimensions of the exercise of authority. First, there is governance, the procedures for collectively deciding how to deploy labor and capital. This can be distinguished from the task of management, the actual work of deploying, or governing, that labor and capital. And the third dimension is the legal basis of the organization's right to govern the labor and capital within its jurisdiction.⁸⁷ DiIulio is primarily concerned with the second sense of governance, governance as management. But the prisoners at Walpole, in various voices, pushed for a right to self-determination on the other two dimensions as well—pushing for inclusion in the procedures that allocate goods in the prison and, in some cases, rejecting the legitimacy of custody itself.

Inmate participation, in DiIulio's account, shares important characteristics with what social theorists over the last decade have come to call neoliberal penalty. Neoliberal penalty refers to the idea that the state should assert its "responsibility, potency, and efficiency" in crime management while "proclaiming and organizing its own impotence on the economic front."⁸⁸ This logic, according to Bernard Harcourt, is an unstated premise in contemporary discussions about prison policy, and, more controversially, acted as a "condition of possibility" for the rise of mass incarceration in the United States over the last four decades.⁸⁹ In *Governing Prisons* we see a parallel configuration, a civil society of freely contracting individuals and an authoritarian prison society composed of the unruly and unreasonable. Here, however, the lynchpin is not the "natural order" described by Harcourt that justifies laissez-faire economic policies; instead, it's a largely implicit democratic theory of custody, a theory built on the logic of democratic exclusion and reference publics.

My aim is not simply to suggest that Walpole exposes a tension between the real and the represented, though the observer files definitely suggest descriptive insufficiencies in the liberal narrative. Nor is my goal to draw out

87. See David Ciepley, "Beyond Public and Private: Toward a Political Theory of the Corporation," *American Political Science Review* 107 (Feb. 2013): 139–58.

88. Loïc J. D. Wacquant, *Punishing the Poor: The Neoliberal Government of Social Insecurity* (Durham, N.C., 2009), p. xviii.

89. See Harcourt, *The Illusion of Free Markets: Punishment and the Myth of Natural Order* (Cambridge, Mass., 2011). For critics of the relationship between neoliberalism and mass incarceration in the United States, see Michael C. Campbell and Heather Schoenfeld, "The Transformation of America's Penal Order: A Historicized Political Sociology of Punishment," *American Journal of Sociology* 118 (March 2013): 1375–1423, and Nicola Lacey, "Punishment, (Neo)Liberalism and Social Democracy," in *The SAGE Handbook of Punishment and Society*, ed. Jonathan Simon and Richard Sparks (Los Angeles, 2013), pp. 260–80.

the friction between a particular narrative form and the enactment of that form, though the distance between the two certainly can tell us about our enduring identifications and affective attachments. Rather, my point is to highlight how the liberal narrative can, without contradiction, omit from discussion the forms of need and political exclusion human beings experience behind prison walls.

Unlike the liberal narrative, the radical narrative was never systematically enunciated. However, as I'll describe below, its central principles can be reconstructed from the practices and observations of inmates, observers, and staff during the officer strike. In response to liberal accounts, radicals foregrounded a particular vision of participatory democracy.⁹⁰ And, as I argue in the concluding section, the lack of a systematic account of political foundations is actually part of what makes the radical vision promising for reevaluating the relationship between punishment and democracy.

Radical Narrative

If we return from the second interpretation of the phrase "the inmates are running the prison" to the first, inmate self-rule can also be understood as an affirmation of "citizens in a community taking responsibility for changing their own circumstances and achieving their own goals."⁹¹ Members of the NPRA executive board capture this intuition:

"We want to see Walpole changed so it's compatible with the street, a community prison with self-government, inmate participation and working conditions like on the street," said Robert Dellelo. . . . "We've got to get guards and inmates together and see what we can live with." . . . "We don't want to run the prison," said Robert Dussault . . . NPRA treasurer and a convicted bank robber, "We just want a say in how it's run. This is our home."⁹²

In other words, the street and the prison occupy the same political and moral space. A community is a community, whether or not its inhabitants are walled in. And every group in a community deserves a say in how it's governed. Moreover, participation in prison life is a kind of political education. "Men who had not gone in as 'political' prisoners," Howard Zinn

90. Again, I take liberal-welfarist and liberal law and order claims to be rooted in a set of common assumptions about the shape of civil society's domain (even if there is disagreement about what citizens on the outside owe to inmates).

91. "Ad Hoc Committee on Prison Reform: Response to WBZ Editorial of March 16, 1973," OPF.

92. Taylor, "Full Collective Bargaining Rights Sought by Walpole Inmates," *The Boston Globe*, 30 April 1973, p. 4.

writes, “who had been what we call common criminals, began emerging rehabilitated. But not in the way the government talks of rehabilitation.”⁹³

While the particulars of the NPRA’s or Zinn’s reflections certainly are not representative of all observers or inmates, the general spirit of their remarks is consistent with an emergent radical narrative of the events at Walpole. In this narrative inmate self-governance is a form of applied civic education, where one develops a capacity for complex forms of participation by engaging in more basic participatory acts. At its extreme, this logic points to the possibility that higher-level participation may obviate the need for confinement at all, perhaps even providing a path to prison abolition.⁹⁴ At its heart, the radical view is an extension of participatory democratic theory to an unfamiliar and unlikely institution: a maximum security prison.

Carole Pateman’s *Participation and Democratic Theory* speaks to the both the novelty of the radical view and its debt to theorists of participatory democracy. Pateman’s object of analysis, of course, is the factory, not the prison.⁹⁵ Yet, Pateman’s analysis nicely tracks the vision of self-rule presented by many of the inmates and observers at Walpole. She writes:

Society can be seen as being composed of various political systems, the structure of authority of which has an important effect on the psychological qualities and attitudes of the individuals who interact within them; thus, for the operation of a democratic polity at a national level, the necessary qualities in individuals can only be developed through the democratization of authority structures in all political systems.⁹⁶

Observer descriptions of the consciousness-raising efforts of BANTU, the skills developed in various committees, and the political savvy born of the hum of constant political chatter in the inmate population all seem to comport with this approach. If one accepts the idea of the prison as a political system (or, in the words of DiIulio, “a constitutional government”), Pateman’s advocacy for democracy in industry is in the same genus as the NPRA’s call for inmate self-rule. Furthermore, the similarity between the language used by Pateman and that of the inmates and observers at Wal-

93. Zinn, *Justice in Everyday Life*, p. 192.

94. “The goal of the prisoners’ union project was two-fold: to exercise self-determination within the prison, and to demonstrate that the prison itself was unnecessary” (*WP*, p. 89).

95. I don’t mean to imply the analogy is implausible. Consider Dario Melossi and Massimo Pavarini’s *The Prison and the Factory: Origins of the Penitentiary System* (New York, 1981). Inmates often work (cleaning, cooking, teaching) within the organizations that confine them.

96. Carole Pateman, *Participation and Democratic Theory* (New York, 1970), p. 35.

pole is striking, perhaps because each tapped into a key piece of the democratic zeitgeist of the late 1960s and early 1970s.

There are limits, however, to setting maximum participation as a lodestar for the democratic reform of punishment. For one, an important lesson from Walpole is that participation is an instrument of management, a tool to achieve various political ends for oneself or for others.⁹⁷ Moreover, the observer files underscore that the exclusions potentially remedied by increased participation can be internally complex. Take the negotiated truce between the various factions in the inmate population as an example. The truce, in essence, morphed the convict code and divisive racial politics into a foundation for a new political order nested within the existing prison order. However, the exhortation to “keep one’s house clean” by purging “stoolees” and “molesters” suggests that democratic exclusions have a fractal or recursive character. That is, a given exclusion has the quirky feature that it is defined in terms of a simpler, smaller version of itself. Thinking about the pariah class of sex offenders in particular, other works emphasize that communities of sex offenders are also internally divided by status, with those that commit offenses involving children inhabiting the bottom rung. The excluded part of a political order may, itself, have exclusions that define that part’s shape and structure.⁹⁸

97. Before the strike, for example, the prison administration tried to revive an “inmate grievance council” to serve as a release valve for bubbling inmate dissatisfaction in the wake of Attica. There is a long and interesting history of the use of inmate councils at Walpole; see Baker, “Inmate Self-Government and the Right to Participate” for a brief overview. To use Pateman’s terminology, this form of participation was “pseudo,” participation in name only, where participants had little influence on distributive outcomes within the prison. Similarly, however, the NPRA also used participation as a way to co-opt potentially fractious elements of the inmate population. While these individuals were full participants (they wielded actual authority), participation by would-be dissenters strategically served a series of ends external to themselves. In effect, they lost influence by becoming participants in the inmate regime. In Pateman’s work full participation (in contrast to “pseudo” or “partial”) comes across as an unadulterated good—but the events at Walpole suggest a more complicated story. Domination and democracy go hand in hand; maximal participation, perhaps counterintuitively, can at times lend aid to domination. Skeptics on the political left argued a version of this point. They claimed, for example, that the prisoners’ union was simply mutton dressed as lamb, little more than a traditional “lobbying group for reforms sought by the state itself” (Bob Martin, “The Massachusetts Correctional System: Treatment as an Ideology,” *Crime and Social Justice* 6 [Fall–Winter 1976]: 52).

98. A particularly brutal example of these nested exclusions is inmate-on-inmate violence during the notorious 1980 New Mexico prison riot. “Seventeen of the 33 inmates killed were housed in Cell Block 3 and Cell Block 4. Twelve of these inmates were tortured with blow torches, set afire, and mutilated; one was beheaded with a shovel. The victims included suspected ‘snitches,’ a child rapist, and ‘mentally disturbed’ inmates whose screaming had kept other inmates in segregation awake at night” (Mark Colvin, “The 1980 New Mexico Prison Riot,” *Social Problems* 29 [June 1982]: 458).

The observer files bring into relief another wrinkle for the classic view of participatory democracy. Theorists like Pateman offer a vision of self built on a methodological individualist ontology.⁹⁹ That is, a world in which the individual is the basic building block of society, a social universe whose atoms are agents with capabilities and preferences.¹⁰⁰ Those working on this ontological register are tempted to write that various forces, whether intentional or accidental, conspired to realize a preexisting capacity for participation within the inmate population at Walpole. Zinn offers a compelling version of this perspective. However, this view produces two conceptual difficulties.

The first conceptual difficulty is the following: one cannot posit wards as autonomous agents when it is wards' autonomy, potential or actual, that is called into question in the liberal narrative. Extending participatory democratic theory to the prison results in question begging. Put in other words, the central problem is that the individualist, atomic conception of agents precludes investigation into the construction and emergence of the real people and organizations that we reference by the term *agent*.¹⁰¹ As an alternative, one might treat as fiction the idea that each of us collects and sheds attributes over a lifetime—ambition, depravity, intelligence, charity—while remaining at some base level myself, my soul. Custodial institutions, to borrow a phrase from Erving Goffman, are “forcing houses for changing persons,” and “each is a natural experiment on what can be done to the self.”¹⁰² Treating the “self” in inmate “self-rule” as an outcome of a tangle of historical and organizational processes rather than as a latent feature of the political world opens up a line of inquiry where one would otherwise be elided or foreclosed.¹⁰³

The second conceptual tangle, related to the first, concerns the concept of capacity. A key asset of Pateman's view is its holism, its recognition that

99. On methodological individualism, see Jon Elster, *Explaining Social Behavior: More Nuts and Bolts for the Social Sciences* (New York, 2007). For criticism, see Andrew Abbott, “Mechanisms and Relations,” *Sociologica* 1, no. 2 (2007): 1–22. On ontology, Patchen Markell notes, “For these authors, such efforts go wrong at the level of what we might call social and political ‘ontology’: they rest on distorted pictures of basic features of the human world, mistaking the irreducible conditions of social and political life for pathologies that might someday be overcome” (Patchen Markell, *Bound by Recognition* [Princeton, N.J., 2003], pp. 3–4).

100. For a contemporary example, see Martha C. Nussbaum, *Creating Capabilities: The Human Development Approach* (Cambridge, Mass., 2011).

101. See John F. Padgett and Walter W. Powell, *The Emergence of Organizations and Markets* (Princeton, N.J., 2012), p. 3.

102. Erving Goffman, *Asylums: Essays on the Social Situation of Mental Patients and Other Inmates* (New York, 1961), p. 12.

103. First and foremost I have in mind Goffman, but one could also attribute similar approaches to theorists like Michel Foucault and Bruno Latour.

human abilities are formed intersubjectively and in interaction with one's world. It's clear that the NPRA, for example, would not have been able to govern, and the inmate population would not have been governable, without a series of previous experiences of collective protest and the tireless consciousness-raising work of outside activists. However, this holism is paired with a tricky assumption that all agents have the *potential* to be full participants in a given decision-making process. This assumption is tricky because it, on some accounts, entails positing potential as an ahistorical feature of human agency, rather than as the product of a historical process. "If we are serious about [rehabilitation], we must develop a new set of expectations, seeing prisoners not as caged, subdued and tamed; but as human beings capable of taking full human responsibility for their own lives and their own actions."¹⁰⁴

This observation, however, suggests the need for a theoretical revision, not an outright rejection. The appeal to humanity above animality by the ad hoc committee can refer to either an *unbounded* or a *bounded* set of unrealized capabilities. The latter formulation, potential as a bounded set of possible capabilities, is more tenable; potential abilities, like abilities themselves, are constrained by historical context.¹⁰⁵ For instance, a series of smaller-scale strikes by inmates within the prison enabled collective learning, producing knowledge about the likely shape and scope of both inmate and officer response to protest that became invaluable during the sick-out.

Democratic Foundations

What makes extending the strict egalitarianism of participatory democracy to prisons plausible, alluring even, is that all the parties, and all the capacities, relevant to a given decision-making process are (or can be) known. As a consequence of this assumption, however, universal inclusion paradoxically gives rise to what Jacques Rancière describes as a "miscount."¹⁰⁶

104. "Ad Hoc Committee on Prison Reform: Response to WBZ Editorial of March 16, 1973," OPF.

105. Take a small example. The general ability to work around constraints in prison—the everyday circumvention of restrictions on mail, on distribution of outside material, on the procurement of tools—constitutes a kind of latent political skill. Those skills, in turn, can be mobilized toward collective action in a moment of crisis. At Walpole inmates learned to remove the light fixtures in their cells to jury-rig TV antennas, which enabled them to receive outside news broadcasts during the officer sick-out; see Shift 1, 25 Mar. 1973, OPF).

106.

Before becoming a preference for peace over war, consensus is a certain regime of the perceptible: the regime in which the parties are presupposed as already given, their community established and the count of their speech identical to their linguistic performance. What consensus thus presupposes is the disappearance of any gap between a party to a dispute and a part of society. It is the disappearance of the mechanisms

As the emergence, consolidation, and disintegration of the prisoners' union at Walpole vividly demonstrates, there is a gap between the party in a given dispute and the part of society that party represents. Politics is largely about traversing this gap, and different agents, individual and collective, appear and disappear over the arc of a given political struggle. "Appearance," Rancière writes, "particularly political appearance, does not conceal reality but in fact splinters it, introduces contentious objects into it, objects whose mode of presentation is not homogeneous with the ordinary mode of existence of the objects thereby identified" (*D*, p. 104). By positing a world where *all* agents are always already included, the universal egalitarianism of participatory democracy displaces a discussion of the "mechanisms of appearance" where agents come to be recognized as authors of political claims.

This challenge reveals an unacknowledged kinship between participatory democracy and the liberal view described earlier. Each attempts to represent and register a world of difference through narrative; a world of protests, experimental treatment programs, and daily prison violence; a world of Walpoles that wriggle and wrench what is meant by the term *democratic participant*. And each safeguards a particular vision of democracy, of self-government, by appealing to an intrinsic feature of the political order. For DiIulio, this intrinsic feature is democratic exclusion; for participatory democrats like Pateman, it's universal inclusion.

At their worst, the liberal and participatory views are not tentative; they know their conclusions before they begin, furtively making their case, blocking objections, reaching for airtightness. And at their best, these views reduce the politics of participation to the resolution of some contradiction or the reenactment of some "deep necessity" of the political order.¹⁰⁷ That criminals do not have a right to a full schedule of rights. That the capacity for full participation exists *in potentia* for all beings. What's missed in appealing to intrinsic features of the political world is an openness to novelty in democratic politics.¹⁰⁸ The radical narrative offers a cogent alternative to this analytic impasse.

One of the core claims made by those at Walpole was that democracy ought not be confined to discussions of who should count as a participant but should be extended to new understandings of what equality means,

of appearance, of the miscount and the dispute opened up by the name "people" and the vacuum of their freedom. [*D*, p. 102]

107. Daniel Nichanian, "Threads of Reciprocity: Michel Foucault on Freedom" (paper, University of Chicago Political Theory Workshop, Chicago, April 2014).

108. See Glenn David Mackin, *The Politics of Social Welfare in America* (New York, 2013) for a brilliant exposition of this point.

who possesses it, and where and how it can be practiced. In a word, the radical view of self-rule is a vision of participatory democracy that is neither foundational, nor antifoundational, but *nonfoundational*.¹⁰⁹ It emphasizes the idea that participation is not a primeval animating force for democratic community, but a site-specific accomplishment enchaind and entwined in a wider set of social processes. And, importantly, that the meaning of that accomplishment is bound up with the narratives we tell about democracy. Acts as simple as block counts and keeping floors clean can simultaneously be integral to a philosophy of self-rule and to an authoritarian theory of prison management.¹¹⁰ The radical participatory vision at Walpole offers a line of inquiry, not a set of answers: an inquiry into the forms of democracy proper to a world where the boundaries of the *demos* are in flux; an inquiry into the potentials we subsequently recognize as reactionary or revolutionary.

While the events I have examined here are from the 1970s, the contest over their meaning is contemporary with the politics of our prison reform moment. Advocacies around treatment and control continue to toe the democratic line of the liberal narrative; “[Inmates’] humanity entitles them to something else: a measure of understanding, and the mercy that flows from a justice system whose rulers remember that they too are tempted to do wrong, and often yield to the temptation.”¹¹¹ Likewise, prisoners’ rights and antiprison activists implicitly call upon the strict egalitarianism of participatory democracy; “If we want to do more than just end mass incarceration—if we want to put an end to the history of racial caste in America—we must lay down our racial bribes, join hands with people of all colors who are not content to wait for change to trickle down, and say to those who would stand in our way: Accept all of us or none.”¹¹² Angela Davis writes

109. This view is in kinship with the discussion of “plantation politics” in Robert Gooding-Williams, *In the Shadow of Du Bois: Afro-Modern Political Thought in America* (Cambridge, Mass., 2009), pp. 236–37. A plantation politics perspective views resistance as participant-based, not expressivist; rather than acting on pregiven principles assumed to unite a given group, a participant perspective takes the task of establishing such principles to be a political task in its own right.

110. “I am impressed by the amount of ‘inside’ control the inmates have. There seemed to be a general concern for image and welfare and consequently the inmates handle themselves in a good manner. Everyone knew what he had to do—whether it be clean up or kitchen help, they did a good job” (Shift 2, 21 Apr. 1973, OPF). Block counts involve all inmates being locked in their cells between a half-hour and an hour and a half, at least twice a day. Conducting counts quickly and accurately became a source of pride for many block captains; see Shift 2, 16 Mar. 1973, OPF.

111. William J. Stuntz, *The Collapse of American Criminal Justice* (Cambridge, Mass., 2011), p. 311.

112. Michelle Alexander, *The New Jim Crow: Mass Incarceration in the Age of Colorblindness* (New York, 2010), p. 258.

in a recent work that “dangerous limits have been placed on the very possibility of imagining alternatives. These ideological limits have to be contested. We have to begin to think in different ways. Our future is at stake.”¹¹³ These limits, *our* limits, are inherited from the struggle of previous generations to reform prisons. Buried in the history of that struggle is a set of philosophical resources to reinvigorate a discussion of participatory democracy and punishment.¹¹⁴

113. Angela Y. Davis, *The Meaning of Freedom: And Other Difficult Dialogues* (San Francisco, 2012), p. 30.

114. I agree with Pateman’s claim in her 2012 American Political Science Association Presidential Address that modern variants of democratic theory (in particular, deliberative democracy) don’t offer a persuasive account of the relationship between deliberation and institutional structures. A revitalized participatory democratic theory offers the opportunity to explore what it would mean to democratize our “democratic” institutions; see Pateman, “Participatory Democracy Revisited,” *Perspectives on Politics* 10 (Mar. 2012): 7–19.