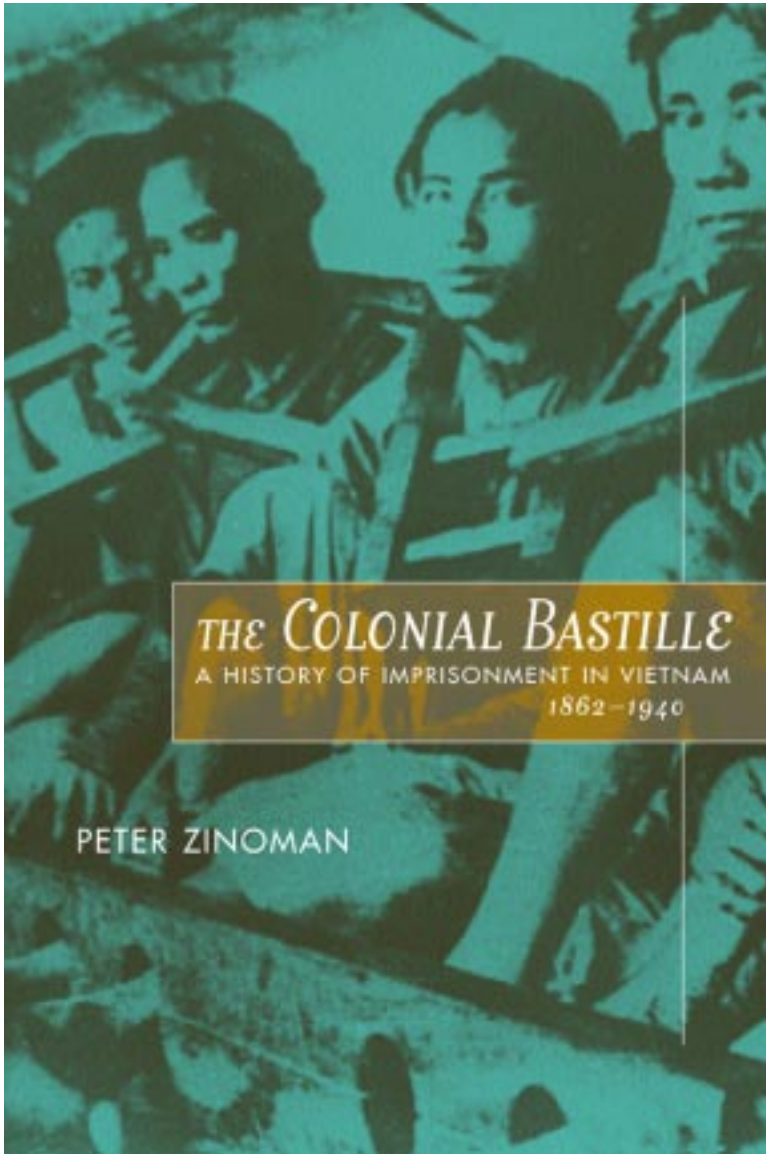


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# 1 The Origins of the Ill-Disciplined Prison

Most of our prisons in Indochina include only one room, in which all detainees, both the accused and the convicted, are held together indiscriminately. From a moral point of view, such cohabitation gives rise to numerous regrettable consequences. Legally, it is inexcusable. During my visit, I was told that the administration was simply unable to finance the segregation of prisoners by category. . . . I also noted that the insufficiency of surveillance and the carelessness with which the prison registers are kept make it impossible to acquire a comprehensive understanding of the true situation of the prison population.

*Inspector of the Administrative and Financial Services of the Ministry of the Navy and Colonies, October 28, 1885*<sup>1</sup>

The detainees have, for a long time, been involved in abusive practices that cannot be stamped out with occasional punishments. Most notably, the rules of silence and prohibitions against gambling and opium are not observed. During the night I have visited the *bagne* and overheard conversations between guards and inmates coming from the wards. Searching guards returning from *corvée*, I found lumps of opium hidden in their belts. Indeed, most of the guards are drunkards and opium addicts who are, with rare exceptions, involved in various forms of collusion with the inmates. The degree of corruption is so extensive and the number of negative elements so large that it seems foolish to attempt a moral and material reorganization of the penitentiary.

*Director of the Poulo Condore Penitentiary, March 1, 1910*<sup>2</sup>

These detailed observations apply to all the prisons that I have visited in Indochina: a chronic disorder in bookkeeping, an ignorance or disregard of the most elementary administrative rules, the confinement together of detainees from all categories, minors included, without any observation of legal prescriptions for

1. AOM, H Colonies, 2026, Rapport sur le Service pénitenciaire en Cochinchine, August 28, 1885.

2. AOM, Indochine, Gouvernement général, 4248, Régime pénitenciaire, M. Cudenet, Administrateur des Services civils, Directeur des îles et du pénitencier de Poulo Condore, à Monsieur le Lieutenant-gouverneur de la Cochinchine, March 1, 1910.

each order of penalty. Given the extent of such practices, the regulations are little more than a façade.

*Inspector of the Ministry of Colonies, January 30, 1932*<sup>3</sup>

The establishment of a colonial prison system in French Indochina during the nineteenth century coincided with the emergence of the modern penitentiary in Europe and the United States. Unlike eighteenth-century prisons, which were largely custodial, modern Western penitentiaries endeavored to modify inmate behavior through a series of coercive and corrective practices that historians of modern punishment, following Michel Foucault, commonly refer to as disciplinary power.<sup>4</sup> As Michael Ignatieff puts it, the modern penitentiary embodied the notion of "confinement as a coercive education . . . the idea of recasting the character of the deviant by means of discipline."<sup>5</sup>

Although the structure and functioning of nineteenth-century penitentiaries varied over time and space, the indispensable principle of discipline gave modern carceral practice a number of core features.<sup>6</sup> First, because it

3. AOM, Indochine, Affaires politiques, 1728, Rapport fait par M. Le Gregam, Inspecteur des colonies, sur la Maison centrale de Saïgon, January 30, 1932, 1.

4. During an interview in 1975, Foucault said: "My hypothesis is that the prison was linked from its beginning to a project for the transformation of individuals. People tend to suppose that the prison was a kind of refuse-dump for criminals, a dump whose advantages became apparent during use, giving rise to the conviction that the prisons must be reformed and made into a means of transforming individuals. But this is not true: such texts, programmes and statements of intention were there from the beginning. The prison was meant to be an instrument comparable with—and no less perfect than—the school, the barracks, or the hospital, acting with precision upon individual subjects." "Prison Talk," in *Power/Knowledge: Selected Interviews and Other Writings, 1972–1977*, ed. Colin Gordon (New York, 1980), 40–41.

5. Michael Ignatieff, *A Just Measure of Pain: The Penitentiary in the Industrial Revolution, 1750–1850* (New York, 1978), 11. In *The Promise of Punishment: Prisons in Nineteenth-Century France* (Princeton, N.J., 1982), 48, Patricia O'Brien makes a similar argument with reference to the penitentiary in nineteenth-century France: "Another organizing principle of the modern penitentiary was the concept of rehabilitation. The new nineteenth-century prisons promised the elimination of crime through the moral reformation of criminals. Deprivation of liberty was to serve the double role of deterrent and corrective. Through an ordered and disciplined life in prison, the inmate was expected to internalize the dominant social values and to carry them out with him into society." On the role of "utopian" and "rehabilitative" impulses in the development of the American penitentiary, see David Rothman, *The Discovery of the Asylum: Social Order and Disorder in the New Republic* (Boston, 1971), 79–109.

6. The most elaborate discussion of these features can be found in Michel Foucault, *Discipline and Punish: The Birth of the Prison*, trans. Alan Sheridan (New York, 1979), 135–230.

aspired to maintain a radically continuous surveillance, the penitentiary employed an architecture that distributed prisoners in space so as to increase their visibility.<sup>7</sup> Second, rather than targeting the inmate's body as the site of penal intervention, it attempted to transform his or her behavior or character through the regimentation of activity and mandatory labor.<sup>8</sup> Third, to ensure physical well-being and to sever the inmate from potentially "unhealthy" external influences, the penitentiary introduced the concept of "total care"—supplying the prisoner with food, clothing, medicine, instruction, and religion.<sup>9</sup> And, fourth, the penitentiary gave rise to systems of behavioral accountancy, manifest in the proliferation of reports and dossiers, as well as in the gradual hegemony of social-scientific "experts" (penologists, criminologists, psychologists) over the management of punishment.<sup>10</sup> These disciplinary techniques never succeeded in completely replacing older forms of incarceration, but they made significant inroads in both Europe and the United States during the nineteenth

7. The most famous exponent of architecture as a reformatory force was Jeremy Bentham, whose utopian vision of the perfectly ordered prison, *Penitentiary Panopticon*, was published in 1791. Bentham wrote: "Morals reformed—health preserved—industry invigorated—instruction diffused—public burthens lighted—economy seated as if it were upon a rock—the gordian knot of the Poor law not cut but untied—all by a simple idea in architecture" (quoted in Ignatieff, *Just Measure of Pain*, 112). See also Robin Evans, *The Fabrication of Virtue: English Prison Architecture, 1750–1840* (Cambridge, 1982). For another extensive discussion of architecture's role in the disciplinary penal institution, see Foucault, *Discipline and Punish*, 141–48, 170–76.

8. An especially detailed account of the history of the uses of prison labor in France is Jacques-Guy Petit, *Ces peines obscures: La Prison pénale en France, 1780–1875* (Paris, 1990), 377–418. See also U. R. Q. Henriques, "The Rise and Decline of a Separate System of Prison Discipline," *Past and Present* 54 (1972); Dario Melossi and Massimo Pavarini, *The Prison and the Factory: Origins of the Penitentiary System* (Totowa, N.J.: 1981); John A. Conley, "Prisons, Production and Profit: Reconsidering the Importance of Prison Industries," *Journal of Social History* 14, no. 2 (1980): 257–75; Foucault, *Discipline and Punish*, 149–69; O'Brien, *Promise of Punishment*, 150–89; Rothman, *Discovery of the Asylum*, 102–5.

9. For the meaning of "total care" in the nineteenth-century French context, see O'Brien, *Promise of Punishment*, 42–48.

10. For the rise of the various systems of penal accountancy, see Foucault, *Discipline and Punish*, 184–93. The history of the professionalization of penal management is examined in Stanley Cohen, *Visions of Social Control: Crime, Punishment and Classification* (Oxford, 1985), and David Garland, *Punishment and Welfare: A History of Penal Strategies* (Aldershot, Hants, 1985).

century and, at very least, produced new standards by which prison officials measured their work.<sup>11</sup>

Given that France was at the center of the global penological revolution in the nineteenth century, one of the most remarkable aspects of the prison system in French Indochina was its utter failure to deploy disciplinary practices. Indochinese prisons never employed cellular or panoptic architecture and held the vast majority of inmates in undifferentiated, overcrowded, and unlit communal rooms. On questions of rehabilitation, behavioral modification, and the reformatory effects of mandatory labor, the archive of colonial penal discourse is virtually silent. Instead of serving as a moralizing force within the institution, guards in colonial prisons were entangled in webs of collusive and coercive relations with inmates and frequently facilitated intercourse between prisoners and the outside world. Far from the body being eschewed as a target for punitive intervention, all accounts confirm that a brutal regime of corporal punishment figured ubiquitously behind the walls of Indochinese prisons. One is equally struck by the absence of technical experts and the dominant role played by that supreme administrative generalist the provincial resident in the management of incarceration in colonial Indochina. In view of the prominence accorded the *mission civilisatrice* in colonial discourse and the fact that French officials came from a metropolitan milieu in which the disciplinary penal institution was closely associated with new notions of modern governance, the remarkably ill-disciplined character of Indochinese prisons requires some explanation.

During the era in which disciplinary techniques were gradually infiltrating and transforming penal institutions across Europe and the United States, a multitude of factors discouraged their deployment in Indochinese prisons. In this chapter, three preliminary considerations are examined. First, Indochinese prisons were penetrated and shaped by preexisting Sino-Vietnamese carceral traditions in which discipline played only a minor role. Second, unlike the European penitentiary, which traced its genealogy to the monastery, the hospital, and the workhouse—institutions concerned fundamentally with salvation, rehabilitation, and reformation—the colonial prison evolved directly out of the prisoner-of-war camp, an institution that was repressive, not corrective. And, third, the essentially racist orientation of

11. As Patricia O'Brien has argued with reference to nineteenth-century France, discipline was never a pervasive reality within the new penitentiaries, but it did serve as a "code of action for institutional efficiency" (O'Brien, *Promise of Punishment*, 304).

the colonial state, coupled with the growth of a conviction in nineteenth-century French criminology that some lawbreakers were innately incorrigible, discouraged belief in the value or indeed the feasibility of employing discipline to modify the behavior of non-European lawbreakers. A fourth important consideration, to be explored at length in chapter 2, was the extremely tightfisted character of the colonial state and its stubborn refusal to provide the resources necessary for the creation of a truly disciplinary penal system. A consequence of these factors was the creation of a hybrid prison system in Indochina, in which disciplinary practices were overshadowed by a host of ill-disciplined and exclusively repressive methods of coercion and control.

#### THE VIETNAMESE CARCERAL TRADITION

In precolonial Vietnam, the prison was rarely used as a penal instrument. In 1825, the Nguyen dynasty's system of imperial detention houses held fewer than a thousand inmates.<sup>12</sup> The relative insignificance of imprisonment as a form of punishment reflected the influence of a Confucian juridical culture that promoted the idea that penal sanctions were best enforced informally within the lineage or village. For cases in which local penalties were deemed inadequate, the state had recourse to a penal arsenal made up of five principal types of punishment: light flogging, heavy flogging, indentured servitude, exile, and death (*xuong*, *truong*, *do*, *luu*, and *tu*).<sup>13</sup> As in Europe, executions and floggings were staged publicly for deterrent effect.<sup>14</sup> Because mechanisms of social control in precolonial Vietnam were embedded in hierarchical networks of blood and clan relations, public rituals of punishment served the additional purpose of enacting a "spectacle of family disgrace."<sup>15</sup> Likewise, banishment, which severed individuals from their clan groups, native places, and ancestral cults was intended to "identify the culprit forever as a source of family shame and dis-

12. Alexander Woodside, *Community and Revolution in Modern Vietnam* (Boston, 1976), 24.

13. The system of five punishments originated in the Kaihuang Code of the Sui Dynasty (A.D. 581–617). See Joanna Waley-Cohen, *Exile in Mid-Qing China, 1758–1820* (New Haven, Conn., 1991), 141.

14. For a history of public punishment in Europe, see Pieter Spierenburg, *The Spectacle of the Scaffold: Executions and the Evolution of Repression, from a Preindustrial Metropolis to the European Experience* (Cambridge, 1984).

15. For a similar argument with regard to China, see Michael R. Dutton, *Policing and Punishment in China: From Patriarchy to the People* (Cambridge, 1992), 83–84, 108.

honour.”<sup>16</sup> Excluded from the state’s inventory of juridical punishments, imprisonment was used merely to hold defendants awaiting trial or to warehouse convicts prior to the execution of their real punishments.

Prisons were probably introduced into Vietnamese territory by Chinese officials sometime between 111 B.C. and A.D. 939, the millennium in which the Middle Kingdom ruled the Red River Delta as the frontier protectorate of Giao Chi.<sup>17</sup> After breaking away from China in the tenth century, the Vietnamese elite continued to organize their legal and penal institutions according to Chinese models.<sup>18</sup> Hence, premodern Vietnamese prisons were regulated by a Chinese-style board of justice (*hinh bo*) and administered by Confucian-educated provincial and district mandarins.<sup>19</sup>

One of the first references to a carceral institution run by an independent Vietnamese dynasty comes from the eleventh century. According to the *Dai Viet Su Ky Toan Thu*, Emperor Ly Thanh Tong instructed court officials to distribute blankets, mats, and rice to prisoners during the harsh winter of 1055:

Living in the palaces heated with coal stoves and wearing plenty of warm clothing, I still feel this cold. I am quite concerned about the prisoners [*nguai tu*] in jails [*nguc*] who are miserably locked up in stocks and manacles [*gong cum*], without enough food to eat and without clothes to warm their bodies, some even undeservedly dying before their guilt or innocence has been determined. I feel a deep compassion for them.<sup>20</sup>

The emperor’s comments reveal several important features of juridical incarceration in premodern Vietnam. The words for prisoner (*nguai tu*) and jail (*nguc*) used by the emperor were borrowed directly from Chinese, highlighting the Sinic roots of Vietnamese penal institutions.<sup>21</sup> The refer-

16. *Ibid.*, 78.

17. For a history of Chinese administration in Giao Chi during this era, see Keith Weller Taylor, *The Birth of Vietnam* (Berkeley and Los Angeles, 1983).

18. The history of Vietnamese institutional borrowing from China is treated in Alexander Woodside, *Vietnam and the Chinese Model: A Comparative Study of Vietnamese and Chinese Government in the First Half of the Nineteenth Century* (Cambridge, Mass., 1971).

19. *Ibid.*, 68.

20. Ngo Si Lien, comp., *Dai Viet Su Ky Toan Thu, Tap I* [The Complete Book of the Historical Records of Great Viet, vol. 1] (Hanoi, 1972), 284.

21. Dao Duy Anh, *Han Viet Tu Dien* [Sino-Vietnamese Dictionary] (1932; reprint, Ho Chi Minh City, 1994), 43, 313.



ence to prisoners “dying before their guilt or innocence has been determined” supports the notion that prisons functioned primarily as way stations prior to trials or other juridical procedures. The emperor’s anxiety that prisoners possessed inadequate food and clothing suggests that traditional Sino-Vietnamese carceral institutions assumed little responsibility for the welfare of their inmates.

Additional evidence about imprisonment in early Vietnam comes from penal regulations found in the *Hong Duc* code, a fifteenth-century Vietnamese legal text, partially derived from Tang law.<sup>22</sup> Many articles concerning penal administration in the code aimed to check the power of prison officials and ensure decent sanitary conditions. For example, article 707 sanctioned jail officers who “mistreat or strike prisoners and inflict injury on them without reason.”<sup>23</sup> Article 660 ordered that “all houses of detention will be carefully inspected four times a year by the Office of the Provincial Judicial Commissioner,” and that “detention rooms must be spacious, well-ventilated, swept, and washed clean.”<sup>24</sup> Article 717 targeted corruption and extortion by warders: “Jail officers and judicial clerks who compel payment of a lamp fee [*dang hoa tien*] or a paper fee [*chi tin*] . . . shall receive fifty strokes of the light stick and a one grade demotion.”<sup>25</sup>

For some legal historians, the code’s benevolent prison regulations and Emperor Ly Thanh Tong’s sympathy for imperial prisoners suggests the existence of a “Vietnamese tradition of humanitarian treatment of detainees and lenient punishment for convicts heavily influenced by Buddhism.”<sup>26</sup> However, because much of it was borrowed directly from Chinese texts, the *Hong Duc* code’s capacity to illuminate a distinct Vietnamese carceral tradition is limited. As Alexander Woodside has pointed out, Vietnamese rulers frequently adopted blueprints for Chinese institutions that they were unable or unwilling to implement.<sup>27</sup> Hence, while the code contains clues about the history of Vietnamese institutional

22. Nguyen Ngoc Huy and Ta Van Tai, *The Lê Code: Law in Traditional Vietnam: A Comparative Sino-Vietnamese Legal Study with Historical-Juridical Analysis and Annotations*, vol. 1 (Athens, Ohio, 1987). See articles 650, 651, 658, 659, 660, 661, 663, 664, 695, 707, and 717.

23. *Ibid.*, 290.

24. *Ibid.*, 332.

25. *Ibid.*, 292.

26. Ta Van Tai, *The Vietnamese Tradition of Human Rights* (Berkeley, Calif., 1988), 70.

27. This is a major theme of Woodside, *Vietnam and the Chinese Model*.



borrowing from China, it may not provide a reliable guide to how imprisonment in early Vietnam actually functioned in practice.

The earliest eyewitness accounts of prisons in Vietnam come from European travelers and missionaries who were imprisoned by the imperial court during the first half of the nineteenth century.<sup>28</sup> For example, M. Miche, a member of the Société des Missions étrangères left a vivid description of his four-month stay in Hue's Kham Duong prison during the winter of 1842:

The prison in which we two missionaries were confined was a large walled building covered with tiles. In appearance, it was just like other public buildings or the houses of the great mandarins. In France, it might have passed for a fine stable. It had a frontage of 130 feet with a depth of 40. It was divided into three compartments, a captain with 50 soldiers being in charge of each. Each compartment had a further subdivision: one behind walls; which was confined and dark, and the smaller, which was the prison; the other more large and commodious, with more light and air, in front, which was reserved for the gaolers and soldiers and such prisoners who could obtain the favor.<sup>29</sup>

Miche's portrayal of Kham Duong's internal structure corresponds to pictures painted by colonial scholar-bureaucrats who investigated traditional Vietnamese penal practices in the late nineteenth century. Around the turn of the century, Alfred Schreiner remarked that "early Annamite prisons" were composed of two spatial components: an enclosed hardwood chamber known as the *nguc that* and an open courtyard adjacent to it called the *trai la*. The *nguc that*, which he referred to as "a kind of dark dungeon," was reserved for serious criminals, while the *trai la* held minor offenders. He also noted that premodern prisons were constructed to allow for the physical segregation of women.<sup>30</sup>

28. There also exists an earlier Sino-Vietnamese tradition of poetic writing from confinement, but its thematic emphasis on the internal life of the poet limits its capacity to contribute to historical reconstructions of the premodern prison. For translations of premodern prison poetry by Nguyen Trai (1380–1442) and Cao Ba Quat (1809–53), see *Vietnamese Literature: Historical Background and Texts*, ed. Nguyen Khac Vien and Huu Ngoc (Hanoi, 1979), 247, 383.

29. John Shortland, *Persecutions of Annam: A History of Christianity in Cochinchina and Tonking* (London, 1875), 234. On the activities of French missionaries in nineteenth-century Annam, see also Patrick Tuck, *French Catholic Missionaries and the Politics of Imperialism in Vietnam, 1857–1914: A Documentary Survey* (Liverpool, 1987).

30. Alfred Schreiner, *Les Institutions annamites en Basse-Cochinchine avant la conquête française* (Saigon, 1900), 148–49.

The evidence presented by Miche and Schreiner suggests that premodern prisons in Indochina employed some of the same mechanisms of differentiation and classification that are associated with the advent of modern prisons in the West. However, compared with the myriad distinctions of age, sentence, judicial status, and political orientation that structured the nineteenth-century European penitentiary, the taxonomy by which early Vietnamese penal administration classified prisoners was relatively uncomplicated. For example, because neither the *nguc that* nor the *trai la* contained individual cells, all prisoners lived collectively in communal settings. Not only were juveniles and adults mixed together, but infants were allowed to accompany their mothers into jail. In addition, premodern Vietnamese prisons made no provision for segregating defendants from convicts, or recidivists from first-time offenders.<sup>31</sup>

Moreover, the chaotic, poorly supervised atmosphere of the *trai la*, in particular, contrasted sharply with the strict regimentation of incarceration in nineteenth-century Europe. According to the English seaman Edward Brown, who spent several months in a central Vietnamese prison during the 1850s, inmates lived and worked much as they pleased within the unstructured environment of the *trai la*:

The prisoners had free access to every part of the outer jail. They were allowed to follow their trade, which was chiefly making baskets, or other fancy wicker-work, of bamboo or rattan. The bamboo was supplied to them gratuitously, but the rattan they had to purchase for themselves; and each was allowed to dispose of his own work as he saw fit, in a small bazaar within the precincts of the jail. . . . A few of them made fans, umbrellas or embroidery.<sup>32</sup>

The lively randomness depicted by Brown was enhanced by the fact that the institution furnished little in the way of food, clothing, or medicine. As a result, prisoners were supplied by friends or family, who enjoyed wide access to the *trai la*. Schreiner observed that most prisoners "are not sealed off from the outside world and can communicate easily with relatives who provide them with food."<sup>33</sup> Visitation rights were granted to parents, uncles, brothers, spouses, children, grandchildren, and even concubines.<sup>34</sup>

31. Ta Van Tai, *Vietnamese Tradition of Human Rights*, 68, 77.

32. Edward Brown, *Cochin-China, and my experience of it; a seaman's narrative of his adventures and sufferings during a captivity among Chinese pirates on the coast of Cochin-China, and afterwards during a journey on foot across that country, in the years 1857-8*, by Edward Brown (1861; reprint, Taipei, 1971), 186.

33. Schreiner, *Institutions annamites*, 148.

34. *Ibid.*, 150.

Father Miche described sympathetic Catholic villagers penetrating the prison regularly to provide him with “gifts, fruit and money.”<sup>35</sup>

Given the porous character of prison walls, it is not surprising that guards were well positioned to act as predatory middlemen between prisoners and their families. They were known to extract extortionate fees in return for petty privileges, services, and protection.<sup>36</sup> During an interview with the colonial scholar-bureaucrat J. B. Roux, one veteran of Hue’s Tran Phu prison described the guard corps there as a “gang of bloodsuckers” who constantly demanded bribes of betel nut and liquor.<sup>37</sup>

Another commonly noted feature of precolonial prison life was the ubiquity of corporal punishment. On a visit through Tonkin in the late seventeenth century, William Dampier observed that “prisoners in public Prisons are used worse than a Man would use a Dog, they being half starved, and soundly beaten to boot.”<sup>38</sup> Over a century and a half later, Edward Brown painted a picture of similar conditions:

The warden of the prison was a Canton man by birth. It appears that the Cochinchinese government generally choose these men to fill situations where severity is required, and truly this man was severe, and even brutal, for he kept the rattan going on the unfortunate prisoners’ hides from sunrise to sunset, and for the most trivial of offenses. . . . He used to sit on a couch, in the middle of the cottage floor, and there award the daily punishment to the poor prisoners of whom there were more than 200. About 20 of them were flogged daily on average.<sup>39</sup>

Miche followed Brown in his observation that the training of Cochin Chinese prison guards “was confined to a single practice—the use of the rattan—so as to lay it on with dexterity.”<sup>40</sup> He described the training he witnessed within the prison compound in Hue:

A stuffed figure was placed in the midst of the courtyard and one after the other, the soldiers took their turn in elaborately thrashing it. The

35. Shortland, *Persecutions of Annam*, 238–39.

36. The *Lê* code punished guards who accepted bribes. See, e.g., article 664: “A guard who takes bribes from detainees in order to advise them about changing their statements or to communicate what other people say about their case . . . shall be punished” (Nguyen Ngoc Huy and Ta Van Tai, *Lê Code*, 278).

37. J. B. Roux, “Les Prisons du vieux Hué,” *Bulletin des amis du vieux Hué* 1 (January–March 1915): 114.

38. William Dampier, *Voyages and Discoveries*, ed. C. Wilkinson (1699).

39. Brown, *Cochin-China*, 186.

40. Shortland, *Persecutions of Annam*, 256.

great art was to administer the blows so that they left a single wheal. He who hit best in this manner carried off the prize of skill. . . . In Cochinchina, indeed, the rattan is the universal remedy and the soldier feels it as often as he uses it.<sup>41</sup>

The routine flogging of the confined suggests that imprisonment in Vietnam functioned to facilitate, rather than to substitute for, more corporal forms of punishment. The widespread use of chains, fetters, and *cangues* (yokes) further supports the notion that imprisonment operated in tandem with penal practices that worked directly on the bodies of the condemned. A French doctor studying prison conditions in Annam in the late nineteenth century expressed dismay at the repeated sight of "inmates with purulent wounds or skin ulcerations at places where they wore cangues or stocks."<sup>42</sup>

It is striking how closely Western descriptions of incarceration in pre-colonial Vietnam resemble historical reconstructions of imprisonment in eighteenth-century Europe. Prior to the nineteenth century, most European prisoners were confined while awaiting trial or sentencing, rather than as a form of punishment. Miche's portrait of the randomness and heterogeneity of Vietnamese prison life corresponds with Alexander Smith's famous description of Newgate in 1714 as "a confused Chaos without any distinction, a bottomless pit of violence and a Tower of Babel. . . . There is mingling the noble with the ignoble, the rich with the poor, the wise with the ignorant, and debtors with the worst malefactors."<sup>43</sup> A resemblance to premodern Vietnamese incarceration can also be found in the liability of prisoners in eighteenth-century France to obtain their own food "either through friends and relatives outside the prison or by purchasing it from guards."<sup>44</sup> Another parallel may be observed in the "easy traffic of visitors" characteristic of old English prisons.<sup>45</sup>

41. Ibid.

42. Ta Van Tai, *Vietnamese Tradition of Human Rights*, 73.

43. Alexander Smith, *A Complete History of the Lives and Robberies of the Most Notorious Highwaymen* (London, 1933), 108. The mixing of diverse categories of detainees in Vietnamese prisons also mirrors Patricia O'Brien's observation that old-regime prisons in France were "teeming with people of all ages and both sexes, those awaiting trial and those convicted, for all types of crimes, beggars, murderers, pickpockets and prostitutes" (O'Brien, *Promise of Punishment*, 18).

44. O'Brien, *The Promise of Punishment*, 18.

45. John Bender, *Imagining the Penitentiary: Fiction and the Architecture of Mind in Eighteenth-Century England* (Chicago, 1987), 29.

Although such correlations point to real similarities between premodern European and Vietnamese carceral practices, it is also true that the imperial project encouraged European observers to draw such comparisons. Like much Orientalist discourse, colonial writing on “traditional” punishment was crafted to authenticate claims that imperial conquest had been undertaken to deliver subject populations from the despotism of indigenous *anciens régimes*.<sup>46</sup> Such an impulse is evident in J. B. Roux’s lurid scholarly essay “Les Prisons de vieux Hué,” which contrasts the “humane and scientific” methods of incarceration practiced in Europe with the savage forms of beating, extortion, and food deprivation characteristic of traditional Annam. “The ghastly description offered here shows the profound distance between European and Annamite prisons,” Roux explains. “There are many points of contrast, as the facts demonstrate, but they can be summarized briefly as follows: in Europe, the prisoner is treated as a man; in Annam, he is not.”<sup>47</sup> It is easy to see how Roux’s conclusions could function ideologically to celebrate the distance between benevolent colonial governance and the “barbaric” local rule it had displaced.

#### THE ENDURING INFLUENCE OF TRADITIONAL PRACTICES

Although the French moved quickly in the late nineteenth century to replace existing sites of detention with new prisons, traditional Vietnamese carceral practices continued to shape the development of the colonial system. Such continuity was most apparent in the protectorate of Annam, where the royal court and imperial bureaucracy continued to control a system of “native” tribunals and provincial prisons until the end of the colonial era.<sup>48</sup> The French tolerated the old system in Annam as part of an ef-

46. David Arnold makes a similar point about the ideological function of the colonial criminal justice system in British India. “While exemplary punishments were in times of crisis and rebellion deemed necessary and legitimate, the British sought to demonstrate a superiority over pre-colonial ‘barbarity’ by condemning torture, mutilation and indefinite imprisonment without trial” (Arnold, “Touching the Body: Perspectives on the Indian Plague, 1896–1900,” in *Selected Subaltern Studies*, eds. Ranajit Guha and Gayatri Chakravorty Spivak [New York: Oxford University Press, 1988], 393).

47. Roux, “Prisons du vieux Hué,” 119.

48. “The only legislation applied in Annam by the indigenous tribunals is the code of Emperor Gia Long (1820). In Annam, the indigenous justice system is administered without interference by or participation of the French juridical authorities” (Gouvernement général de l’Indochine, *Annuaire statistique de l’Indochine* [Hanoi, 1929], 118).

fort to shore up the flagging prestige of the collaborationist monarchy and mandarinat and to draw attention away from the foreign character of colonial rule.<sup>49</sup> Hence, other than the Tourane Civil Prison and the penitentiaries at Lao Bao and Buon Ma Thuot, which were under the direct authority of French officials, Annam's smaller provincial prisons were run by mandarins appointed by the puppet court in Hue.<sup>50</sup> As in the precolonial era, they were staffed by imperial soldiers and structured according to regulations laid down in the Nguyen dynasty's *Gia Long* code, promulgated in the early nineteenth century. The autonomy of prison administration in colonial Annam is further evidenced by the fact that the protectorate's prison records were not integrated with those from the rest of Indochina until the early 1930s.<sup>51</sup>

The high volume of amnesties and sentence reductions issued to prisoners in colonial Annam also points to the persistence there of older juridical practices. In traditional Sino-Vietnamese jurisprudence, amnesties gave the emperor an opportunity to demonstrate the beneficence characteristic of good rulership.<sup>52</sup> Statistics from the 1930s reveal huge numbers of amnesties for prisoners in colonial Annam relative to the handful in Tonkin or Cochin China. In 1933, for example, 2,078 prisoners from Annam were amnestied, compared to 334 from Tonkin and 8 from Cochin China.<sup>53</sup> As during the precolonial era, amnesties in colonial Annam came directly from the emperor.<sup>54</sup>

Despite the fact that colonial discourse tended to vilify traditional Vietnamese punishment as barbaric and archaic, officials were not above romanticizing the paternalistic nature of the old system when doing so

49. Bruce Lockhart, *The End of the Vietnamese Monarchy* (New Haven, Conn., 1993).

50. On prison administration in colonial Annam, see Tinh Uy Dak Lak—Vien Lich Su Dang, *Lich Su Nha Day Buon Ma Thuot, 1930–1945* [History of Buon Ma Thuot Penitentiary, 1930–1945] (Hanoi, 1991), and Le Kim Que, "Tim Hieu Ve Nha Tu Lao Bao" [Understanding Lao Bao Prison], *Tap Chi Lich Su Dang* 10 (1985): 71–74.

51. Gouvernement général, *Annuaire statistique de l'Indochine*, 1913–42.

52. See Brian McKnight, *The Quality of Mercy: Amnesties and Traditional Chinese Justice* (Honolulu, 1981).

53. Gouvernement général, *Annuaire statistique de l'Indochine*, 1932–33, 118.

54. Throughout the 1930s, amnesties issued by Emperor Bao Dai were covered extensively in the colonial press. See, e.g., the article "O Trung Ky Cung Co Nhieu Chinh Tri Pham Va Thuong Pham Duoc Tha Cung Duoc Giam Toi" [In Annam, Many Political Prisoners and Common-Law Prisoners Receive Amnesties or Sentence Reductions], *Dong Phap*, June 19, 1936.

served their purposes. During the mid 1930s, as Annam's antiquated prison system came under sustained attack from anticolonial activists, French officials put forward a more positive picture of the precolonial carceral tradition. In 1935, a colonial inspector explained: "Political and common-law prisoners in Annam enjoy a treatment founded on the natural generosity that flows from the essence of the Annamese political system. Here, the sovereign is known as the 'father and mother of the people,' and the more scientific penal methods employed in our other territories are never applied."<sup>55</sup>

That colonial prisoners frequently attempted to avoid serving sentences in Annam suggests, however, that the "natural generosity" of the old system impressed them less than its brutality, corruption, and squalor. In his memoir *Mot Ngay Ngan Thu* (The Eternal Day), the nationalist political activist Ton Quang Phiet recalled that his greatest anxiety following his arrest in 1934 was that he might be turned over to prison authorities in Annam.<sup>56</sup>

The persistence of traditional carceral practices in Tonkin and Cochinchina, on the other hand, reflected the endurance there of precolonial cultural notions about institutional confinement. Although prisons in these territories were structured according to slightly modified versions of metropolitan penal regulations and managed by French officials, the culture of imprisonment could not be changed overnight. Colonial prisons were staffed by native guards whose occupational habits stubbornly resisted transformation to the modern institutional ideal. Since imperial prison guards had always supplemented meager salaries with bribes and petty fees, it is not surprising that their equally underpaid colonial-era counterparts carried on with the practice in colonial prisons. In 1909, an official noted that guards in Tonkin surreptitiously charged prisoners "surveillance money," which permitted them to receive special supplies from their families, including clothes, medicine, and opium.<sup>57</sup> Virtually all prison memoirs from the 1930s describe guards selling tobacco and food to prisoners at inflated prices.<sup>58</sup> According to the French journalist Jean-Claude

55. AOM, Indochine, Affaires politiques—Détenus politiques, January 5, 1935.

56. Ton Quang Phiet, *Mot Ngay Ngan Thu* (*Lan Thu Nhat O Nha Nguc*) [The Eternal Day (My First Time in Prison)] (Hue, 1935), 32.

57. TTLT, Résidence supérieure au Tonkin, 71793, correspondances diverses, September 1, 1909.

58. See, e.g., Le Van Hien, *Nguc Kontum* [Kontum Prison] (Hanoi, 1958), 27.



Demariaux, guards on Poulo Condore were known to auction easy prison work assignments to the highest bidder.<sup>59</sup>

For Vietnamese guards, images of traditional juridical confinement in popular culture may have reinforced beliefs about the propriety of older forms of occupational behavior. For example, cultural representations in which the keepers beat the kept as matter of course may have prompted guards to enter colonial service with inflated notions about the legitimate extent of their power. Indeed, a prison scene of considerable brutality figures in an early nineteenth-century version of a much older Vietnamese verse fable, *The Catfish and the Toad*. In the story, a toad's bogus lawsuit lands a catfish in jail. There, he is chained and beaten repeatedly by his abusive keepers:

"Well, let the Toad go home," the prefect said.  
"For further hearings bolt the Catfish in!"  
The zealous bailiffs did as they were told  
and promptly clapped the Catfish into jail.  
Alas, they kept him under lock and key—  
ten men closed in on one to bleed him white.  
From mandarin to bailiffs orders flowed:  
they cangued his neck by day and chained his legs  
by night, they cut his hide to rags and shreds,  
plying a twin-lash whip with diligence.<sup>60</sup>

The brutalization of the catfish prisoner corresponds with pictures of the routinization of beating in colonial prisons. Following thirteen years in the penitentiary on Poulo Condore, Huynh Thuc Khang wrote that "beatings follow a prearranged plan: the French beat the guards, the guards beat the *caplans* [inmates employed as overseers], and the *caplans* beat the prisoners."<sup>61</sup> Likewise, in 1929, the former political prisoner Phan Van Hum noted: "[P]rison recalls two dominant images: rotten food and incessant beatings."<sup>62</sup>

Cultural representations linking judicial confinement and corporal punishment were sustained and deepened by the routine brutality of French penal officials to prisoners and native guards alike. Episodes featuring the

59. Jean-Claude Demariaux, *Les Secrets des îles Poulo-Condore: Le Grand Bagne indochinois* (Paris, 1956), 52.

60. *The Heritage of Vietnamese Poetry: An Anthology*, ed. Huynh Sanh Thong (New Haven, Conn., 1979), 61.

61. Huynh Thuc Khang, *Thi Tu Tung Thoai* [Prison Verse] (1939; reprint, Saigon, 1951), 68.

62. Phan Van Hum, *Ngôi Tu Kham Lon* [Sitting in the Big Jail] (1929; reprint, Saigon, 1957), 78.

indiscriminate flogging of both prisoners and guards occur regularly in colonial-era prison memoirs and appear repeatedly in internal reports.<sup>63</sup> Beatings of guards, in particular, tended to exacerbate inclinations to cruelty. It is not surprising that victimized guards tended to take out their frustrations on vulnerable prisoners, creating an extraordinarily brutal institutional culture. Here, colonial racism and the persistence of precolonial carceral practices coalesced to create a prison system that functioned through the dramatic deployment of terror and violence.

#### IMPERIAL CONQUEST AND THE ORIGINS OF THE COLONIAL PRISON

The institutional character of the colonial prison in Indochina was also shaped by the peculiar circumstances of its birth and early development. Historians of European punishment have shown how putatively emblematic features of the modern penitentiary evolved gradually out of older institutional patterns. For example, Edward Peters has demonstrated how the idea of behavioral modification through segregation and regimentation, so integral to the modern penitentiary, was rooted in the early medieval *ergastulum*, "a disciplinary cell within monasteries in which forced labor took place."<sup>64</sup> J. T. Sellin and more recently Pieter Speirenborg have traced the nineteenth-century penitentiary's emphasis on reformatory labor to the early modern workhouse, first established in northern European towns in the late sixteenth century.<sup>65</sup> In Indochina, on the other hand, the colonial prison system grew directly out of the camps that the French had established to hold prisoners of war during the initial period of military conquest.

The conquest and pacification of Indochina occurred gradually over a forty-year period.<sup>66</sup> It took five years for French troops to defeat the impe-

63. For a graphic official account of the routinization of beating in prison, see AOM, Indochine, Affaires politiques, 7F51, Affaire de Thai Nguyen: Rapport confidentiel 2547, December 24, 1918, on the violent behavior of the director of the Thai Nguyen Penitentiary.

64. Edward M. Peters, "Prisons Before the Prison: The Ancient and Medieval Worlds," in *The Oxford History of the Prison: The Practice of Punishment in Western Society*, ed. Norval Morris and David Rothman (New York, 1995), 28.

65. J. T. Sellin, *Pioneering in Penology: The Amsterdam House of Correction in the Sixteenth and Seventeenth Century*, (Philadelphia, 1944); Pieter Spierenburg, *The Prison Experience: Disciplinary Institutions and Their Inmates in Early Modern Europe* (New Brunswick, N.J., 1991).

66. For the initial French attacks, see John Cady, *The Roots of French Imperialism in Eastern Asia* (Ithaca, N.Y., 1954), Mark W. McLeod, *The Vietnamese Response to*

rial Vietnamese army and a host of irregular guerrilla forces before they secured control over Cochin China in 1867.<sup>67</sup> The consolidation of colonial authority over Annam and Tonkin in 1885 followed a decade of military skirmishes and the painstaking repression of a widespread royalist resistance movement.<sup>68</sup> Although the French had eliminated most residual pockets of opposition by the late 1880s, sporadic fighting continued, in northern Tonkin especially, until the close of the nineteenth century.<sup>69</sup>

For the French, the intensity of Vietnamese resistance generated demands for fortified camps where anticolonial leaders and prisoners of war could be locked away. Indeed, camps of confinement were constructed in Indochina prior to virtually any other colonial institution.<sup>70</sup> On February 1, 1862, four months before the Treaty of Saigon ceded the eastern half of Cochin China to France, Admiral Louis-Adolphe Bonard ordered the establishment of a *bagne* (penal colony) on Poulo Condore, an archipelago 180 kilometers off the southern Vietnamese coast.<sup>71</sup> According to Bonard's decree:

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*French Intervention, 1862–1874* (New York, 1991) and Georges Tabulet, *Le Geste français en Indochine*, 2 vols. (Paris, 1955). For French pacification efforts and Vietnamese anticolonial insurgency during the late nineteenth century, see David Marr, *Vietnamese Anticolonialism, 1885–1925* (Berkeley and Los Angeles, 1971), and Truong Buu Lam, *Patterns of Vietnamese Response to Foreign Intervention, 1858–1900* (New Haven, Conn., 1967).

67. Mark W. McLeod, "Truong Dinh and Vietnamese Anticolonialism (1859–1864): A Reappraisal," *Journal of Southeast Asian Studies* 24, no. 1 (March 1993).

68. Charles Fourniau, *Annam-Tonkin (1885–1896): Lettrés et paysans vietnamiens face à la conquête coloniale* (Paris, 1989).

69. See, e.g., Kim Munholland, "The French Army and the Imperial Frontier, 1885–1897," in *Proceedings of Third Annual Meeting of the French Colonial Historical Society* (Montréal, 1977), 82–107, and Ella Laffey, "The Tonkin Frontier: The View from China, 1885–1914," in *ibid.*, 108–18.

70. Indochina was not unique in this respect. "Prisons are often among the earliest examples of colonial architecture with large central prisons in the distant towns not to mention a large number of lock-ups attached to the courts," E. Coldham observes ("Crime and Punishment in British Colonial Africa," in *Punishment: Transactions of the Jean Bodin Society for Comparative Institutional History*, LVIII [Brussels, 1989], 60).

71. The Poulo Condore (Con Lon) Archipelago comprises fourteen islands. In Vietnamese, the island group is alternatively referred to as Con Non or Con Son. The largest island in the chain is Con Dao. Following the Malay name, the French referred to Con Dao as Poulo Condore (or occasionally la Grande Condore); "Poulo" obviously derives from *pulao*, the Malay word for island, and "Condore" may be from *kundur*, the Malay word for gourd. Poulo Condore is mentioned by Marco Polo, who passed through Champa in 1285. See Tran Van Que, *Con-Lon*

There will be set up on Poulo Condore an Annamite penitential establishment, where dangerous men, prisoners, and malefactors will be deported. The men will be divided into two categories: (1) prisoners incarcerated for rebellion or common crimes; (2) prisoners of war. The two categories will, as much as possible, be separated. The prisoners of war will be granted land concessions. The prisoners for rebellion and common crimes will be used for work of public utility.<sup>72</sup>

The overlap between the two categories of inmates imagined by Bonard—"prisoners of war" and "prisoners incarcerated for rebellion and common crimes"—confirms that Indochina's first colonial officials anticipated a prison population dominated by enemy soldiers and anticolonial insurgents. Indeed, Poulo Condore played a key role in the repression of anticolonial resistance throughout the early decades of its existence.<sup>73</sup> It was the final destination for captured troops involved in Truong Dinh's Southern Uprising (Khoi Nghia Nam Ky) in the 1860s, the Scholars' Movements (Phong Trao Van Than) in the 1870s, and the defense of Hanoi against French attacks in 1873 and 1882.<sup>74</sup> The repression of the Save-the-King Movement (Phong Trao Can Vuong) in the 1880s drew more anticolonial rebels into the prison population, including such eminent resistance figures as Nguyen Van Tuong, Pham Thuan Duat, and Ton That Dinh.<sup>75</sup>

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*Quan-Dao Truoc ngay 9-3-1945* [The Con Lon Archipelago Before September 3, 1945] (Saigon, 1961), 13.

72. AOM, H Colonies, 2026, Fondation à Poulo Condore d'un établissement pénitencier, January 2, 1862.

73. The names of numerous nineteenth-century anticolonial rebels were seen scrawled on the walls during a visit to the *bagne* in the 1930s by Demariaux (*Secrets des îles Poulo-Condore*, 184).

74. Vietnamese historians have stressed Poulo Condore's early role as a repository for anticolonial rebels. See Ban Nghien Cuu Lich Su Dang Dac Khu Vung Tau—Con Dao, *Nha Tu Con Dao, 1862-1945* [Con Dao Penitentiary, 1862-1945] (Hanoi, 1987), 58, and Tran Van Que, *Con-Lon Quan-Dao Truoc Ngay 9-3-1945*, 105-7.

75. For lists of nineteenth-century rebels sent to Con Dao, see Ban Lien Lac Tu Chinh Tri So Van Hoa Thong Tin, *Con Dao Ky Su va Tu Lieu* [Con Dao: Reports and Documents] (Ho Chi Minh City, 1996), 85-86. See also Le Huu Phuoc, "Lich Su Nha Tu Con Dao, 1862-1930" [History of Con Dao Prison, 1862-1930] (master's thesis, Ho Chi Minh City Institute of Social Science, 1992), 85-93. Both works mention the incarceration on Poulo Condore of the rebel leaders Le Xuan Oai, Pham Huy Du, Dang Ngoc Kiem, Tran Thien Tinh, Nguyen Thien Ke, Lanh Dat, and Tran Trong Cung.

During this protracted era of colonial conquest, captives were shepherded into prison by a tangle of irregular procedures and juridical institutions.<sup>76</sup> Initially, most prisoners were sentenced by military councils under the authority of the French Army.<sup>77</sup> Thereafter, deliberations were handled by mixed tribunals, presided over by a Vietnamese judicial mandarin (*quan an*) in collaboration with a French resident. As mixed tribunals gradually displaced military councils, imprisonment replaced the scorched-earth tactics and collective punishments favored by the French military. For example, in 1888, the acting resident of Tonkin persuaded military officials not to raze thirty villages suspected of sheltering rebels but to send the leaders of the communities in question to Poulo Condore instead.<sup>78</sup>

The combination of Tonkin's infant judicial system with the French Army's aggressive military pacification campaign in the 1880s and 1890s resulted in the indiscriminate imprisonment of hundreds of suspected rebels. The haphazard workings of this piebald system were revealed in 1890, following an investigation into the arbitrary internment of Tonkinese prisoners on Poulo Condore.<sup>79</sup> The investigator, Attorney General Daurand Forgues, detailed fifteen separate instances in which apparently innocent civilians had been seized by colonial troops, turned over to corrupt or inept local authorities, and sent to the islands, in many cases without intervening court proceedings, as exemplified by the following excerpts from his report:

Pham Van Bao from Nam Sach district, Hai Duong Province, was fourteen when he was arrested. During a search of his village, someone informed the authorities that he had served as the domestic servant of a rebel chief. He was sent to a French resident, who passed him on to the

76. "French administrators did not hesitate to make legal decisions on the basis of expediency. Execution of rebels or suspected rebels or their deportation to Poulo Condore, which was soon used as a place of detention for the opponents of the French, were countenanced because of the unsettled conditions that prevailed" (Milton Osborne, *The French Presence in Cochinchina and Cambodia: Rule and Response, 1859-1905* [Ithaca, N.Y., 1969], 76).

77. AOM, Gouvernement général 22791, Tentative de révolte au pénitencier de Poulo Condore, 1890, Saigon, September 27, 1890.

78. Munholland, "French Army and the Imperial Frontier," 103.

79. For an extended analysis of the 1890 revolt, consult AOM, Indochine, Fonds du Gouverneur général, 22791, Révolte au pénitencier de Poulo Condore, Rapport adressé à M. le Procureur général, Chef du Service judiciaire, par M. Daurand Forgues, juge-président du tribunal de première instance de Saigon délégué, afin de procéder à une enquête sur les faits criminels commis au pénitencier de Poulo Condore le 19 juin dernier, July 26, 1890.

indigenous authorities. Without ever being questioned, he was sentenced to ten years' hard labor by a mixed tribunal.<sup>80</sup>

The case of 21-year-old Nguyen Pham Tu from Thuan Thanh district, Bac Ninh province, is particularly remarkable. He told me that the wife of a rebel chief had lived in his village. When soldiers searched the village, they seized him and five other inhabitants, but not the woman in question. After several days, four of the six paid a bribe and were released. He and Trinh Duc Pham, however, were too poor to afford the bribe. They were sentenced by the Bac Ninh mixed tribunal to life in prison. I have corroborated this story with Trinh Duc Pham, who is currently deathly sick in the prison hospital.<sup>81</sup>

The fact that the colonial penal system traced its origins to camps for captured enemy soldiers shaped the evolution of colonial incarceration. Whereas prison officials in France may have conceived of prisoners as fundamentally antisocial, their colonial counterparts saw them as antistate. Hence, colonial officials tended to conceptualize imprisonment in terms of repression rather than rehabilitation and displayed little overt interest in the possibility of the behavioral modification of prison inmates. This early repressive orientation launched the colonial prison on an institutional trajectory that would continue to influence its development until the end of the colonial era.

#### CRIMINOLOGY, RACISM, AND THE LIMITS OF COLONIAL DISCIPLINE

It has been argued that the concept of penal rehabilitation in nineteenth-century France "was posited on the assumption that the inmate was a malleable object who could be shaped by institutional experience."<sup>82</sup> Faith in this idea was shared by successive generations of French prison

80. AOM, Indochine, Gouvernement général, 22791, Révolte au pénitencier de Poulo Condore, Rapport au Gouverneur général, Saigon, September 27, 1890, 7.

81. Ibid., 10.

82. Patricia O'Brien traces this idea to an eighteenth-century "environmentalism" believing "that properly administered institutions could reform and correct individuals in their care" (*Promise of Punishment*, 32, 48). In "The Rise and Decline of Solitary Confinement: Socio-Historical Explanations of Long-Term Penal Changes," *British Journal of Criminology* 32, no. 2 (Spring 1992): 136–37, Herman Franke links its origins to early Christian notions of sin, redemption, and salvation, and to the idea of *homo clausus* expressed in the experiments with babies carried out by Frederick II of Hohenstaufen (1194–1250) and the Scottish king James IV (1472–1513).

reformers—from the classical jurists who championed the ideas of Cesare Beccaria in the late eighteenth century to the Philanthropists who founded the Royal Prison Society in 1819 to medical men and social scientists connected with the new positivist disciplines of public hygiene, moral science, utilitarian statistics, and legal medicine.<sup>83</sup> In Indochina, however, several factors prompted colonial officials to view “native” prison inmates as intrinsically less susceptible to institutional manipulation.

The first was a growing anxiety in France about criminal incorrigibility. As the nineteenth century progressed, the French public grew increasingly concerned about the “habitual criminal,” a figure considered both “incurable of vice” and a “species apart from normal men.”<sup>84</sup> The concept of the “habitual criminal” gained momentum in conjunction with heightened fears about the problem of recidivism and the growing influence of medical experts over questions of social deviance.<sup>85</sup> In 1885, anxiety about the rise of a “separate race” of incorrigible criminals led to the notoriously harsh Relegation Law, which stipulated that recidivists would be deported to penal colonies overseas rather than subjected to expensive and apparently fruitless programs of rehabilitation in metropolitan prisons.<sup>86</sup> The historian Michelle Perrot has argued that the passage of the 1885 law signified a significant erosion of public faith in the efficacy of moral engineering.<sup>87</sup>

Just as the growth of recidivism promoted the idea that there existed a category of chronic criminals, the development of a French school of criminal sociology in the late nineteenth century suggested that the origins of this category could be found in discrete “environments” that nurtured incorrigibility.<sup>88</sup> Under the leadership of Alexandre Lacassagne, a doctor of legal medicine at the University of Lyon, the French school sought to provide an alternative to the biological determinism of Cesare Lombroso’s criminal anthropology. Whereas Lombroso emphasized the existence of

83. Petit, *Ces peines obscures*, 183–205.

84. Robert A. Nye, *Crime, Madness, and Politics in Modern France: The Medical Concept of National Decline* (Princeton, N.J., 1984), 75, 79.

85. For discussions of recidivism and its social interpretation in nineteenth-century France, see *ibid.*, 74–96; O’Brien, *Promise of Punishment*, 287–96; Foucault, *Discipline and Punish*, 264–68.

86. An instructive account of the politics of the 1885 law can be found in Nye, *Crime, Madness and Politics in Modern France*, 49–96.

87. Michelle Perrot, “Delinquency and the Penitentiary System in Nineteenth-Century France,” in *Deviants and the Abandoned in French Society: Selections from the « Annales, économies, sociétés, civilisations », Volume IV*, ed. Robert Forster and Orest Ranum (Baltimore, 1978), 234.

88. Nye, *Crime, Madness and Politics in Modern France*, 97–131.



morphological characteristics in “hereditary criminals,” Lacassagne and his colleagues looked to the “social milieu” as the “mother culture of criminality.”<sup>89</sup> This position led French criminologists to highlight essential differences in criminal behavior across cultures and societies, as suggested by Lacassagne’s best-known aphorism: “Societies get the criminals they deserve.”<sup>90</sup>

In Indochina, Lacassagne’s theories shaped ideas about the unique nature of “yellow” criminality. In 1887, Louis Lorion, a Navy doctor, provided a systematic examination of this question in his study *Criminalité et médecine judiciaire en Cochinchine*.<sup>91</sup> To establish the preeminent influence of the social and physical environment on criminal behavior in Cochin China, Lorion opened with a discussion of its exotic geography, climate, and demography.<sup>92</sup> The heart of his study consisted of an examination of the idiosyncratic character of crime in the colony. Crimes of passion were rare, Lorion claimed, because the Annamite “does not know the violent emotions of European social life: neither exquisite joy nor profound misery. . . . He is fickle, very patient, easy to please, and extremely easygoing.”<sup>93</sup> Murder rarely followed conflicts over principle, but rather occurred in conjunction with theft or disputes over money, especially gambling debts.<sup>94</sup> Rape was rare, because the “licentious and very active imagination” of Annamite women left few men unsatisfied.<sup>95</sup> Bestiality was not unusual, however; it was practiced by both sexes with pigs or dogs.<sup>96</sup> Poisonings were also common, which the environmentally minded Lorion attributed to “the wealth of venomous plants” in the region.<sup>97</sup> Although Lorion offered detailed instructions about the proper way to conduct autopsies and criminal investigations in the colony, he provided no suggestions regarding penal corrections. Nevertheless, by stressing fundamental differences between the forces driving “yellow” and “white” criminality, his study implied that metropolitan penal methods would have little effect

89. *Ibid.*, 104.

90. Gordon Wright, *Between the Guillotine and Liberty: Two Centuries of the Crime Problem in France* (New York, 1983), 121.

91. Louis Lorion, *Criminalité et médecine judiciaire en Cochinchine* (Lyon, 1887).

92. *Ibid.*, i–iv. Not only did Lorion dedicate the study to Lacassagne, he acknowledged adopting the doctor’s “method and organization” in his research.

93. *Ibid.*, 44.

94. *Ibid.*, 58.

95. *Ibid.*, 118.

96. *Ibid.*, 117.

97. *Ibid.*, 76.

in the foreign criminological terrain of Cochin China.<sup>98</sup> Years of “arbitrary and antiquated government” had dulled the capacity of the Annamite to respond to the inducements and disincentives that had long shaped behavior in the West.<sup>99</sup> “His satisfactions, like his punishments,” Lorion argued, “are experienced on a purely material plane; his life is more vegetative than intellectual.”<sup>100</sup> The doctor concluded by providing an implicit justification for the introduction of a colonial juridical and corrections system that was qualitatively distinct from its metropolitan counterpart: “This short examination will suffice to show that owing to its racial diversity, different morals and institutions, and the particularity of its milieu and conditions, Cochin China’s medico-judicial practices should exhibit special characteristics.”<sup>101</sup>

Lorion’s conclusions reflected a widely held belief that modern technologies (disciplinary or otherwise) were inappropriate to effect fundamental changes in the nature of colonial subjects. How could one expect significant “improvements” in a people considered to be, in the words of one governor-general, “mentally retarded, more or less asleep”?<sup>102</sup> Even avowedly anticolonial French observers such as Roland Dorgelès tended to see in the “yellow races” an essential cultural incorrigibility:

Some people believe that European inventions are going to produce a revolution in the old world. This is a great mistake. The old world adopts, but is not astonished. Give the yellow race the telegraph and they send telegrams; the phonograph, and they listen to songs; the railway and they buy tickets. But *they do not change fundamentally* for these trifles. As a matter of fact, it is the machine and not they, that is metamorphosed.<sup>103</sup>

## CONCLUSION

While disciplinary power never dominated the workings of the colonial prison system in Indochina, it would be an overstatement to deny its existence

98. Such an argument was made more explicitly by the criminal ethnographer Dr. A. Corre, who cautioned against the naive belief that distinctly French penal methods could “modify the criminal tendencies of all races.” Corre was especially pessimistic about the deterrent capacity of the guillotine in Indochina. “The guillotine,” he wrote, “will not change habits.” A. Corre, *L’Ethnographie criminelle* (Paris, 1894), 382.

99. Lorion, *Criminalité et médecine judiciaire en Cochinchine*, 45.

100. *Ibid.*, 46.

101. *Ibid.*, 133.

102. Conseil de gouvernement de l’Indo-Chine, *Session ordinaire de 1923: Discours prononcé par M. Martial Merlin* (Hanoi, 1923), 13.

103. Roland Dorgelès, *On the Mandarin Road* (New York, 1926), 52. My emphasis.

there altogether. Like their metropolitan counterparts, colonial wardens devised daily schedules, set standards for inmate conduct, attempted to monitor behavior, punished petty infractions, maintained individual dossiers, and tabulated statistics. Still, we should be wary of the fact that such disciplinary techniques reveal themselves today at the site most accessible to historians: the archive of penal directives and regulations. These institutional blueprints and decrees were typically imported directly from France, modified (more or less) for colonial conditions, and eventually published in annual collections of administrative documents. Consequently, historians have little difficulty finding Indochinese analogues to the metropolitan texts that historians cite as evidence for discipline's abrupt ascendance in European and American juridical punishment.

However, as colonial officials pointed out repeatedly, the gulf between prison policy and practice could be vast. "At this moment," remarked one colonial inspector in 1932, "the prisons of Tonkin reveal so much overcrowding and promiscuity, and such a melange of different categories of condemned of all sorts that I am led to the conclusion that there is no longer any observation of legal texts."<sup>104</sup> A report on the Poulo Condore Penitentiary expressed a similar view: "Indochina possesses decrees and local texts that constitute an imposing arsenal of penalties: prison, reclusion, detention, deportation, forced labor, banishment, etc., . . . which are ill-adapted to the conditions of the colony. On Poulo Condore, the *bagne* receives convicts of all categories and sensibly subjects them to an identical regime."<sup>105</sup>

Although the distance between colonial penal policy and practice poses problems for historians, the discrepancy itself can be interpreted as embodying the very disorder of the system. The failure of colonial prison administration to conform to written regulations reflected deeper problems: badly kept records, incompetent management, disobedient personnel, and the general failure of the colonial prison to meet metropolitan standards.

Despite the paucity of sustained scholarly research on colonial prisons in other contexts, anecdotal evidence suggests that, in this regard, the Indochinese system was not unique. In a discussion of the colonial justice system in late nineteenth-century East Sumatra, Ann Laura Stoler cites

104. AOM, Indochine, Affaires politiques, 1728, Rapport fait par M. Chastenet de G  ry, Inspecteur de colonies, concernant l'organisation du r  gime p  nitenciaire au Tonkin, April 26, 1932.

105. AOM, Indochine, Affaires politiques, 1728, Observations de M. l'Inspecteur des colonies Demongin, April 23, 1932.

the example of a newly appointed Dutch assistant resident who found "prison ledgers in such disarray that he could neither find records of the number of people in the prison nor dossiers detailing the length of their sentences nor even their crimes."<sup>106</sup> In British Indian penal documents, Anand Yang reports finding neither a "voice of humanitarianism" nor a discourse "about reformation or rehabilitation."<sup>107</sup> In British Burma, John Furnivall remarks, "the jails were continually being enlarged and continually overcrowded," whipping was "freely used," and "a prisoner could have anything he wanted except women; some said he could even have women."<sup>108</sup> Viewed alongside the prison system in Indochina, the images conjured by Stoler, Yang, and Furnivall suggest that despite the historical convergence of high imperialism and the birth of disciplined penal institutions in Europe, colonial prisons rarely embodied modern disciplinary technologies. It is likely that the forces impeding the spread of discipline in Indochinese jails discouraged its deployment in other colonial prison systems as well.

Of course, the enduring power of precolonial penal traditions, the legacy of imperial conquest, and the effects of colonial racism were not the only factors shaping the Indochinese prison. The institution must also be seen as one component of a larger colonial administration that exhibited distinctive organizational and operational characteristics. As chapter 2 will show, both the Indochinese prison and the social and political developments to which it gave rise reflected the peculiar administrative, financial, and legal workings of the French colonial state.

106. Ann Laura Stoler, "'In Cold Blood': Hierarchies of Credibility and the Politics of Colonial Narratives," *Representations* 37 (Winter 1992): 178. Stoler continues that Assistant-Resident Valck's predecessor "may have never kept a register, but neither did Valck take it upon himself to start one. Faber reported that among the few dossiers he found was one for a prisoner who had been interned for over eleven months for a four month sentence."

107. Anand Yang, "Disciplining 'Natives': Prisons and Prisoners in Early Nineteenth-Century India," *South Asia* 10, no. 2 (1987): 30.

108. J.S. Furnivall, *Colonial Policy and Practice: A Comparative Study of Burma and Netherlands India* (Cambridge, 1948), 137, 173, 268.