

## **Immigration Detention, State Power, and Resistance: The Case of the 2009 *Motín* in Pecos, Texas**

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### **I. Introduction**

On December 12, 2008, a Honduran and a Mexican detainee in solitary confinement at Reeves County Detention Center (the largest privately-run immigrant detention center in the United States, owned by the local county, funded by the federal government, and comprised of immigrants known as “criminal aliens” who are mostly in prison for illegally crossing the border or for minor criminal offenses before being deported<sup>1</sup>) initiated a mutiny by setting a mattress on fire using electrical outlet wires.<sup>2</sup> Despite the attempts of authorities to quell the fire and contain the prisoners, the rebellion soon spread to other housing units as inmates who were on their way to lunch forced prison guards to release their friends from their cells and joined a larger mutiny in the recreation yard. The inmates of the uprising set the recreational center on fire and occupied the exercise yard all night.<sup>3</sup>

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<sup>1</sup> Barry, Tom. “Poor Pecos, Poor Prisoners – Criminal Justice for Immigrants in Texas’ Reeves County.” Center for International Policy, Americas Program Report. October 15, 2009. <http://americas.irc-online.org/am/6503>. (Nov 7, 2009). The Illegal Immigration Reform and Immigrant Responsibility Act of 1996 increased penalties for illegal border crossing and re entry\*.

<sup>2</sup> Wilder, Forrest. “The Pecos Insurrection: How a private prison pushed immigrant inmates to the brink.” The Texas Observer. October 2, 2009. <http://www.texasobserver.org/features/the-pecos-insurrection>. (November 2, 2009).

<sup>3</sup> *Op. Cit.*, Barry, Tom.

As authorities assembled and the mutiny was eventually contained (though a second riot would break out a month and a half later at the same prison<sup>4</sup>), it became clear that the rebellion had been spurred by the death of an epileptic inmate, Jesus Manuel Galindo, whom prison authorities had left unattended in the prison's Special Housing Unit, as the FBI later reported<sup>5</sup>. Later that evening, the prisoners sent a "delegation" of inmates who demanded to meet with authorities. This delegation expressed the inmates' grievances, which included a lack of legal services, inhumane quarters, and especially poor health care. They cited a series of deaths that had occurred in the last year due to the prison's neglect of inmates' medical needs.

Raised in New Mexico since he was 13, Galindo had had an epileptic seizure at a convenience store two years earlier, bringing local authorities to his trail. They determined that he was an illegal alien and passed him to the Border Patrol. After about a month in Ciudad Juárez, he attempted to cross the border and reunite with his family, all of whom are citizens or legal residents of the United States. Authorities apprehended him and sentenced him to a 30 month sentence at Reeves County Detention Center before being deported. After another epileptic seizure in mid-November of 2008, Galindo had been put in the dreaded SHU and denied medical attention. Despite his pleading with nurses and guards and his mother's daily phone calls to the prison, the prison staff left him in solitary confinement with his seizures unattended until his death on December 12<sup>th</sup>. On that morning, the other inmates saw his body being carried out in a black plastic bag and began the "disturbance".<sup>6</sup>

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<sup>4</sup> *Op. Cit.*, Wilder, Forrest.

<sup>5</sup> *Ibid.*

<sup>6</sup> *Ibid.* p. 2.

The story of Jesus Manuel Galindo follows a shift in US immigration enforcement and deportation policies. His sentence relates to a new “criminal alien policy” that criminalizes illegal border crossing<sup>7</sup>. The years preceding Galindo’s arrest brought a series of restrictive legislation, from the late 1990s to the post-911 era<sup>8</sup>. Galindo’s sentence related to 2005’s Operation Streamline, a 2005 Bush administration initiative that dictated criminal charges for anyone detained crossing the US-Mexico border illegally<sup>9</sup>.

The following pages contextualize the immigration detention system through Foucault and other theorists’ formulations of power, drawing on the illuminating example of the Pecos, Texas inmate rebellion. The discussion grounds itself in the recent history of US immigration policy and immigrant detention. The paper applies Foucault’s ideas of power in *Discipline and Punish* and his “analytics of power” in *The History of Sexuality* to illustrate the power relations at work in the contemporary US immigration system. By exploring the rebellion in Pecos, its composition of forces and its causes in the context of an oppressive institution (which may in some sense serve as a proxy for the state), this paper analyzes a moment of resistance within a larger system of immigration control. We will see disciplinary power operating within the system both formally and informally to the detriment of equality and human rights. I argue that

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<sup>7</sup> *Op. Cit.* Barry, Tom. “Poor Pecos, Poor Prisoners.” p. 1

<sup>8</sup> I will review these recent laws and their significance for immigrants detained in the US later on.

<sup>9</sup> American Civil Liberties Union in Cooperation with the National Immigration Forum. “Operation Streamline Fact Sheet” (July 21, 2009). Text in: National Immigration Forum Research Center. <http://www.immigrationforum.org/research/border-enforcement>; Accessed: December 3, 2009.

the Pecos uprising illuminates both the potential of resistance in the most unlikely circumstances and the failure of the current system of immigrant detention<sup>10</sup>.

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<sup>10</sup> As current headlines and scrutiny reveal.

## II. Disciplinary Power, Immigration Control, and the Immigrant Detention System

Foucault begins to trace power in the modern state in *Discipline and Punish* with the example of the soldier. The ideal soldier of the 17<sup>th</sup> century wore signs of his “strength and valour”, yet he learned most of “the profession of arms little by little – generally in actual fighting”<sup>11</sup>. Thus, while generally recognizable, the signs of “soldieriness” were not taught, but rather acquired through the act of being. By contrast, the soldier by the end of the century “has become something that can be made; out of a formless clay, an inapt body, the machine required can be constructed...”<sup>12</sup> The recruitment and training of the soldier precedes the fact of being. Foucault argues that the disciplinary methods that had long existed in organized institutions like monasteries, armies, and workshops “became general formulas of domination” in the seventeenth and eighteenth centuries<sup>13</sup>. Power is exercised in the construction and transformation of “docile bodies.” Power, then, goes beyond the exercise of control and becomes the exercise of creation of others.

Foucault points out that the foundations of the modern state were made by soldiers as well as jurists and philosophers; the continued use of military tactics as a primary method of immigration control - particularly in border initiatives such as Operation Gatekeeper and Operation Hold the Line of the 1990s - attests to the perpetuation of these origins of power-over by force<sup>14</sup>. In and of themselves, these tactics seem “natural” for any state interested in

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<sup>11</sup> Foucault, Michel. *Discipline & Punish: The Birth of the Prison*. 1975. Reprint. New York: Vintage, 1995.

<sup>12</sup> *Ibidim*.

<sup>13</sup> *Ibid.*, pp. 136-137.

<sup>14</sup> Of course, with the changed situation at the border and the immense violence of the “War on Drugs”, issues of border security have clearly become more drastic.

regulating its population and controlling its outsiders. Disciplinary power operates within the US through the system of immigration control as an extension of the “disciplined” encounters with migrants at the border. The differentiation of individuals by documentation is essential in the construction of the “Other.” The soldierly “tactics” of US border enforcement illustrate the militarization of the national front to keep out an “Other” whose demographic characteristics have historically been constructed through United States immigration policies from the 1882 Chinese Exclusion Act and onward in more subtle ways. The surveillance and at times armed expulsion of others once they enter the US, and not merely if they enter it illegally, exemplifies the perpetuation of disciplinary power. As Eithne Luibhéid argues,

Clearly, inspection at the border is not a one-time experience but it is rather, as Foucault’s image of the carceral archipelago suggests, a process that situates migrants within lifelong networks of surveillance and disciplinary relations.<sup>15</sup>

Foucault’s discussion of “panopticism” illuminates the evolution of institutions into disciplinary societies, through the extension of the mechanisms of discipline throughout society in “the formation of what might be called in general the disciplinary society”<sup>16</sup>. The theoretical Panopticon is a place of constant surveillance, of power transmitted through the knowledge that others are watching. The Panopticon shows us how “power is exercised, not simply held”<sup>17</sup>. In Bentham’s Panopticon “each comrade becomes a guardian.” This calls to mind the Minutemen, the citizen activist group engaged in voluntary civilian border “defense”. Their interventions in

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<sup>15</sup> Luibhéid, Eithne. *Entry Denied: Controlling Sexuality at the Border*. Minneapolis: University of Minnesota Press, 2002.

<sup>16</sup> *Op. Cit.*, Foucault, Michael. *Discipline and Punish*. p. 209.

<sup>17</sup> Dreyfus, Hubert, and Rabinow, Paul. *Michel Foucault: Beyond Structuralism and Hermeneutics*. p. 192.

US border enforcement contribute to the “surveillance” of the border, reinforcing the disciplinary power exercised over would-be immigrants to the United States. They show that disciplinary power is exercised on all levels of society, well beyond the auspices of the state. The same spirit of “surveillance” characterizes federal collaboration with local authorities, in the form of 287 (g) partnerships between Immigration and Customs Enforcement and local law enforcement. In 287 (g) partnerships (signed into effect with the Immigrant Nationality Act of 1996), ICE trains local officials around the US to act in its capacity, aggressively seeking and capturing undocumented migrants within local jails (“criminal aliens”) and in the local community.<sup>18</sup> In this way, the local police become “guardians”, exerting disciplinary power on behalf of federal officials over immigrants illegally in the United States. The vast majority of migrants apprehended through these strategies are Mexican<sup>19</sup>, and a great majority of these immigrant detainees are charged for nothing more than illegal entry.<sup>20</sup>

The disciplinary power exercised toward the immigrant population of course doesn’t end at the border; surveillance of immigrants continues once they enter the country in the context of documentation status and far beyond official records in social segregation. Immigrants enter the official records on conditional terms or else stay in the shadows as “undocumented” migrants. Their immigration status determines the amount of “surveillance” they face from the government, in the sense that legal permanent residents or other non-citizens are in much greater danger of being deported and can be denied citizenship for any misstep. The actions of their

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<sup>18</sup> U.S. Department of Homeland Security. “Immigration Enforcement.” <http://dhs.gov/files/programs/immigration-enforcement.shtm>.

<sup>19</sup> *Op. Cit.*, Global Detention Project.

<sup>20</sup> *Op. Cit.*, Wilder, Forrest. p. 4.

lives (tax activities, criminal record) come under great scrutiny when they apply for citizenship or for other government benefits. In the pursuit of adjusting or acquiring status, then, they are voluntarily under government watch throughout the probationary period before citizenship is established, if it is at all. Differentiation by immigrant status determines the degree of agency – to vote, to get a higher education, or to walk without anxiety down the street.

If, as Luibhéid argues, immigration control is both a powerful symbol of nationhood and people and “a means to *literally* construct the nation and the people in particular ways”<sup>21</sup>, then differentiation by immigrant status - a way of exercising disciplinary power - presents many complications to a coherent construction of who belongs and who is “Other”. Mixed status families exemplify this difficulty. Though he had lived in the United States for almost 20 years, Jesus Manuel Galindo had a different status than that of his wife, children, and extended family. As a result he was expelled from the nation in which he had come of age and separated from his entire family, and then sentenced to serve jail time for attempting to reunify with his family by crossing the northern border.

The incarceration of men like Galindo reflects the recent trend to turn over illegal immigrants to the justice system for criminal prosecution since 9/11, rather than deporting them as previously<sup>22</sup>, particularly with the advent of Operation Streamline. On December 2, 2009, the Transactional Records Access Clearinghouse (TRAC) released a report that in 2009, 369, 483 people were held in custody by the Immigration and Customs Enforcement (ICE) in 2009, which

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<sup>21</sup>*Op. Cit.*, Luibhéid, Eithne. p. xviii.

<sup>22</sup> Barry, Tom. “A Death in Texas Casts Cold Light on America’s Privatized Immigration Prisons.” Boston Review. Posted Oct 23, 2009. Accessed via Alternet. [http://www.alternet.org/immigration/143462/a\\_death\\_in\\_texas\\_casts\\_cold\\_light\\_on\\_america%27s\\_privatized\\_immigration\\_prisons\\_/](http://www.alternet.org/immigration/143462/a_death_in_texas_casts_cold_light_on_america%27s_privatized_immigration_prisons_/). (Nov 7, 2009).



is double the number of immigrants detained ten years ago<sup>23</sup>. This reflects the increase in border and immigration enforcement following the terrorist attacks of September 11, 2001, particularly through initiatives like Operation Streamline, the 2005 Bush initiative which dictated federal criminal charges for anyone detained crossing the US-Mexico border illegally<sup>24</sup>. The US maintains the largest immigration detention center in the world; by the end of 2007, 961 jails and prisons housing detainees were either directly owned by or under contract with the federal government.<sup>25</sup> Rampant human rights abuses include particularly poor or nonexistent medical services, a lack of legal services for detained immigrants, and squalid living conditions. Detained migrants face imprisonment in county jails, privately run federal detention centers, or other privately run federal prisons – often with convicted criminals<sup>26</sup>. The success of private prison management as an unregulated capitalist enterprise explains the inhumane living quarters, lack of medical services (so glaringly obvious in the case of José Manuel Galindo’s death), and lack of legal resources for detainees.<sup>27</sup> Another policy in common practice by ICE is the transfer of countless prisoners from detention center to detention center, often at great distances

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<sup>23</sup> Transactional Records Access Clearinghouse, Syracuse University. "Huge Increase In Transfer of ICE Detainees." TRAC Immigration. [trac.syr.edu/immigration/reports/220/](http://trac.syr.edu/immigration/reports/220/) (accessed December 2, 2009).

<sup>24</sup> American Civil Liberties Union in Cooperation with the National Immigration Forum. "Operation Streamline Fact Sheet" (July 21, 2009). Text in: National Immigration Forum Research Center, <http://www.immigrationforum.org/research/border-enforcement>; Accessed: December 3, 2009.

<sup>25</sup> Global Detention Project. "United States Detention Profile." Text in: <http://www.globaldetentionproject.org/countries/americas/united-states/introduction.html> (March 2009); Accessed: December 7, 2009.

<sup>26</sup> Bernstein, Nina. (2008, May 1). Immigrants challenge federal detention system. *The New York Times*, p. 3.

<sup>27</sup> Frontera Norte Sur. "Pecos Immigration Prison Riot Ends." *Newspaper Tree (El Paso)*, February 2, 2007, sec. News. <http://www.newspapertree.com/news/3411-pecos-immigration-prison-riot-ends>. Accessed: November 2, 2009.

from each other and without informing family or the detainee's legal counsel if he/she has one (effectively destroying the inmate's defense).<sup>28</sup>

The swift rise in immigrants detained relates to the passage of restrictive legislation in the past two decades. Understanding this legislation is essential to understanding the consequences of the broken system of immigrant detention within which power relations spawn inhumanity. The Immigration Reform and Control Act of 1986 ushered in sweeping reforms: it legalized thousands of illegal aliens who had resided in the U.S. since 1986, increased quotas for certain work visas, created sanctions for employers who hire illegal immigrants, and heightened enforcement at U.S. borders, all with the purpose of deterring illegal immigration.<sup>29</sup> IRCA unintentionally increased the trend of permanent settlement in the United States. At the same time, irregular enforcement of its interior policies (chiefly, sanctions against employers) left the underlying business structure which supports undocumented labor intact, and thus the flow of undocumented labor remained steady. Another unintended consequence of IRCA was a sharp increase in the illegal entry of women and children reuniting with their newly legalized parents and husbands<sup>30</sup>. The passage of the North American Free Trade Agreement in 1994 further

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<sup>28</sup> Human Rights Watch. "Locked Up Far Away: the Transfer of Immigrants to Remote Detention Centers in the United States" (December 2, 2009). Text in: Human Rights Watch, <http://www.hrw.org/en/reports/2009/12/02/locked-far-away-0>; Accessed: December 2, 2009.

<sup>29</sup> U.S. Citizenship and Immigration Services. "Historical Immigration and Naturalization Legislation: Legislation from 1981 – 1996." Text in: <http://www.uscis.gov/portal/site/uscis/menuitem.eb1d4c2a3e5b9ac89243c6a7543f6d1a/?vgnextoid=dc60e1df5b2f010VgnVCM1000000ecd190aRCRD&vgnnextchannel=dc60e1df53b2f010VgnVCM1000000ecd190aRCRD>. Accessed: December 5, 2009.

<sup>30</sup> Cornelius, Wayne A., ed., et. al. *Mexican Migration and the U.S. Economic Crisis: A Transnational Perspective*. San Diego: Center for Comparative Immigration Studies, UC San Diego, 2010. p. 74.

stimulated the migration from Mexico particularly, as Mexican industry often could not compete with cheaper prices from the north<sup>31</sup>.

The sweeping reforms passed in 1996 to control the burgeoning undocumented migrant population in the US included two acts which increased the arrest and detention of migrants. The Antiterrorism and Effective Death Penalty Act (AEDPA) expanded the grounds of deportability for immigrants convicted of crimes and narrowed previous sources of relief<sup>32</sup>. The Illegal Immigration Reform and Immigrant Responsibility Act greatly broadened the category of criminal offenses leading to mandatory detention and removal. The continued implementation of 1993's "Operation Blockade", the militarization of the El Paso –Ciudad Juárez border later known as Operation Hold the Line and Operation Gatekeeper in San Diego/Tijuana, augmented the number of apprehensions. Then, following the terrorist attacks on September 11, 2001, the creation of the Department of Homeland Security and within it the Immigration and Customs Enforcement (to replace the enforcement branch of the INS) in 2002 marked a sharp increase in both border and interior enforcement and an increase in indefinite detention of immigrants under the Homeland Security Act.<sup>33</sup> All of these moments form an important backdrop to the story of José Manuel Galindo's long sentence for illegal reentry, the burgeoning immigrant detention population, and the flagrant lack of oversight that allows private prison corporations to deny

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<sup>32</sup> U.S. Citizenship and Immigration Services. "Historical Immigration and Naturalization Legislation." Text in: <http://www.uscis.gov/portal/site/uscis/menuitem.eb1d4c2a3e5b9ac89243c6a7543f6d1a/?vgnextoid=d60e1df5b2f010VgnVCM1000000ecd190aRCD&vgnnextchannel=dc60e1df53b2f010VgnVCM1000000ecd190aRCD>. Accessed: December 5, 2009.

inmates health care and place the sick instead in Solitary Housing Units. The fear grounded in past criminal acts by foreigners, as well as the incapacity to cope efficiently with the swelling immigrant population in the US, has augmented the disciplinary power exerted by government institutions over immigrants. The local and federal enforcement of this recently enacted legislation which detains undocumented migrants on smaller and smaller grounds and in often squalid conditions exemplifies the multiplicity of disciplinary power exercised over immigrants by the State.

### III. Disciplinary Power Within and Beyond the State

The complementary operations of juridical penalty and normalizing disciplinary punishment (which operates most clearly through institutions) point us toward Foucault's analytics of power developed in *The History of Sexuality*. Attempting to distinguish between repression and law as mechanisms of power, he revises his formulations of the relationship between power and law<sup>34</sup>. He stresses that in Western societies since the Middle Ages, power has always been conceived of in legal terms, but he seeks an analytics of power that "no longer take law as a model and a code"<sup>35</sup>. The rupture from this top-down notion of power allows us to conceive of the ubiquitous disciplinary power in institutions explored in *Crime and Punishment* and to see power as a pervasive factor beyond institutions. He asserts that "Power is everywhere; not because it embraces everything, but because it comes from everywhere"<sup>36</sup>.

Power is uniformly present throughout social relations, and

From top to bottom...it operates according to the simple and endlessly reproduced mechanisms of law, taboo, and censorship: from state to family, from prince to father, from the tribunal to the small change of everyday punishments, from the agencies of social domination to the structures that constitute the subject himself, one finds a general form of power, varying in scale alone.<sup>37</sup>

Despite its multiplicity and multidirectionality, power obviously does not operate in a democratic or coherent manner. Rather, the unequal power relations that pervade society are magnified through space and time, institutions and informal relations.

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<sup>34</sup> Foucault, Michel. *The History of Sexuality: An Introduction*. Reissue ed. New York: Vintage, 1990. p. 82.

<sup>35</sup> *Ibid.*, p. 85, p. 90.

<sup>36</sup> *Ibid.*, p. 93.

<sup>37</sup> *Ibid.*, p. 85.

Uneven power relations multiply and endure within the system of immigration control. Luibhéid stresses that “relations of power and inequality at the border cannot be separated from inequitable global relations that structure migration patterns from social hierarchies within the United States”<sup>38</sup>. These relations of exclusion have been more dramatically enforced in recent years, with the increase in criminal punishment for illegal immigrants, without consideration of extensive transnational familial relations. Immigrants are completely beholden to a system of power relations directly dictated by documentation status, as Galindo’s story illustrates.

Foucault stresses that power emanates through discourse, which is internal to the power relations that pervade society. Mike Davis’s discussion of the “3<sup>rd</sup> border” beyond the border zone and interior enforcement to Latino social exclusion (through the racialization of space) in Southern California illuminates the extension of disciplinary power and the creation of “Other”ness from the political regime to informal society<sup>39</sup>. Davis discusses and the recent segregationist tactics of wealthy neighborhoods to exclude working-class Latinos from formerly public venues. A main strategy is the incursion of high fees for “non-residents” of wealthy neighborhoods in the San Gabriel Valley, for example. This “Third Border” aims to keep Latinos away from public destinations like parks in affluent white neighborhoods like San Marino’s Lacy Park.<sup>40</sup> This exclusion extends a long trend of discriminatory policing, working as a “magnification” of disciplinary power exercised unequally toward Latinos (many of them

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<sup>38</sup> *Op. Cit.* Luibhéid, Eithne. p. xxiii.

<sup>39</sup> Davis, Mike; Moctezuma, Alexandra. “Policing the Third Border.” Text in; *Colorlines*, Fall 1999. Accessed: November 30, 2009.

<sup>40</sup> *Ibid.*, p. 4.

immigrants). The third border's segregation complements the first and second borders' attempt to "exclude Mexican immigrants from entry into the U.S" through force. Thus, "the third border serves as a new form of racial segregation deep within the country", <sup>41</sup> multiplying and perpetuating the power of the State and its upper echelons over immigrants.

Foucault emphasizes in *Discipline and Punish* that disciplinary power is opposed to judicial penalty, whose task is to refer to laws that "bring into play the permitted and the forbidden"<sup>42</sup>. Yet the intersections of these two types of power are evident through the working of power upon the immigrant population. We see the interplay of the power exerted through the laws of the juridical system - which officially determine status and delineate the degree of possible incorporation into society – and the disciplinary power found in institutions like prisons, characterized by "the perpetual penalty that traverses all points and supervises every instant...[which] compares, differentiates, hierarchizes, homogenizes, excludes"<sup>43</sup>.

This latter definition of the normalizing quality of disciplinary power within institutions characterizes many recent immigration laws and particularly the treatment of US immigrant detainees both within the US and abroad. Yet as Giorgio Agamben argues, the legal treatment of immigrant detainees in some cases operates in a gray area outside the law, which becomes normalized in the "State of Exception". Agamben argues that under the USA Patriot Act immigrant detainees like the Taliban captured in Afghanistan

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<sup>41</sup> *Ibidim.*

<sup>42</sup> *Op. Cit.*, Foucault, Michel. *Discipline and Punish*. p. 183.

<sup>43</sup> *Ibidim.*

do not even have the status of persons charged with a crime according to American laws. Neither prisoners nor persons accused, but simply “detainees”, they are the object of a pure de facto rule, of a detention that is indefinite not only in the temporal sense but in its very nature as well, since it is entirely removed from the law and from judicial oversight.<sup>44</sup>

Though most immigrants detained within the US for minor offenses like Galindo are a different case than suspected terrorists, the record of legal and human abuses within the prisons and in the justice system reflect the same lack of judicial and human oversight to which Agamben refers.

The disturbing fact that the majority of detainees have not been convicted of any crime demonstrates the exercise of disciplinary power far outside the spirit of “normal” law. The official Immigration and Customs Enforcement database showed on January 25, 2009 that of 32,000 total immigrants in detention, 18,690 had no criminal conviction, even for illegal entry; 400 of those without convictions had been in detention for at least a year.<sup>45</sup>

Foucault’s discussion of the “polyvalence” of discourses provides a useful transition into resistance. A problem emerges when trying to apply Foucault’s analytics of power to a productive critique of the system, since power is internal to all aspects of life. If power is all-encompassing and refracted in every element of life, what can one do to oppose or undermine it? In *The History of Sexuality*, Foucault discusses resistance in the context of multiple discourses working with and against each other. He insists that discourse is “a series of discontinuous segments whose tactical function is neither uniform nor stable”; the *world* of discourse is divided between accepted discourse and excluded discourse<sup>46</sup>. Discourses, just like

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<sup>44</sup> Agamben, Giorgio. *State of Exception*. Chicago: The University of Chicago Press, 2005. pp. 3-4.

<sup>45</sup> Global Detention Project. “United States Detention Profile.” Text in: <http://www.globaldetentionproject.org/countries/americas/united-states/introduction.html> (March 2009); Accessed: December 7, 2009.

<sup>46</sup> *Op. Cit.*, Foucault, Michel. *The History of Sexuality: An Introduction*. p 100.



“silence”, “are not once and for all subservient to power or raised up against it”. In relations of power, we see

a complex and unstable process whereby discourse can be both an instrument and an effect of power, but also a hindrance, a stumbling-block, a point of resistance and a starting point for opposing strategy.<sup>47</sup>

As we will see, the rebellion at the Reeves County Detention Center over José Manuel Galindo’s death became not only a spontaneous act of resistance, but a discourse of refusal within the bounds of the institution of disciplinary power, the prison.

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<sup>47</sup> *Ibid.*, pp. 100-101.

#### IV. Power, Resistance, and the Pecos Uprising

In *Changing the World Without Taking Power: The Meaning of Revolution Today*, John Holloway argues for a new kind of resistance to hegemonic and oppressive power beyond the state. He explains that once the goals of revolution become the conquering of political power, the top-down, potentially oppressive exercise of power – “power-over” - merely reproduces itself. When this occurs,

The struggle is lost from the beginning, long before the victorious party or army conquers state power and ‘betrays’ its promises. It is lost once power itself seeps into the struggle, once the logic of power becomes the logic of the revolutionary process, once the negative of refusal is converted into the positive.<sup>48</sup>

The “negative of refusal” is essential in Holloway’s conceptualization of opposition and resistance. Those who seek to undermine the power of the dominant hegemony must oppose the structures of power without reproducing them. Oppositional practices are forever internal to power structures, but Holloway develops a tension between “power –over” and “power-to” that helps us to understand how resistance works within and yet against social domination.

Holloway argues that power in and of itself is simply the ability to do things, or “power to do”.

In contrast, “power-over is stabilized on the basis of a personal relation between ruler and ruled”, which makes “power-over” a necessary condition of the modern state. James Scott argues that the powerless use “the work of negation” in order to contest their domination<sup>49</sup>, a strategy clearly characterizing the original act of revolt of the inmates at the Reeves County Detention Center.

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<sup>48</sup>Holloway, John. *Change the World Without Taking Power: The Meaning of Revolution Today*. 2nd ed. London, Ann Arbor, MI: Pluto Press, 2005. p. 17.

<sup>49</sup> Scott, James C. *Domination and the Arts of Resistance: Hidden Transcripts*. New Haven: Yale University Press, 1992. p. 115.

How then can one “change the world” without taking power, and embrace the power of “doing” rather than the power of “done”? Holloway argues that since “power-over is a transformed power-to”, recognition of the pervasive *power-to* brings us toward “a theory of the vulnerability of domination”<sup>50</sup>. He sees an antagonistic relation between power-to and power – over which produces a “multiple fragmentation of doing (and of social relations)”<sup>51</sup>. The fundamental antagonism makes power a “multiplicity of forces” (Foucault), both the “doing” of any sort of willful action and the “done” of domination over others.

This opens the way for “anti-power”, which consists of “the dissolution of power-over, the emancipation of power-to”<sup>52</sup>. It seems that anti-power is found in the process of doing things which negate the existent forces of power-over. Resistance to power-over occurs in “the scream of complete refusal to accept the misery of capitalist society”<sup>53</sup>. Holloway affirms that resistance is not centered in one focused refusal or revolt. Rather, it rather operates diffusely through the structures of power. This complements Foucault’s argument that there is a plurality of resistances, each of them a special case: resistances that are possible, necessary, improbable; others that are spontaneous, savage, solitary, concerted, rampant, or violent; still others that are quick to compromise, interested, or sacrificial; by definition, they can only exist in the strategic field of power relations.”<sup>54</sup>

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<sup>50</sup> *Op. Cit.*, Holloway, p. 40.

<sup>51</sup> *Ibid.*, p. 41.

<sup>52</sup> *Ibid.*, p. 36.

<sup>53</sup> *Ibidim.*

<sup>54</sup> *Op. Cit.*, Foucault, Michel. *The History of Sexuality: An Introduction*. p. 95-6.

Thus, resistance to the ruling power occurs in multiple forms, some of them easily conceivable and others difficult to imagine; some solitary and others collective; and some peaceful and others violent.

The rebellion at the Reeves County Detention Center in Pecos, Texas is an episode of resistance that begins spontaneously but becomes concerted. It emerges as a “scream of refusal”, working against power-over - the dominant forces represented by the prison guards, warden, US immigration officials and policymakers, and the wider society in which these men are effectively without recourse. It is “can-ness” in the simple sense that the rebels staged an act of violence, in opposition to oppression. The “scream” at the Reeves County detention center does not in itself represent a negation of whatever offenses account for the participants’ incarceration. The uprising instead reflects the negation of an unacceptable “power-over” – the infliction of suffering through medical neglect which led to the death of a fellow inmate. The act of resistance at the Reeves County Detention Center was also the rejection of rotten food, squalid quarters, and denial of legal representation – all of which reflect the oppressive “power-over” the inmates. The prolonged violence of the insurrection was a challenge to the state’s “institutional integration of power relationships”<sup>55</sup>. The “doing” of the rebellious inmates revealed the “vulnerability” of the “done” and the antagonism of power relations.

As Dreyfus and Rabinow affirm, the institutional power held and exercised in places like prisons and schools which Foucault develops in *Discipline and Punish* in its proper functioning “should be run efficiently, without overt violence, with as much individuation as possible,

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<sup>55</sup> *Ibidim.*

scientifically and successfully”<sup>56</sup>. The inmates who sparked or supported the rebellion on December 12, 2008 after Galindo’s death undermine the tenets of successful institutional power in their violent mutiny. Their collective act of resistance, performed through a multi-ethnic coalition of inmates, illustrates that

Just as the network of power relations ends by forming a dense web that passes through apparatuses and institutions, so too the swarm of points of resistance traverses social stratifications – and individual unities.<sup>57</sup>

The Pecos uprising was an act of resistance that succeeded in obtaining media attention and in threatening the stability of the Reeves County Detention Center. As Tom Barry explains, with the burgeoning immigrant detainee population, the federal government began contracting federal prisons to poor local governments – who typically have bonds to arrange the financing with the private prison industry - rather than building more federal prisons<sup>58</sup>. As a result, depressed towns like Pecos, Texas come to see the prisons as an economic opportunity, which may or may not succeed. The intertwining of the private prison industry, the local county, and the federal government produces a situation in which the wardens at the prison often think that the private prison companies own the prisons, rather than the county<sup>59</sup>. For Reeves County, the mutiny in December – and a subsequent mutiny in February after prisoners’ demands were not met – threatened the only source of “economic development” that the former oil boom oasis had

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<sup>56</sup> *Op. Cit*, Dreyfus, Hubert, and Rabinow, Paul. p. 193.

<sup>57</sup> *Op. Cit.*, Foucault, Michel. *The History of Sexuality: An Introduction*. p. 96.

<sup>58</sup> Barry, Tom. December 2009. Questions on Public Private Prisons for Aliens: Interview with Tom Barry. By Terry Gross. Fresh Air from WHYY. NPR. <http://www.npr.org/templates/story/story.php?storyId=121248709>. Accessed: December 20, 2009.

<sup>59</sup> *Ibidim*.

left.<sup>60</sup> On a much larger level, the rebellion spoke out against the much larger system of increasingly restrictive federal policies and the powerful agency of the private prison industry, under the auspices of federal and local governments and at the high cost of human rights and human lives. Though the immediate effects of the rebellion were limited to the localized battle in Pecos - which would continue to be waged with another mutiny on January 30<sup>th</sup> of the same year and a prolonged fire the following week<sup>61</sup> after which authorities met again with inmate “delegates” – the case of Pecos forms part of a growing struggle against immense injustices within the system. The growing protests against the immigration detention system and prison injustices grows alongside the Obama administration’s proposed reforms and review of initiatives like the 287 (g) partnerships, in a much larger debate over how to reform the system in a serious way. Meanwhile, the detention of immigrants continues to rise and the prisons to grow.

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<sup>60</sup> Barry, Tom. “Prison Dreams in Pecos.” Center for International Policy. Borderlines Blog. <http://borderlinesblog.blogspot.com/2009/02/reeves-county-detention-center-started.html>. (February 5, 2009. )

<sup>61</sup> *Ibidim*.

## V. Conclusion

We have seen how Foucault's evolving ideas about power within and beyond the institution apply to the immigrant control system of the United States. Luibhéid's analysis of the construction of "Otherness" and the exertion of power at the border and throughout immigrants' lives in the US deepens our understanding of power relations in the immigration process. Holloway's notion of power as a pervasive, multi-faceted process that must be challenged from within allows us to see the rebellion at the Reeves County Detention Center as a localized example. The rebellion becomes a collective act of resistance to a "power-over" which oppresses inmates beyond the scope of penitentiary protocol (which may or may not be just). While the prisoners' violence could be seen as the exercise of counter power, which Holloway stresses is merely the reproduction of the dominating power itself, the concrete grievances expressed by the inmate delegates to the authorities show the emergence of a strategic and concerted "refusal" to accept the unjust power-over that denies them the most basic rights – though they are clearly beholden to, and inextricable from, the disciplinary power of the state.

David Harvey's struggle to conceive of "social justice" within a postmodern recognition of social and cultural difference offers insight to the rebellion in Pecos. Harvey discusses the weakening of working class politics in the United States due to the postmodern "shift from universalism to targeting of particular groups"<sup>62</sup> in pursuit of just working conditions. He argues that a large and mortal fire at a factory in North Carolina failed to generate significant outrage or class mobilization due to the fragmentation of different social groups along racial and special

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<sup>62</sup> Harvey, David. "Class Relations, Social Justice and the Politics of Difference." From Pile, Steve, ed. *Place and the Politics of Identity*. New York: Routledge, 1993. p. 45.

interest lines<sup>63</sup>. Different groups must unite to struggle for basic justice in the context of “similarity” – the pursuit of certain basic rights – while recognizing difference<sup>64</sup>. Thus, The task...is to find an equally powerful, dynamic and persuasive way of relating the universal and the particular in the drive to define social justice from the standpoint of the oppressed.<sup>65</sup>

In the Pecos “insurrection”, prisoners of multiple backgrounds and ethnicities united to fight in the common interest of basic justice. Inmates from countries around the globe joined in the mutiny. The delegation that met with authorities on the night of the rebellion to express their demands for better treatment included a Venezuelan, a Cuban, a Nigerian, and four Mexicans<sup>66</sup>, selected by members of the spontaneous movement. Though the consequences of the concerted violence are limited since the detained immigrants have little claim to “social justice” from the standpoint of the state, the rebellion represents an organized resistance based on some common notion of justice, or at the very least a common recognition of injustice dealt to Jesus Manuel Galindo and to other inmates who had died from medical neglect in the prison. Its upheaval of the prison resulted in the issues of injustice coming to the attention of the media and forced authorities of the prison to consider the grievances of the inmates.

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<sup>63</sup> *Ibid.*, p. 52.

<sup>64</sup> *Ibid.*, p. 61.

<sup>65</sup> *Ibid.*, p. 63.

<sup>66</sup> *Op. Cit.*, Wilder, Forrest. p. 1.