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Civilising the Scaffold: a renewed carceral space in videoconferencing trials

Keywords: carceral geography, videoconferencing, punishment, simulacra.

In this article, I analyse the implication of the spread of videoconferencing for prisoners under pre-trial detention as a technology embedded in a process of civilising punishment by bureaucratising criminal procedure. This is specifically examined through a series of letters from Italian prisoners 'engaged in struggles', held in maximum security from 2006 to 2020. From a situated perspective, the letters describe videoconferencing as a way of disembodying and recoding the space-time of the prisoners, reducing them to a simulacrum: a series of images, sounds and glances caught by cameras and microphones. This technology ensures, through a both material and virtual geographical solution, efficiency, and security but at the cost of increasing the distance between the judge, society and the accused.

La Civilizzazione del Patibolo: uno spazio carcerario rinnovato dai processi in videoconferenza

Parole chiave: geografia carceraria, videoconferenza, punizione, simulacro.

In questo articolo analizzo le implicazioni della diffusione della videoconferenza in carcere, una tecnologia che burocratizza il processo penale all'interno del processo di civilizzazione della pena. Questo aspetto viene esaminato attraverso una serie di lettere di detenuti 'in lotta' in regime di massima sicurezza in Italia dal 2006 al 2020. Da una prospettiva situata le lettere descrivono la videoconferenza come un modo per disincarnare e ricodificare lo spazio-tempo dei detenuti, riducendoli a un simulacro: una serie di immagini, suoni e sguardi catturati da telecamere e microfoni. Questa tecnologia garantisce, attraverso una soluzione geografica materiale e virtuale, efficienza e sicurezza, ma al contempo aumenta la distanza tra il giudice, la società e l'imputato.

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1. Introduction. – While there has been a resurgence of populist sentiment advocating for extreme measures such as 'throwing away the key' and 'reinstating the death penalty', it is important to note that the use of state violence is frequently invisibilised in our society. Prison is the institution where the dominant ideologies of justice and punitiveness are explicitly promoted by the state (Moran, 2015). It is the place where punishment is executed, where violence is an explicit and governmentally prescribed feature of punishment.

On the one hand, prison has a close relationship with society: it is "the apotheosis of prison power" and is part of the carceral continuum (Hamlin and Speer, 2018, p. 800). On the other, prison, in times of crisis or in its inherent contradictions, can symbolise the vulnerability of the state (McAtackney, 2013). For these reasons, research into its fundamental features (the expressive forms of punishment and the carceral spaces in which they materialise) provides us with interesting insights into the state and society which are carceral.

Videoconferencing deals with these flickering features forms of punishment putting in question the integration of new technologies within the procedures of the judicial and prison system (Kluss, 2008; Mckay, 2016, 2018).

Videoconferencing is a system of screens microphones and cameras that replace the prisoner's presence during trials. It is a technology which has relevant implications with organisational structures and process which characterise penal and judicial system. For the following article on videoconferencing, I refer to a trial of a detained person who appears on a monitor in the courtroom and, instead of attending the trial in person, conducts the entire ritual via audio-video link from a designated room in the prison. It therefore concerns defendants who are detained, convicted or otherwise subject to pre-trial detention. In recent years, videoconferencing has been extended to the entire prison population, but for several years after its conception, as will be described later, this technology was only used in certain specific cases. It was limited exclusively to maximum security prisoners. Videoconferencing is therefore observed from their perspective, giving the analysis of this technology a specific situated knowledge (Haraway, 1988).

Starting from the prisoners' testimonies which I will describe below, I show how the machinery of justice conceals its punitive strategies behind the image of a more civilised prison, able to apply torture and violence without physically striking inmates. This article examines videoconferencing as a space of convergence of technologies of power, with implications for disciplinary power, representation, and expressive forms of punishment. I continue to examine the disappearance of torture from public view by bringing a new case in continuity with the introduction of the "police carriage" (Foucault, 1977, p. 257), a prison on wheels designed to transport prisoners for seventy-two hours without interruption. This reform has been considered as a step from the 'spectacular' torture of the chain to a

disciplinary *dispositif* (*ibidem*). Thus, the article will examine the introduction of videoconferencing for 'at-risk' prisoners in comparison to the historical use of the "spectacle of the scaffold" (Foucault, 1977, p. 279). The transition, similar to the use of the 'police carriage', illustrates the 'civilising process of punishment' (Elias, 1939/1984) which is a constant and ambivalent process of reform that marks the progressive abandonment of corporal punishment. This passage has been possible by the 'bureaucratisation of punishment' (Hulsman and De Cèlis, 2001), which shows how reform and civilisation lead to an increasingly impersonal and inscrutable punishment for society. Given the expanding separation between society and punishment (*ibidem*), I will concentrate on the witnesses of the prisoner, whose body has been struck by punishment, made to disappear in exchange for an image, a dematerialised subject in a liminal and virtual space between prison and court. The videoconference is not inherently a tool of punishment, but it can be perceived as such, similar to other surveillance technologies that play a role in the disappearance of physical bodies (Foucault, 1977; Lyon, 2001). These technologies were created as part of bureaucratic procedures and serve as both means of enabling these procedures and containers of their logics within the properties with which they are built.

2. Civilising the scaffold: the videoconferencing room as a new carceral space. – Since the late 18th century, punishment has been removed from public space and internalised within the prison regime (Foucault, 1977). Today, torture remains in the background in criminal justice. The punishment administered by the prison system is no longer inflicted on the body but a non-corporeal punishment. Pervasive control and risk management technologies, aimed to regulate space, segregate individuals, and constantly supervise the prisoner have in recent years further contributed to this process (Feeley and Simon, 1992; Moran, 2015). The development of the penal system has made its governmental and bureaucratic procedures more uniform, efficient and cost-effective (Gilmore, 2007). Other authors, such as Lyon (2001) have described the intersection of technological development and bureaucratic procedures, the evolution from the Weberian 'iron cage' to an electronic one.

This must be observed in the context of the "expressive, emotionally driven and morally toned currents" of punishment (Garland, 1990, p. 202). The penal system has come to terms with these 'civilising process', which have played a crucial role in the reformulations of the penal system, setting the boundaries of the ways to punish inmates. Asoni (2022) not too dissimilarly argues for the same spatio-temporal variability of institutions when he explores the historical continuities between camps and prisons by looking at the Guantanamo prison.

According to these civilising processes, corporal punishment should no longer be an explicit part of the penal system. Arbitrary punishments based on archaic

conventions, such as public executions, no longer exist. The condemned are no longer lynched. Between those days and now, professionals emerged in the penal field who sought to eliminate such practices as inhumane and without any rehabilitative purpose. Others devised ways to deliver (supposedly) controlled level of pain as a way to reform inmates, such as electric shocks and cold-water showers, both of which were proposed by Enrico Ferri (1906), one of the foremost criminologists of the last century. These ideas were portrayed as a "shift from corporal to carceral punishment" and a "triumph of enlightened humanitarianism over pre-modem barbarism" (Pratt, 2000, p. 187). As described by the geographer Ruth Wilson Gilmore, prison satisfied the "demands of reformers who largely prevailed against bodily punishment, which nevertheless endures in the death penalty and many torturous conditions of confinement" (Gilmore, 2007, p. 11). Such aspirations are expressed in various accounts of how the penal system has changed in the pre-modern, modern and postmodern eras but the methods employed were not always more 'humane'. Moreover, it is difficult to distinguish the pre-modern from the contemporary in the expressive forms of violence and punishment. While it may be easy to acknowledge that *tapis roulant* was a pre-modern form of torture, it is more difficult to decide whether censorship, as a deterrent and punitive measure, is pre-modern, modern or even post-modern. Pratt (2000) explains this dilemma by comparing it to Elias's processes of civilisation, which should neither be interpreted as a sign of progress nor invoked as a value judgement. In the pre-modern and modern eras, prison reproduced forms of domination and objectification in ways that were considered acceptable by public opinion and useful for maintaining social order. This is what led to the end of public executions, where justice was often questioned publicly by the guilty person before they were guillotined. In such cases, the ritual of justice, rather than proving its effectiveness through 'exemplary punishments', risked a popular uprising against justice itself.

This article aims to highlight a long process of bureaucratisation of punishment (Hulsman and De Cèlis, 2001) that has distanced punitive practices from public awareness. If 'civilisation' is the broader procedure of punishment's internalisation within prison walls, bureaucratization explains how this progression has occurred in contemporary times. Surveillance studies have indicated that technology has implications for "processes of administration, social sorting, and simulation that occur independently of embodied subjects" (Simon, 2005). As a result, punishment has become more impersonal (Castel, 1981), resembling an administrative affair that removes society from the practice of punishing, a process of rationalisation. This aspect, combined with the growing inscrutability of prisons, makes it difficult to criticise the techniques of punishment. Rationalisation is the logic which brought modern state to regulate, namely focus, control, and ignore interpersonal relationships according to a formal set of impersonal and objective criteria

(Beniger, 1986). As described by Gilmore, prisons "depersonalized social control, so that it could be bureaucratically managed across time and space" (2007, p. 11). Bureaucratisation of the legal and penal system is the best, or rather the most efficient, way of continuing to punish. Milgram's experiment with electric shocks (1965) showed its effectiveness: if participants did not see the person in front of them, "few were hesitant about applying punishment, even when they thought the voltage was dangerously high. But they became hesitant the closer the victim was brought to them" (Christie, 1978, p. 84). In this way, it is possible to understand how the bureaucratisation process has spatial implications, such as proximity, that are not widely explored.

Geography enables an understanding of how the creation of distance between the 'virtual' and the 'material' is part of the same augmented reality (Rey, 2012). The actual carceral environment is virtualized by the (virtual) visual experience. According to some scholars there is a reopening of the prison to the public through spectacularised mediascapes, selective and incomplete representations (Moran, 2015; Turner, 2013; Mason, 2013), if not fetishised. The penal voyeurism (Ross, 2015) underlying this spectacularisation produces a mindset in which every respectable citizen feels that they could be the potential victim of the offenders (Guagliardo, 1997, p. 75).

Rather than offering society a spectacle, videoconferencing contributes to the distance between punishment, crime and society, managing to legitimise and retain the former as "a regular feature of public and political debate" (Pratt, 2011, p. 230). The increasing separation between those who are inside and those who are outside "reinforce an erroneous impression that imprisonment is somehow disconnected from society at large" (Moran, 2015, p. 141).

It therefore becomes vital to question and problematise the role of contemporary technologies, in particular how they are implemented and how the logic of punishment is continuously renewed in more acceptable terms. I will focus on the role of a specific technology, videoconferencing. This technology on the one hand makes it possible to show a space in the prison, i.e. the videoconferencing room, during trials. on the other hand, it eliminates the corporality of the prisoner who is literally excluded from the court. It thus creates within the trial a virtual and liminal carceral space where the accused is sentenced. The courtroom is a carceral space for defendants coming from prison. Although external to the prison, the defendant brings their stigma with them. From a legal studies perspective, the courtroom custody dock trials in UK have been criticised for being intimidating for the defendant (Rosen, 1966). The courtroom should represent the society's view of justice (Bellone, 2013), but its environment can convey a sense of inferiority and disempowerment for the accused (McKay, 2018). This aspect becomes even more significant when we consider the carceral setting of the prison room

depicted on a monitor in the court, a stark representation of a carceral space in a public courtroom that is meant to symbolise the fairness of the judicial process and the autonomy of the law (*ibidem*).

The distance between the judge and the defendant in its virtual and material essence must be deepened in this regard from another perspective. Traditional data surveillance analysis has shown how dematerialisation process is achieved by using a digital representation of the body (Clarke, 1993; Simon, 2005) or creating a simulacrum of the person (Lyon, 2001). The analysis of videoconference can be inscribed within a mapping of the "dynamics of the production, circulation and modification of meaning at digital interfaces and across frictional networks" (Rose 2016, p. 341). These new technologies are part of the apparatus of punitive justice, they can be considered as non-neutral practices mediated by digital technology that must bite a reality without 'flesh' (De Mably, 1789, p. 326). They bite on the soul: a simulacrum of the body is created in order to be offered to the public without observable physical consequences.

Videoconference shows the end of the spectacle, what Baudrillard shows as the project "to empty out the real, extirpate all psychology, all subjectivity, to move the real back to pure objectivity" (Baudrillard, 1983, p. 142). Instead of satisfying the penal spectator, videoconference is an emergent ritual that reframes an exclusive spectacle relegated to those experts who have the role of judging and who, thanks to the distance imposed, can do so more efficiently.

3. The prison letters and the positionality of the writers. – In this article, I describe videoconferencing from a specific perspective, through the witnesses in letters from 'prisoners engaged in struggle'. This latter phrase refers to a diverse set of prisoners who oppose the mechanisms of detention and often reject the very purpose of prison.

The following contribution is part of broader research on prison governmentality within an archive of periodical booklets published by the OLGa collective (Nocente, 2024)[1]. I analysed 1097 letters in 143 booklets produced between March 2006 and February 2021. The set of testimonies collected and analysed is the result of an encounter between the collective (of which I am a part) and the prisoners. The archive presents a liminal space, situated both within and beyond prison, and across different carceral spaces (Moran, 2013). It enables some critical aspects of prison governmentality to be grasped, given the positionality of the writers. The OLGa collective thematically organised the archive according to the frequency and significance of contributions. Videoconferencing has long been

[1] The letters are collected in 147 booklets, available at the following link: www.autprol.org/olga (last access: 11 March 2021). Throughout the text, Olga's letters have been transcribed in italics to distinguish the voice of the writer from that of the prisoners.

discussed within a broader criticism of the more severe prison regimes in Italy, and the letters sent to OLGa were intended to highlight the debate on these issues.

Prison sites can become "stages for tension between dominant narratives (of justice, and the power of the state) and alternative perspectives" (Moran, 2015, p. 131). Using the testimonies of prisoners who wrote to OLGa from maximum security prisons, I highlight the punitive logic that characterises videoconferencing technology and their spatial implication. The critical stance of the writers towards incarceration in the following narratives must be taken into account. Given the constant interaction and proliferation of videoconferencing, which entails a different engagement with the material and symbolic properties of this technology, a study of the actual use of this technology would entail different considerations. As a result of their critical stance, the letter writers experience videoconferencing, and other technologies before other inmates (Story, 2013), while the rest of the prison population may not even perceive it as a tool of oppression.

4. Videoconferencing, a genealogy. – Videoconferencing enables a defendant to take part in a trial without being physically present. These prisoners, at this point not convicted of an offence, take part in court proceedings through a video screen from inside the prison where they are being held. The defence lawyer can choose whether to take part with their client in the prison or in the courtroom.

Prisoners detained in maximum security regimes accused of mafia-related or political crimes have described the experience of videoconferencing. The writers are all Italian men incarcerated in different prisons throughout Italy. Rather than criticising the videoconference process *per se*, I want to look more closely into the ways in which this technology has been developed before its widespread use: as a security tool for carceral power and as a new instrument of violence for the prisoners who have experienced it in its early years of structuration.

Videoconferencing was introduced as an exceptional measure for the 'at risk' prisoners and then extended to all other categories of prisoners. It was first restricted to prisoners under the 41 bis regime[2] but was then applied to all prisoners, whatever the regime. What made this possible was the occurrence of emergencies, such as the repression of organised crime at the end of the last century and, more recently, the imperatives for the prevention against Covid-19 pandemic. As with many technologies used in organisational processes, videoconferencing is

[2] For this article, when I write "41 bis" I will generally be referring to the second comma of the article just mentioned: art. 41 bis comma 2. In cases of serious threats to public order and security, and at the request of the Minister of the Interior, the Minister of Justice may also suspend the ordinary treatment, wholly or in part, in respect of those detained for a wide range of offences, generally crimes of violence related to organised crime. It refers to mafia-type association, in relation to which there is evidence to suggest the existence of links with a criminal, terrorist or subversive association.

provisional, it evolves year by year, it sets new standards – even as it becomes institutionalised (Orlikowski, 2000).

Introduced in 1992, following the Capaci bombing[3], videoconferencing was aimed at ensuring the security of people admitted to protection programmes[4]. After six years, this technology was applied to prisoners under article 41 bis, covering the harsher penal regimes in Italy. As described by Pelot-Hobbs (2018) the limits of prison modernisation are always related to its unwillingness to question its punitive logic. New implementations and renovations follow the "supreme idea that protecting prisoners from violence meant protecting them from one another, not the violence of the state to confine" (Pelot-Hobbs, 2018, pp. 431-432). For this reason this technology extended further, from 1998 onwards, a judge has been able to decide to hold the hearing remotely for the following other reasons: a) serious threats to security or public order; b) in order to avoid delays and postponements in particularly complex hearings. This proliferation follows a more general expansion of the digital infrastructures that appeared in the 1990s and that have been widely produced and disseminated in the post-9/11 society in the field of surveillance (Webster, 2009; Simon, 2005). This brief genealogy of videoconferencing shows how certain technologies of power designed for specific prisoners have become normalised. Specifically, how one governmental measure for those labelled dangerous can be extended to others for different reasons.

Videoconferencing crystallises the rationalities of prison power from its origins towards efficiency, economy and security and developing both a material and virtual geographic solution. These three imperatives are the model on which prison governmentality is based, from 41 bis to the other softer regimes. In its early days, it cut transportation costs from prison to court. One of the letter writers was from Sicily but was imprisoned in Abruzzo, around 700 km away; another, imprisoned in Terni, was 400 km from home; yet another, although arrested in Sicily, was transported to Sardinia. Moreover, prisoners in cases of crimes of association were generally involved in several trials and sometimes it was not possible to attend in person: "If a defendant in a large mafia trial has two or three other trials at the same time, one of these trials is actually blocked, because the prisoner is elsewhere"[5]. Efficiency is therefore a relative and not an absolute concept since

[3] The Capaci bombing was a terrorist-mafia attack in which the anti-Mafia magistrate Giovanni Falcone lost his life. It was carried out by Cosa Nostra on 23 May 1992 near Capaci in Sicily. The bombers blew up a section of the A29 motorway while the security personnel and the judge, his wife and police officers passed by. In addition to the judge, four other people died and twenty-three people were injured.

[4] Reference to Article 7 of Decree-Law of 8 June 1992, no. 306, enacted with amendments as Law no. 356 of 7 August 1992.

[5] Interview with lawyer Caterina Calia on videoconference trials (my translation). Link: https://prisonbreakproject.noblogs.org/2014/06/10/lavv-calia-sui-processi-in-videoconferenza-da-radiocane-info.

videoconferencing was also a partial solution to a problem created by the system itself: "The prisoner should not be placed in a prison more than 300 km away from his residence"[6]. Indeed, the prisoners' isolation from their city makes it difficult for them to participate in the trial. Considering that

> in general, those who commit crimes do so close to the place where they live, or better, those who commit crimes do so within a radius of 100 km from their place of residence, and (considering that) the trials take place in the competent courts, it is shown that, if the first conditions were met, videoconferencing would not be necessary because, for a maximum distance of 300 km, 4 hours would be sufficient[7].

Now, most prisons have videoconferencing equipment, not least because it became an object of economic interest. Indeed, the economic driver was not only the money saved by the prison on transport but, considering the prison industrial complex as a whole (Davis, 1995), videoconference was a business opportunity. A series of economic interests underpin relations between private companies and prisons[8]. Finally, security is the other factor most discussed by the prisoners. Videoconferencing is seen as a way of avoiding meetings between defendants, or escapes during transportation[9]. Yet this choice underlies the increasing distance (not only physical as described below) between the court and the punished as part of the process of bureaucratisation. This distance can be seen between the defendant and the court, between the defendant and the public, and between the prison or court and the city. Prisons and courts are located in the administrative centres of the city or outside, far from the public gaze. Videoconferencing, in theory, is open to public view but bureaucratisation has made attendance at trials by the public less and less popular. It takes place with an increasingly reduced audience and, in some cases, the public may be barred for security reasons.

It is easy to understand how a technology devised for the art. 41 bis regime could be extended to more lax regimes. Harsher regimes can be seen as a laboratory, where such practices are tested: they are circuits "where policies and practices are fine-tuned before being rolled-out closer to home and are thus recognizable both as obscure carceral spaces and as components of a larger system" (Gill *et al*., 2018, p. 11). They are spaces in which circuits make their way from one point to another, drawing up and implementing a new security measure for each cycle. Videoconferencing, as with any other new *dispositif* (Foucault, 1977), is provisional: implemented, tested and, if effective, made permanent.

[6] Booklet 93, June 2014, "Lettera dal carcere di Terni", Valerio.
[7] *Ibidem*.
[8] Booklet 130, January 2018, "Lettera dal carcere di Sulmona", Antonino, AS1.
[9] Booklet 92, May 2014, "Lettera dal carcere di Sulmona", Antonino, AS1.

In April 2014, the aforementioned booklets made clear that videoconferencing was rapidly gaining ground for the most dangerous prisoners. Those were the years when this measure was extended to rebellious prisoners held in regimes other than maximum security. This was denounced by a prisoner who was part of the No-TAV movement[10], accused of an act of sabotage against the Chiomonte High Speed Train site[11]. In 2020, among the measures taken to contain Covid-19, 'face-to-face' meetings were replaced with other 'virtual' methods. For more than a year, prison visiting became a virtual meeting as video-calls became common. It was no longer possible for relatives and friends to meet a prisoner in person. Emergency measures to avoid infection were also taken for trials, even though videoconferencing had already been extended to all prisoners. Indeed, a few years before the spread of the pandemic, videoconferencing had extended the possibility of procedural debate in the presence of specific *status detentionis* of prisoners (Lorusso, 2017)[12].

5. Witnesses of civilised punishment. – Those who wrote to OLGa denounced the "non-neutrality of technological advances" and claimed it was a punitive measure[13], arguing that videoconferencing has inherent contradictions. This can be seen in the increasing control and intrusion of the guards in another technology that has recently become widespread: the 'zeromail' service. This is a subscription service which offers the possibility of scanning and sending letters by email. Giovanni wrote to OLGa that this service had led to the increased surveillance of detainees: the text of a letter is given to the guards, who scan and send it as an email. Although traditional letters can also be read, unlike emails, guards have to unglue and re-glue them, "which can be a hassle for those who check them"[14]. Convenience and efficiency often bring with them increased control.

[10] It is a protest movement established in the 1990s by various local, national, and transnational organisations, united in their criticism of the construction of a high-capacity and high-speed railway infrastructure (TAV, 'High Speed Train'). In the years recounted in the letters, several people wrote to us. Some of them were detained in maximum security regimes, including on terrorism charges that never ended in conviction.

[11] Booklet 91, April 2014, "La prigione degli sguardi: note sul processo in videoconferenza. Dal carcere di Alessandria".

[12] There was no longer a need for a judge's order (or a request to that effect) that verified the existence of serious reasons of security or public order or the complexity of the hearing, when remote participation was necessary in order to avoid delays in the proceedings. Even if it was the discretionary choice of the judge, who had a very wide margin of manoeuvre in view of the lack of precision of the application prerequisites, it still required, depending on the case, a decree, or an order to justify his decision (binding, to some extent, at his discretion). Now, instead, it occurs automatically in the presence of a *status detentionis.* in the cases of crime indicated in Art. 51, para 3-bis, and in Art. 407, para 2, letter a) No. 4 of the Code of Criminal Procedure. This automatic mechanism, as we shall see below, creates a strong tension with certain constitutional principles.

[13] Booklet 117, October 2016.

[14] Booklet 146, March 2021, "Lettera dal carcere di Milano-Opera", Giovanni, AS1.

Can videoconferencing therefore replace a practice carried out in person? What are the implications of a practice mediated by this new tool? How far these technological tools can compensate the disappearence of the body of the prisoner?

A new carceral space emerges, that of the videoconferencing room, which interacts with the court to try defendants and which deserves to be further described. The question posed by McKay (2016) about the porosity of videoconferences as a carceral spaces it's particularly striking (Moran, 2013). As I will describe in detail below, the possibility of seeing glimpses of prison inside a monitor, which is a highly visual experience, brings with it an increasing inability on the part of the prisoner to talk about prison or anything else that is not exactly related to the ongoing process. Moreover, this condition is particularly compelling for the prisoners who wrote the letters because of their attitudes towards the prison system. For this reason videoconferencing as a medium with reality has to be studied in relation to what human feelings and thoughts it produces among the prisoners engaged in struggle (Moran, 2016). The strength of the contribution of the prisoners and those who experienced these spaces, such as lawyers and activists, lay in their capacity of re-signify the carceral space produced by videoconferencing based on their own lived experience (Moran *et al.*, 2018).

Their contributions made it possible for readers to see beyond the institutional gaze, in opposition to the bureaucratisation process described above.

The carceral space of videoconferencing takes place in a suitably-equipped room, furnished with desks and chairs and with a guard inside:

> Several video cameras film the judge, the injured parties and the defendants with their lawyers, and four screens then transmit the footage. The image of Claudio occupies a very small portion of the screens and remains muted for a long time[15].

Videoconferencing imposes a system that does not allow interaction and codifies the prisoner's space-time in the name of the efficiency. From a prisoner's account:

> I had thought about what to do, what to say. I greet the court with a raised fist, because I like to greet like that. Then I pay attention in the courtroom, the TV is on the judge's side and that's it. What an idiot I feel, I only greeted the judge. […] On the TV, there's me in a small frame and then you can see the courtroom, 10 seconds on the judge and 10 seconds on his comrades, lawyers and the prosecutor […][16].

[15] Booklet 90, March 2014, "Lettera dal carcere di Ferrara". Introduction in Olga's booklet on Claudio's videoconferencing trial.

[16] Booklet 90, March 2014, "Lettera dal carcere di Ferrara", Claudio.

Videoconferencing is a technological tool embedded in a technocratic process of the civilisation of punishment. The three rational/bureaucratic values described above of efficiency, security and economy are to the detriment of the unanticipated margins of freedom that arise during a trial. The prisoner in the room remotely follows at distance the movement of the camera from the screen, which frames just the lawyer or the judge when they speak. He can't have a bigger picture of the trial. He can only see a progressive sequence of the process stages. This imposition limits the possibility "for the defendant to make statements whenever he feels he has to, or to intervene when a witness is making statements, and also to challenge them directly"[17]. Indeed, videoconference rituality provides a whole series of filters*:*

> One asks: 'May I speak?', the officer at the other end calls the chairman and tells him: 'the defendant wants to say something', then, and only at that point, the chairman authorises, and once authorised, the lawyer may confer[18].

Contrary to the supposed efficiency, interfacing through this device can lead to moments of 'friction' (Rose, 2016). Sometimes the link is interrupted due to a disconnected video screen, due to the delay in the audio or audio faults, which makes it difficult to keep track of the debate. In another testimony, friction occurred breaching the privacy and secrecy of the dialogue between the lawyer in court and the defendant in prison

> The only sign of his [the detainee's] 'presence' then comes from the ringing of one of the telephones in the courtroom, which is answered by the lawyer on the instructions of the guards. At the other end is Claudio, who, having obtained permission from the guard next to him, leaves the scene and goes to the back of the room to telephone his defence lawyer. We realise that his image is deferred and that everyone in the courtroom can hear what the lawyer is saying to his client[19].

This carceral space excludes all those exchanges that usually take place in court: the embraces, the glances, but also the possibility of speaking privately with one's lawyer during the trial. For McKay (2016), this condition prevents the defendant and his defence lawyer from discussing fully and frankly.

Efficiency excludes intimacy and confidentiality, both in emotional and procedural terms. The progressive exclusionary function of videoconferencing gradually emerges as a technology of power for 'at risk' prisoners that disembodies the indi-

[17] Booklet 138, September 2019, "Lettera dal carcere di Sulmona (AQ)", Antonino, AS1.

[18] Interview with lawyer Caterina Calia on videoconference trials (my translation). Link: https://prisonbreakproject.noblogs.org/2014/06/10/lavv-calia-sui-processi-in-videoconferenza-da radiocane-info.

[19] Booklet 90, March 2014, "Lettera dal carcere di Ferrara", Claudio.

vidual, already restricted in terms of space and freedom: "Videoconferencing is the synthesis of the denial of physicality"[20].

Videoconferencing is an example of technocracy replacing an existing freedom with controlled behaviour, as bureaucratical procedures towards the evaluation of a finite object it excludes progressively personal responsibility, sentiment, emotion and moral judgement (Lyon, 2001). Rather than removing and depriving, this regime of power gives something that, from the point of view of the institution and, in part, for the prisoner, is rational and efficient.

Considering the discussion on disciplined mobility (Moran *et al*., 2012; Gill *et al*., 2016), the transition imposed by videoconferencing from the face-to-face to the virtual process implies, for the prisoner, a material immobility and a dematerialised mobility: "The latest upgrade for 'transport for reasons of justice' is the videoconferencing process, where transport simply does not take place, except in immaterial form"[21]. Mattia, quoting *Discipline and Punish*, argues that videoconferencing sees the transition from the "chain-gang" to the "police carriage" (Foucault, 1977, p. 257), "marks a passage that encapsulates a paradigm shift"[22]. It is a process that encourages putting distance between the body of the accused and the public; a sophistication of punishment on the body, a bureaucratisation of punishment: "What kind of trial is it, if the judges do not even dare to look you in the eye when they give you the sentence?"[23]

The videoconference is a technological development of this disciplined mobility, which raises several doubts about the conventional understanding of subjectivities, bodies and places (Lyon, 2001). As a process of the civilisation of punishment, it does not end its violence, but merely changes its form of expression. One prisoner highlighted this issue, comparing videoconferencing to Victor Hugo's scaffold:

> The bourgeois modesty of the reforms transports without showing anymore how it punishes, without offering any spectacle. No more eye contact between the people and the criminal; the only glance to be tolerated is that of the guardian to the imprisoned penitent. […] Videoconferencing, unlike the scaffold, is not a mechanism that carries out an already decided punishment, even less so a punishment by death, which is no longer provided for in the penal code. But, even more than the scaffold, articulated as it is with microphones and cameras, it is a 'structure' that 'sees', a 'machine' that 'hears'. Of course, it does not 'eat' the 'flesh', but in its own way it 'disembodies' the accused, dematerialises their body, reduces it to a set of bits, producing a certain visual impact and a certain

[20] Booklet 93, June 2014, "Lettera dal carcere di Terni", Valerio.

[21] Booklet 91, April 2014, "La prigione degli sguardi: note sul processo in videoconferenza. Dal carcere di Alessandria", Mattia.

[22] *Ibidem*.

[23] Booklet 18, October 2017, "Lettera dal carcere di Palermo", Bendebka, EIV.

sense within a process that is not to be underestimated: through it, the presence of the accused, although distant, becomes spectral, his body is treated as a video interference to which the word can be granted or taken away with a simple 'click'. It is the triumph of the reforming modesty that had already cleaned the streets of the human chains of the forced and that, now, through the new technologies, 'frees' the courtrooms from that uncomfortable and jarring presence, so that the abstraction of law appears undisturbed. Also denied is the embrace between co-defendants, who cannot even see each other on that occasion. There is no emotional exchange with the public, who do not even appear on the screen. No complicit glances, no greetings to family and friends. Once in prison, even when on remand, one never leaves, not even for the trial. Untouched, cemented. The jury members are led to consider you so dangerous that you cannot be brought before them. Somehow, your guilt is already implicitly designated in the manner of your 'presence'. […] Videoconferencing is the technological ally that perfects the 'prison of glances'. Cowardly, it multiplies the eyes that scrutinise those who have offended the boundary of the law, but no longer find the courage to look them straight in the eye. A cybernetic metaphor for a blindfolded justice that is equipped with mechanical eye prosthesis but is still blind[24].

As Mattia well describes videoconferencing in itself confers a status, a certain demarcation within the criminal proceedings. Being a set of bits from the detainee's point of view; seeing the detainee in a screen from the courtroom; having the ability to silence the detainee at the flip of a switch, are all elements that can undermine the presumption of innocence and weaken the ideal of equality before the law (McKay, 2016).

In the early days of videoconferencing, lawyers tried to raise motions of unconstitutionality without success[25]. Some prisoners tried to protest against it by refusing to appear at the trial. However, this act of resistance did not achieve the expected results:

The trial went on; there was nothing to be done, because there were no more rights to call upon. In addition, those who rebelled were isolated or transferred to another prison in solitary confinement. […] If the prisoners were sick they had to participate anyway[26].

As one prisoner put it, the decision not to participate in the trial also brings with it "the sadness of not being able to see, and perhaps hug, the people I care about and feel the warmth of supportive comrades"[27].

[24] Booklet 91, April 2014, "La prigione degli sguardi: note sul processo in videoconferenza. Dal carcere di Alessandria", Mattia.

[25] Booklet 92, May 2014, "Lettera dal carcere di Sulmona, Antonino, AS1. The prisoner is referring to decision 342/99 of the Italian Constitutional Court. From a legal point of view, videoconferencing has been considered controversial, particularly from the point of view of the right of defence (see Iuliano, 2020).

[26] *Ibidem*.

[27] Booklet 91, April 2014, "Lettera dal carcere di Ferrara", Adriano.

Videoconferencing technocracy limits all those people who are not welcome, or are no longer welcome, at the trial. There are forms of resistance or protests that can be engaged in by activists or relatives to support the prisoner. They may aim to disrupt or stop the trial, or take advantage of the trial in order to introduce external demands to the court or show solidarity with the prisoners, and to avoid the prisoner undergoing the trial without agency. In some trials, often involving prisoners incarcerated for political offences, the public have protested by means of a large and noisy presence to disrupt the proceedings. The protesters seek to break the isolation, to turn the courtroom environment into a stage where certain demands can be made. A counter-prison acoustemology (Russel and Carlton, 2020) is possible when the inmate, in the limited time he is allowed to speak before the microphone is turned off, denounces the conditions to which he is subjected; when the slogans and speeches of supporters in the courtroom make their voices heard, they reach the prisoner through the microphones, even if it is difficult because of the distance. However disturbing the process, it does little to subvert the direction of the trials. Trials are often poorly attended, prisoners generally find themselves in a deserted courtroom, unable to see clearly who is in the courtroom other than those who make up the court[28]. As with the process of digitising identities, this technology makes processes easier to conduct and more controllable than the actual management of real bodies (Simon, 2005). Plus, it gives the latter limited agency (Lyon, 2001) and makes it impossible to escape the carceral and panoptic gaze (Myrick, 2004; Foucault, 1977).

6. The bureaucratisation of punishment: carceral space and simulacra. – In this article, I have described how videoconferencing, as a technology of carceral power, is embedded within the process of the civilisation of punishment. After introducing the idea of civilisation of punishment, the article investigates the evolution of a technology that has created new carceral spaces. Prisoners 'engaged in the struggles' described through their lived experience the process of modernisation of prisons, which retain a punitive guise at their base. I also discuss the introduction of a new practice mediated by new technological tools and the implication it brings to public hearings. It makes the prisoner's defence weaker and weaker against an increasingly bureaucratic process.

According to Foucault, since punishment renews itself by punishing better and not less, the bureaucratisation of punishment, with efficiency as its lodestone, was the way in which this end was achieved. The gradual disappearance of public torture, removing prisoners' bodies from society, also laid the groundwork for more docile, but also more easily administered, forms of punishment. Punishment

[28] *Ibidem.*

therefore acts by renewing itself through technological potential and the functionalism underlying changes in prison and judicial practices.

This renewal has been possible through the creation of a simulacra to punish. There is no more prisoner flesh to bite. Men and women become interactive and controlled images: "(Their) gift of speech depends on a button miles away", being granted or withdrawn at will[29]. This restructuring also shows how disciplinary surveillance cannot be limited to the realm of the visual (Gallagher, 2010). The total control of both the circulation of the body and its virtualisation, the control of the prisoner's voice that can be silenced at the touch of a button, shows how the procedures of power manifest themselves.

The prisoner undergoes a process that becomes less and less characterised by emotions, expressiveness and sensorial experience, to the point of being called a 'limitation' of human rights[30]. A "progressive disappearance of the accused" seems to be taking place[31]. This simulacrum underpins the exclusionary function of prison. The room for videoconferencing shows how the prison burnished its image with the public, while offering a distorted view of the way it works.

The emerging of this carceral space to the public sphere, takes place within a process of distancing between society and prison when considering the videoconferencing process. Indeed, the video screen in court symbolises the end of the defendant's traditional isolation in the dock, replaced by his or her "literal expulsion from the courtroom, with appearance from behind prison walls" (McKay, 2016, p. 25). Prisoners displayed on the video link are 'doubly trapped': "framed within the screen and judged in context of their confinement'' (Rowden, 2011).

It is a strange phenomenon, because as the spectacle of actual punishment becomes the exclusive affair of experts, the spectacle of punishment returns through media, film and, more generally, in popular culture. In other words, through the analysis of videoconferencing, different regimes of visibility emerge while physical punishment, such as prison beatings, is concealed; material and virtual punishment, in a civilised guise, becomes a technocratic administrative affair; virtual, immaterial punishment is increasingly common and accepted, as Baudrillard put it is the "very abolition of the spectacular" (1983, p. 54).

Finally, this article described, on the one hand, how through a system of glances, or regimes of visibility, it is possible to make the prison seem more porous through the creation of a new carceral space, namely the videoconferencing room. On the other hand, I described how this technology serves to distance society and the prison, weaken the defence of the immaterial prisoner and strengthen the

[29] Booklet 93, June 2014, "Lettera dal carcere di Terni", Valerio.

[30] Booklet 92, May 2014, "Lettera dal carcere di Sulmona", Antonino, AS1.

[31] Booklet 91, April 2014, "La prigione degli sguardi: note sul processo in videoconferenza. Dal carcere di Alessandria", Mattia.

bureaucratisation effects in the trials. Within the regimes described, videoconferencing is an exclusive spectacle that tends to progressively remove the public, leaving only prison experts, the court and the punished simulacrum of the prisoner.

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