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# Differences And Similarities Of Durkheim And Foucault Punishment

In society, punishment is used to set out anything we may view as painful; such as rough treatment or handling (McTaggart, 1896). When it comes to crime, punishment is considered to be important and necessary to deter crime and those to commit it. Punishment has a variety of uses within society, however the most common use is to promote the behaviour that society deems acceptable whilst, simultaneously, discouraging behaviours that are considered inappropriate. Durkheim believed that society can only restore its faith in each other when a crime has been committed by punishing the offender, which maintained a societal solidarity that once would have been shattered by said crime. Criminals are punished judicially, by fines, or custodial sentences such as prison. Flew argued that (in the context of penalizing a criminal offence) punishment is comprised of five key components: it should involve a negative act towards the victim, it should be in response to the committing of an offence, it should be acted out on the offender, personal agencies should perform the punishment, and whichever institution's rules have been affected by the offence should be the imposers of the punishment. (Flew, 1954). Alongside this, Benn and Peters (1959, 1981) added that the act of punishment should be performed with intentions leading to negative outcomes for the offender. In regard to the theoretical approaches to punishment, each theorist has their own take on the true cause, necessities and their own explanation of punishment. For example, Durkheim assigns the power of punishment to the state of the sole purpose of resorting and maintaining social and collective conscience and felt as if crime shatters societal solidarity (Durkheim, 1933, 1973, 1983). In contrast, Michel Foucault seeks to understand punishment from a social perspective, by studying how altering relations of power affected punishment (Foucault, 1975). This essay will pursue the similarities and differences between both theorists Durkheim and Foucault, whilst comparing and contrasting their ideologies on punishment and ending with an overall conclusion.

Emile Durkheim states that punishment reinforces morality, which functions to maintain societal values and norms. (Durkheim, 1983). Durkheim goes on to declare that the punishment of crime advantages society by promoting the "collective consciousness, and that punishment is an institution which draws its motivating energies and support from the moral sentiments of the community, "forming symbolic and enact moral judgements" (Breathnach, 2002). It is for this reason that Durkheim believed that the criminal law of society portrays the basic moral values that societies deem of paramount importance. Therefore, crimes negating the "conscience collective" will tend to give rise to moral indignation and a general desire for retributive justice. (Kenneth, 1982). Durkheim's opinion was that therefore, punishment is the part of a moral connection that not only creates - but sustains social solidarity – a basic social institution with moral functions that are all important. Due to this, Durkheim stated that we must forget about the immediacies of dealing with the offenders, and rather have a broader social idea on punishment if we are going to appreciate the real characteristics and the elements that make an institution work (Durkheim 1993, 1973, 1983). However, Durkheim himself does not particularly look at the institutions of punishment, such as prisons, and tends to specifically look at how people are shaped by their social experiences, and with more criminal behaviours, leads to a weakened collective conscience. In contrast, Foucault's ideology looks at how certain authority institutions act through the body and argued that prison did not become the principal form of

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punishment just because of the humanitarian concerns, but rather the cultural shifts that led to the predominance (McNay, 1991). Durkheim made clear two important points based around his theory on crime: first, “that a wider population feels itself to be involved within the act of punishing, supplying the state institution with its social support and legitimacy” (Garland, 1991:122) and secondly, that despite the attempts across the world to make punishment more rational and utilitarian, it continues to be related by the punitive and emotive reaction that are at the root of the society’s response to crime. This proved that “punishment is not an instrumental mechanism, since its deterrent and governing impact on offenders is severely limited” (Garland, 1991:123)

Like Durkheim, Michel Foucault’s primary concern was displaying how penal institutions came to be caught up within different social classes, which are also shaped by economic structures. However, Foucault looks at how punishment forms, whereas Durkheim looked at the values help by class and economy. However, in contrast to Durkheim, who was mainly focused on society and their collective conscience, Foucault’s work focused directly on the central workings of the ‘apparatus’, which focuses on the specific technologies and operations of penal power (Garland, 1986, 134). Foucault’s study analysed the mechanisms in which modern disciplinary sanctions apply their specific forms of control in which they may rely on, alongside the acceptive knowledges that inform these modes of power (1977, 1978, 1980, 1990). Durkheim believed that nothing was abnormal about deviance, as it is found within every society. Within this, Durkheim adopted a functionalist perspective, which sees society as a complex system, with each different part working together to promote stability and solidarity (1858, 1917). Durkheim visualised society as an organism, with each part playing a role. However, Durkheim also believed that within this, society cannot function alone without the parts (Crossman, 2020). Within Durkheim’s functionalist view on punishment, he believed that all punishment served as positive function for society, as it reinforces society and strengthens common values. However, society reacts differently to each crime, such as reacting stronger when it comes to murder. Durkheim outlined a change in retributive justice and believed that “revenge” was mainly found in traditional societies. In contrast, Foucault believed that the law was considered part of the superior body and thus, that revenge must be overall used as harming the convict’s body (Garland, 1986). In terms of ‘reform’, Durkheim found that it primarily happened within advanced societies, and that punishment is used to reform the offender, whilst repaying society (Burkhardt, 2016). Unlike Durkheim, Foucault was known as having a Marxist approach when it came to punishment, and even described the movement over history from “sovereign power to a disciplinary power” (Brozzone, 2019). First, sovereign power, which can be related to Durkheim’s restitutive system, meant that punishment was often intended to be cruel, and often made to be a public gathering. Moreover, disciplinary power, which can also be related to Durkheim’s restitutive justice, became important in the 1800s, with the aim to change the person via discipline and training – mainly through work, such as within prisons (Vinthagen, 2013).

Foucault’s *Discipline and Punishment* aims to explain the disappearance of one style of punishment – in which the punishment itself operates as a public performance of violence, whilst looking at the emergence of another, welcoming the prisons aims to become the standard penal method (1977). In contrast to Durkheim, he suggests that it is the use and conquering of power vs morals, rather than society values, who looks at society values that influence the institutions use of punishment. Foucault chooses these specific problems in order to explore the wider explanation of how power is exercised within the modern society, whilst analysing the apparatus of power that prison utilises, alongside the forms of technology, knowledge, and

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social relationships in which the apparatus may depend on. The relationship between power and knowledge is the central works of Foucault's theory, which recognises the organisation of the power to punish, alongside the development of knowledge within various bodies that reinforce and interact with that power (Garland, 1986). Foucault's way of looking at punishment is more distinctive and specific compared to Durkheim's, as Durkheim tends to specify morals and society when it comes to punishment, whereas Foucault focuses on the surveillance and prisons side of punishment. Foucault rejects the overall idea that originally, punishment was intended as a form of rehabilitation, as oppose to a cruel way to punish an offender.

According to Foucault, punishment is best to be understood as a "political tactic" (Foucault, 1975), and it is to be studied with a view to its positive effects, rather than being seen as a repressive mechanism. It was for this reason that Foucault thought of punishment as being internally linked to the development of "human sciences", such as psychology and criminology, rather than being influenced by them from the outside. Overall, Foucault examines the system of state control in its social context, explaining the connection between the gradual transition from power that is centralised, to democratic rule and the changes in how different societies punish their criminals. Like Foucault, Durkheim also looks at societies, but assigns the power of punishment to the state, similar to Foucault, but for the purpose of restoring and maintaining social and collective conscience, rather than looking at how societies punish and how the state maintain authority (Garland, 1986).

Yes, Durkheim and Foucault have different perspectives, but also share the same concern with what kind of society might constitute an "emancipatory" alternative. Alongside this, both theorists also showed an overall interest in the philosophical results of punishment, whilst taking the historical changes within penal practices, such as prisons, seriously.

Despite the apparent differences between Durkheim and Foucault, we can see that these approaches have important similarities. Both Durkheim and Foucault have greatly shaped the idea of punishment with their contributions, allowing further criminologists and sociologists to delve deeper into why punishment may or may not be necessary. Nevertheless, although this apparent similarity, both Durkheim and Foucault had very different views on their theories of punishment, making it extremely different to extinguish their resemblance (Garland, 1986). Durkheim believed that through moral education, the youth became self-determining, and developed skills in critical thinking, which was vital to democracies that were evolving.

Punishment within school systems strengthens the authorities of societies' moral forms of life, confirming that social ideals and practices cannot be intrusive without consequences. Similarly, Durkheim believed that the punishment of convicted criminals reinforces the authority that society has held dear – the moral identity, which shows that the primary purpose of punishment is not to rehabilitative criminals, or to even deter those who are yet to commit a crime, but its fundamental aim is to strengthen the shared social sentiments (Garland, 1986). However, in contrast to Durkheim, Foucault viewed punishment without schools and prisons harsh and cruel instruments – which work the mind into conforming to social constraints. Alongside this, Foucault believed that introducing punishment within education would almost 'normalise' the pain behind punishment (Cladis, 2001). Durkheim and Foucault both saw punishment within education as the means to not only introduce, but to secure the authority of social norms. Yet, Foucault aimed to explore the effect of prisons unlike Durkheim, but both theorists believed that the main function of punishment, best described by Foucault, "was to assure that discipline reigns over society as a whole" (1979: 209). Furthermore, both Durkheim and Foucault stated

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that punishment within schools and prisons reflect a common environment in which society knows. Even if those who are not in the educational system reflect a common environment, they are still confronted with the same authority and social norms – passing on the knowledge and delivering the punishment that is taught. Durkheim stated that a shared environment for all is requirement for the continuation of a democratic society, with Foucault objecting, believing that progress should be understood as allowing the individual freedom, which employs the right of renewing the material structure of society (Collier, 2009). In short, the main difference between Durkheim and Foucault is that Durkheim investigates and urges normative social constraints, whereas Foucault investigates and finds them essentially problematic. It was for this reason that Foucault stated “the judges of normality are present everywhere. We are in the society of the teacher-judge; it is on them that the universal reign of the normative is based; and each individual, wherever he may find himself, subjects to it his body, his gestures, his behaviour, his aptitudes, his achievements” (1979: 304). As stated within the introduction, Durkheim kept to the idea throughout his work that discipline was the most important component of moral education, producing a ‘self-master’ in which, according to Durkheim, is the first step for power. For Foucault, all discipline and social initiations are problematic, as it implies that all social institutions care the most for not only oppression, but for power too.

In conclusion, within this essay are clear indications of many differences between both Durkheim and Foucault, with only a handful of similarities. As both have very different theories behind punishment, it was hard to extinguish an overall conclusion of how they compare, with the majority of the essay stating how they contrast. Both theorists involve the use of societies within their ideas of punishment, but Foucault looks at how the system of state control changes in how different societies punish their criminals, whereas Durkheim looks at how societies assign the power of punishment to the state for punishing criminals. Foucault ultimately suggests that within society, that it is the use and subjugation of power that may influence the institutions use of punishment, rejecting any notion that the development of said system had been motivation by humanitarian ideals. Adjacent to this, Durkheim looks at the morals, arguing that people are who they are due to their social experiences, stating that if the collective conscious is weakened by an abundance of criminal behaviour, the moral ties that may be holding societies together are also weakened. However, both Durkheim and Foucault did not see crime and punishment as deviating – rather having the power to construct a larger social order. Overall, the contrast between these theorists outweigh the similarities, making it near impossible to compare their ideologies on punishment.