



SURVEILLANCE, MEDIA AND THE “panOCTic” PRISONER: NATURAL JUSTICE AND THE PRIVATE LIVES OF TEACHERS

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CONNOTATIONS OF SURVEILLANCE

- Roots in criminal justice, but amplified as technology use spread
- Positive connotations – watched over for protection or safety
- Negative connotations – invasion of privacy, loss of individual liberty

PRIVACY AS A LUXURY COMMODITY?

- Prior conceptions of privacy were dichotomous:
 - Spatial (home/work)
 - Temporal (on the clock/off the clock)
 - Object-related (work computer, personal phone)
- “Context collapse” = blurring of dichotomies
- Giving up information in exchange for services normalized loss of privacy
- Difficulty in re-capturing privacy has led to its “luxury commodity” status (Papacharissi, 2010)

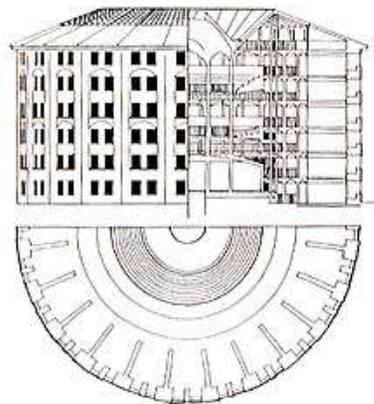
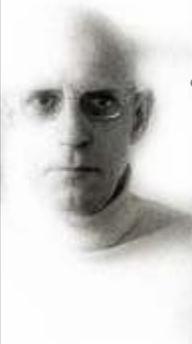
SURVEILLANCE & REGULATION

- In education, surveillance is intimately tied to regulation and certification
- Because teachers work with vulnerable populations, some degree of surveillance is necessary to protect students

PANOPTIC SURVEILLANCE

- Foucault (1979) adopted Bentham's panopticon as a metaphor for modern-day surveillance that:

- ensures compliance through fear
- disguises coercion by increased emphasis on personal responsibility



NATURAL JUSTICE

- Overall commitment to fairness where *audi alteram partem* (hearing rule) and *nemo iudex in parte sua* (bias rule) apply (Groves, 2013)
- Derived from Romans: some legal principles are "natural" (self-evident) and do not require statutory basis
- OCT's public flogging practices (including the "Blue Pages") seem to contravene *audi alteram partem* and *nemo iudex in parte sua*, both central to a naturally just procedure for dealing with complaints and hearings

EDUCATION ACT

Sec. 264(1)

Duties of a teacher include:

“

to inculcate by precept and example respect for religion and the principles of Judeo-Christian morality and the highest regard for truth, justice, loyalty, love of country, humanity, benevolence, sobriety, industry, frugality, purity, temperance, and all other virtues.

”

This section underscores an expectation of moral conduct beyond technical competence.

THE ONTARIO COLLEGE OF TEACHERS (OCT) ACT

1997

- OCT is the independent, arms-length regulator of the teaching profession
- Certifies and licenses members of the profession
- Discipline carried out by 37-member council based on complaints initiated by the public or the College

REGULATION 437/97 (OCT ACT)

- Objectionably vague – and as such, when applied, they result in penalties for OCT members that can be unfair – e.g., “Conduct unbecoming a member” (19.1) is frequently used as a rationale
- OCT maintains that teachers are held to a higher standard than other members of the public because of their profession
- Courts limit teachers’ equality rights claims through the application of the “pronouncement that teachers as a group cannot in any circumstances be compared to the public at large”

DIGITAL TECHNOLOGY & PRIVATE LIVES



- Young teachers “often have trouble understanding that freedom of expression does not trump professionalism. Many ‘think that they’re entitled to say what they want and do what they want online and haven’t really thought about the implications” (Bielski, 2011)

MORALITY MICROSCOPE?

- Caught between professional responsibilities during work time, and their rights as citizens to engage in perfectly legal behavior on their own time
 - Georgia teacher forced to resign due to Facebook vacation photos holding what appears to be beer because the photo “promoted alcohol use”
 - Pennsylvania teacher suspended over a bridal shower photo with a stripper on Facebook
 - 73-year-old Montreal teacher fired after discovery that she appeared nude in several films in Europe more than 40 years ago (before becoming a teacher)

PUBLIC FLOGGINGS

- OCT's "Blue Pages" (recently re-named "Governing Ourselves") includes very public accounts of disciplinary hearings
- *Contravene audi alteram partem* and *nemo iudex in parte sua*, both central to a naturally just procedure for dealing with complaints and hearings

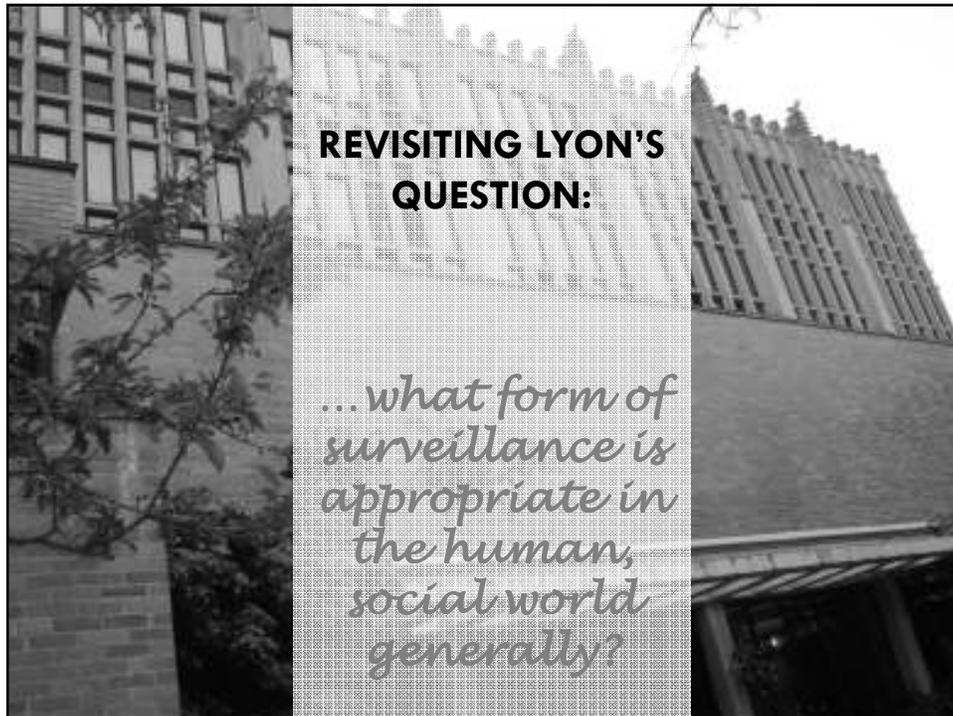


EFFECTS: REPUTATIONAL DAMAGE?

Case example: Practicum teacher



Is the teacher entitled to the "luxury" of privacy in his personal life?
How does the social construction of the teacher as always "on duty," and the inescapable eye of social media, affect rights to personal freedom?
What are the implications on a teacher's livelihood?



CONCLUSION

- Where ought we draw the line between professional surveillance and teachers' rights to private lives?
- Does natural justice provide a justification and criteria for revisiting current processes – with respect to regulatory criteria and procedural fairness?
- How can systems open dialogues to better support teachers and stakeholders that would better balance privacy, freedom of expression and discipline?

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