Introduction

Between 1560 and 1700, England became an increasingly carceral society. That is to say, a society in which the prison became a dominant tool of order, permeated by a disciplinary logic that began to shape social relations well beyond the prison walls. Imprisonment posed an ever-greater threat to men and women across the social spectrum thanks to the quickening activity of the criminal justice system, growing political and religious conflict and a precipitous rise in civil litigation. In particular, as economic disruption and market expansion led to rising social instability and financial failure, fear of the debtors' prison hung over quotidian social relations based on interpersonal credit. As a result, anxiety over financial ruin, public shame and loss of liberty overshadowed everyday life. Inside the prison, the effects of growing levels of incarceration were equally profound. Distinct carceral communities developed within increasingly overcrowded institutions, the product of tensions between profit-based governance, unpredictable state oversight and prisoners' attempts to survive.

This was the first age of large-scale imprisonment in English history. Between 1560 and 1650, central prisons experienced roughly a thirty-fold growth in debtor populations. By the end of the seventeenth century, per-capita imprisonment for debt was comparable to rates of criminal incarceration in England and Wales today.[1] Such a precipitous growth occurred in parallel to the better-studied rise of houses of correction. This book explores how the growing prominence of the prison reshaped social relations, experiences of the state, political conflict and pre-modern carceral ideologies. In an increasingly carceral society, the threat of imprisonment inflected social relations with a disciplinary tenor. The prison became central to notions of how to police those relations, giving rise to a new range of coercive, punitive and disciplinary carceral theories. Imprisonment for debt nominally coerced repayment of financial obligations but also broadcast

[1] See Chapter 1.

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information of credit failures and treated such failures as moral transgressions requiring punitive intervention. Given the ubiquity of credit, imprisonment (and the rapid downward mobility that could accompany it) was a threat experienced across the social spectrum. Yet it was also a threat that society largely took for granted. Common-sense assumptions about the necessity of prisons to maintaining social order emerged for the first time, a set of prevailing carceral ideologies that suffused English society and laid the foundation for modern carceral thinking.

Nonetheless, the rapid expansion of debt imprisonment and emergence of new carceral ideologies also provoked resistance. The growing social prominence of the prison both made it a potent symbol of tyranny and arbitrary rule and produced political agitation within prison communities. From this perspective, it becomes apparent that experiences of state institutions and the law – often predicated upon social conflict, economic uncertainty and personal crisis – could condition political resistance. Radical anti-carceral discourses developed in prison, especially among debtors, creating an effervescence of ideas that engaged with wider political conflicts over freedom and authority. During the English Revolution, traditions of prison politics and prisoner antagonism towards state and legal authority fed into revolutionary unrest, radical movements and arguments for legal reform. In this context, demands for liberty and freedom from unjust imprisonment did not simply proceed as logical conclusions of abstract forms of political thought. Rather, they were a set of political and constitutional arguments that both appealed to and developed from actual fears and experiences of imprisonment. In the process, prison activism influenced epochal debates over authority, tyranny and liberty.

The Origins of a Carceral Society

Early modern carceral dynamics remain underexplored thanks to the relative lack of attention to the history of imprisonment prior to the eighteenth century. This is partly thanks to the shadow cast by Michel Foucault, who conceived of the prison as a modern phenomenon that achieved disciplinary control through individuated knowledge and regulation of the body and behaviour, replacing a distinctly pre-modern spectacle of punishment.[2] Even among Foucault's critics, pre-modern prisons are often understood as primarily custodial spaces, intended to hold those

[2] Michel Foucault, *Discipline and Punish: The Birth of the Prison*, trans. Alan Sheridan (New York, 1995), 32–54, 104–31.

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accused of felony and awaiting trial alongside those convicted and awaiting capital punishment.[3] Likewise, imprisonment for debt has been taken as essentially custodial and coercive, designed to secure the body as collateral and extract payment.[4] In these tellings, the modern prison was a reaction *against* rather than a development *from* its disordered pre-modern custodial counterpart, which provided (David Rothman argues) 'a negative reference point, not a prototype'.[5]

By contrast, recent work has charted longer-term developments in carceral ideologies and practices. Some historians have identified a more gradual rise in punitive incarceration in England, noting a small but growing range of petty offences (often surrounding commerce, labour and religion) that attracted new prison sentences.[6] Furthermore, Margaret McGlynn has recently revealed a remarkable – if ill-fated – period of penal experimentation by early Tudor authorities, who adapted practices of sanctuary and benefit of the clergy to expand the use of criminal incarceration and confinement.[7] Others have emphasised the importance of houses of correction and workhouses to histories of imprisonment. From the middle of the sixteenth century, these novel carceral institutions enabled new modes of discipline and punishment focused on labour and the regimentation of behaviour that marked them out alternately as potential precursors to the modern prison system or as exemplars of early modern social policy and control.[8] In particular, Pieter

[3] John H. Langbein, 'The Historical Origins of the Sanction of Imprisonment for Serious Crime', *The Journal of Legal Studies*, 5 (1976), 35–60; Seán McConville, *A History of English Prison Administration*, Vol. 1, *1750–1877* (London, 1981), 2–3.

[4] Muldrew, *Obligation*, 5, 200–3, 273–4; Wakelam, *CD*, 10, 212–19; Innes, 'KB', 231–2; Paul H. Haagen, 'Eighteenth-Century English Society and the Debt Law', in *Social Control and the State: Historical and Comparative Essays*, ed. Stanley Cohen and Andrew Scull (Oxford, 1983), 227–31, 233–8; Margot C. Finn, *The Character of Credit: Personal Debt in English Culture, 1740–1914* (Cambridge, 2003), 124–8, 161–5. Cf. Paul, *Poverty*, 115–32, 191–4, 205–11; Bell, 'Charity'.

[5] David J. Rothman, *The Discovery of the Asylum: Social Order and Disorder in the New Republic* (Boston, MA, 1971), xxiv.

[6] K. J. Kesselring, *Mercy and Authority in the Tudor State* (Cambridge, 2003), 27–32; Margaret McGlynn, *The King's Felons: Church, State, and Criminal Confinement in Early Tudor England* (Oxford, 2023); J. M. Beattie, *Crime and the Courts in England, 1660–1800* (Oxford, 1986), 281–308; Pugh, *Imprisonment*, 15–16, 28–44; J. A. Sharpe, *Crime in Seventeenth-Century England: A County Study* (Cambridge, 1983), chapter 9; J. G. Bellamy, *Crime and Public Order in England in the Later Middle Ages* (London, 1973), 162–80.

[7] McGlynn, *King's Felons*. See also Shannon McSheffrey, *Seeking Sanctuary: Crime, Mercy, and Politics in English Courts, 1400–1550* (Oxford, 2017).

[8] Dario Melossi and Massimo Pavarini, *The Prison and the Factory: Origins of the Penitentiary System*, trans. Glynis Cousin (London, 1981), 2, 11–16, 33–62; Pieter Spierenburg, *The Prison Experience: Disciplinary Institutions and Their Inmates in Early Modern Europe* (Amsterdam, 2007); Pieter Spierenburg, 'The Sociogenesis of Confinement and Its Development in Early Modern Europe', in *The Emergence of Carceral Institutions: Prisons, Galleys and Lunatic Asylums 1550–1900*,

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Spierenburg argued that modern incarceration emerged from the European workhouse, part of a longer-term 'civilising process' that entailed a protracted period of penal experimentation tightly bound up in dynamics of state formation.[9] Likewise, recent scholarship (particularly in the Francophone context) has taken an increasingly expansive view of pre-modern 'confinement' that reintegrates criminal imprisonment within a wider array of carceral practices and institutions of detention, a trend that mirrors ongoing developments in criminology.[10]

Yet even these salutary advances have continued to sideline remarkable developments in the existing prison network, especially in the English context.[11] This is not to say that England's early modern prisons remain entirely neglected. Recent focus on early modern prison writing has provided rich insights into prisons as spaces of cultural production, objects of literary imagination and symbols of political struggle.[12] Elsewhere, historians and literary scholars have revealed prisons to be venues of religious persecution, communication and dispute, of scientific enquiry and of political and legal education.[13] Perhaps the most significant theme to emerge from this work is the extent to which the early modern prison was

ed. Pieter Spierenburg (Rotterdam, 1987), 9–77; Beattie, *Crime and the Courts*, 492–500, 548–60, 565–76, 601–10; J. A. Sharpe, *Crime in Early Modern England, 1550–1750* (London, 1998), 179–81; Georg Rusche and Otto Kirchheimer, *Punishment and Social Structure* (New Brunswick, NJ, 2003), 41–52, 63–8; Joanna Innes, 'Prisons for the Poor: English Bridewells, 1555-1800', in *Labour, Law and Crime: A Historical Perspective*, ed. Francis Snyder and Douglas Hay (London, 1987), 42–122; Paul Griffiths, *Information, Institutions, and Local Government in England, 1550–1700: Turning Inside* (Oxford, 2024), chapter 4.

[9] Spierenburg, *The Prison Experience*. On penal experimentation, see Joanna Innes and John Styles, 'The Crime Wave: Recent Writing on Crime and Criminal Justice in Eighteenth-Century England', in *Rethinking Social History: English Society 1570–1920 and Its Interpretation*, ed. A. Wilson (Manchester, 1993), 234.

[10] Sophie Abdela, 'Prisons on the Edge: Perspectives on the Late Medieval and Early Modern History of Confinement in the Francosphere', *The English Historical Review*, 139 (2024), 868–87; Spierenburg, 'Sociogenesis of Confinement'; McGlynn, *King's Felons*; Spencer J. Weinreich, 'Why Early Modern Mass Incarceration Matters: The Bamberg Malefizhaus, 1627–31', *Journal of Social History*, 56 (2023), 719–52; Ian O'Donnell and Eoin O'Sullivan, '"Coercive Confinement": An Idea Whose Time Has Come?', *Incarceration*, 1 (2022), 1–20.

[11] Though see Paul Griffiths' recent integrated account of Bridewells and common gaols, and Catherine Jenkinson's recent analysis of incarceration in the Tower of London: Griffiths, *Information, Institutions*, chapter 4; Catherine M. W. Jenkinson, 'Prisoners in the Tower of London, 1547–1625', DPhil thesis, University of Oxford (2023). For the foundational work on medieval imprisonment, see Pugh, *Imprisonment*.

[12] E.g., William H. Sherman and William J. Sheils (eds.), 'Prison Writings in Early Modern England', special issue, *HLQ*, 72 (2009); Ahnert, *Rise*; Amanda Bailey, *Of Bondage: Debt, Property, and Personhood in Early Modern England* (Philadelphia, PA, 2013).

[13] E.g. Lake with Questier, *ALH*, chapter 6; Ahnert, *Rise*; Deborah E. Harkness, *The Jewel House: Elizabethan London and the Scientific Revolution* (New Haven, CT, 2007), chapter 5; William H. Sherman, 'Patents and Prisons: Simon Sturtevant and the Death of the Renaissance Inventor', *HLQ*, 72 (2009), 239–56; D. Alan Orr, 'Law, Liberty and the English Civil War: John Lilburne's

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'permeable to the world outside' (to borrow Molly Murray's phrase) and thus deeply integrated in, rather than separated from, its cultural, social, political, intellectual and religious contexts.[14] However, although we have rich accounts of certain kinds of activities and experiences within prisons, we still lack a comprehensive study of the early modern prison.

All of this activity took place against an underappreciated backdrop of unprecedented levels of incarceration in England's prisons, particularly for debt. Imprisonment for debt has received important treatment in its eighteenth-century age of maturity.[15] However, we know less about this earlier period of rapid expansion and eventual consolidation, characterised by new levels of systematic medium- to long-term imprisonment via the courts.[16] This is significant on two fronts: first, because it omits a key early phase in the expansion and development of carceral ideas and practices; and second, because it obscures the increasingly important role that the prison played in early modern English society and politics. If we are to take seriously claims that penal and carceral practices reflect or 'correspond' to their social and economic contexts, it surely bears considering an early stage in the history of imprisonment in which one of its chief uses – especially for medium- and long-term stays – was directly in defence of the social and economic order.[17] The prison became central to contemporaries' notions of how social relations defined by interpersonal credit and trust should be policed. This was a peculiarly early modern story, in which medieval laws and institutions struggled to cope with the effects of sixteenth- and seventeenth-century economic expansion. Out of this came rapid prison expansion that – alongside better-known experimentations with houses of correction – generated novel carceral ideologies

Prison Experience, the Levellers and Freedom', in *The Experience of Revolution in Stuart Britain and Ireland*, ed. Michael J. Braddick and David L. Smith (Cambridge, 2011), 154–71.

[14] Molly Murray, 'Measured Sentences: Forming Literature in the Early Modern Prison', *HLQ*, 72 (2009), 147–67, at 152. More recent work has questioned the 'total' nature of modern prisons: Rachel Ellis, 'Prisons as Porous Institutions', *Theory and Society*, 50 (2021), 175–99; Reiko Hillyer, *A Wall Is Just a Wall: The Permeability of the Prison in the Twentieth-Century United States* (Durham, NC, 2024).

[15] Paul, *Poverty*; Wakelam, *CD*; Finn, *Character of Credit*, part 2; Innes, 'KB'; Haagen, 'Society and the Debt Law', 222–47; Haagen, 'Imprisonment'.

[16] Though for literary approaches and petitioning, see John Philip Reisbord, 'Petitions to Conscience: Imprisonment for Debt and the Pursuit of Justice in Early Modern England, 1560–1625', PhD thesis, Northwestern University (1997); Raymond A. Anselment, 'The Confinement: The Plight of the Imprisoned English Debtor in the Seventeenth Century', *Restoration: Studies in English Literary Culture, 1660–1700*, 15 (1991), 1–16; Bailey, *Of Bondage*; Jean E. Howard, *Theater of a City: The Places of London Comedy, 1598–1642* (Philadelphia, PA, 2007), 68–113.

[17] Rusche and Kirchheimer, *Punishment*, 5–6; Foucault, *Discipline and Punish*; Ruth Wilson Gilmore, *Golden Gulag: Prisons, Surplus, Crisis, and Opposition in Globalizing California* (Berkeley, CA, 2007).

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and solidified new logics of imprisonment as a vital tool of social order.[18] While the modern reformation of the prison into the principal mode of criminal punishment marked a radical break from the past (and the birth of modern penology), it was anticipated and shaped by early modern developments in carceral ideology.

This is not to deny the dramatic shift in nineteenth-century penal and carceral practice. Yet it did not explode out of nowhere.[19] In the English context, it was foreshadowed by three centuries of carceral experimentation. The debtors' prison, like the house of correction, was a laboratory of carceral ideas and practices. And although many of these practices were ultimately rejected during the subsequent reform of the prison into the principal tool of criminal punishment, this was nonetheless the space in which English society learned to think with incarceration as a potential solution to social problems, developing new carceral ideologies (including of retribution, incapacitation, deterrence and rehabilitation) that would define its modern history.[20] Thus, this book sheds new light on the early history of English imprisonment and practices of incarceration that remain fundamental – yet controversial – in contemporary society.

Significantly, this perspective reveals the explicitly economic concerns that underpinned new carceral ideologies. Early modern carceral experimentation was defined as much by attempts to police economic relations as to discipline social deviance or criminality. As both Bernard Harcourt and Miranda Joseph suggest, the emergence of liberal modernity entailed the nominal separation of an 'economic' and a 'penal sphere', or the elaboration of newly distinct (if interrelated) regimes of 'financial' and 'juridical accounting'.[21] By contrast, early modern endeavours to discipline deviance took place in a less clearly differentiated sphere of economic and penal enforcement.[22] In Harcourt's telling, the state first developed modern forms of measured and proportional discipline in the market.[23] From this perspective, the absence of debt imprisonment from our carceral genealogies is all the more glaring.[24] If state

[18] On eighteenth-century elaborations of punitive debt imprisonment, see Paul, *Poverty*, 115–32, 191–4, 205–11.

[19] Spierenburg, *Prison Experience*; Spierenburg, 'Sociogenesis of Confinement'.

[20] On these rationales for incarceration, see Gilmore, *Golden Gulag*, 13–14.

[21] Bernard Harcourt, *The Illusion of Free Markets: Punishment and the Myth of Natural Order* (Cambridge, MA, 2011), 19–21, 31–6; Miranda Joseph, *Debt to Society: Accounting for Life Under Capitalism* (Minneapolis, MN, 2014) xii, 44–8.

[22] Here, the emergent role of the house of correction in disciplining both poverty and petty crime is instructive: Innes, 'Prisons for the Poor'; Kiran Mehta, *To Detain or to Punish: Magistrates and the Making of the London Prison System, 1750–1840* (Montreal and Kingston, 2025).

[23] Harcourt, *Illusion*, 19–21, 31–4.

[24] On this point, see Paul, *Poverty*, 33.

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violence was integral to the displacement of interpersonal relations into the mathematical accounting of debt, then imprisonment for debt surely played a pivotal role.[25] Debt incarceration was inimical to certain social relations – tearing people, as it did, from their families, communities, trades and networks of support – but also expressive of other relations defined by failed credit.[26] In turn, it contributed to the gradual development of new forms of social relation based on discipline, subjugation and dispossession, part of the early stage of capital accumulation. To be sure, this was not a direct process. The ubiquity and complexity of credit networks did not pit a defined class of extractive creditors against one of dispossessed debtors. Given the serial nature of credit and debt, most (if not all) incarcerated debtors were themselves creditors. Nonetheless, imprisonment for debt was central to a legal framework that protected certain interests (those of emergent capital reliant on ready extension of credit and of established landed wealth shielded from forcible dispossession) within increasingly contentious economic arrangements. By contrast, those reliant on their own labour to subsist felt its effects most harshly. Debt incarceration was experienced unequally across society, playing into processes of social stratification, downward mobility and dispossession.[27] It was in this context that English society came to reckon with the punitive potential of the prison as part of economic disciplinary processes. This study thus traces the pre-history of the modern prison, the origins of carceral ideas and their grounding in economic relations.

Credit, Debt and Carceral Ideology

The early modern prominence of the debtors' prison was a product of dramatic economic change. Interrelated forces of population growth, rapid inflation and the intensification of production between roughly 1530 and 1640 led to the increasing commercialisation and expansion of the domestic economy. The rise of mercantile capitalism was likewise bolstered by increased overseas trade, driven by the expansion of England's nascent empire and the growth of trading companies. The result was new socioeconomic dynamism and opportunity, but also increasingly stark social and economic stratification and polarisation. For many previously self-sufficient farmers and artisans, experiences of insecurity, shrinking

[25] David Graeber, *Debt: The First 5000 Years* (New York, 2011), 14–15, 18–19, 332–5.
[26] On debt's destruction/production of social relations, see Graeber, *Debt*, 152, 158–62, 165, 332–5; Johnson, *Debt to Society*, 9–25. Also, Muldrew, *Obligation*, 5–8.
[27] Muldrew, *Obligation*, 95–8 and chapter 9; Paul, *Poverty*, 7–14 and part 1. See Chapter 2.

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fortunes and even downward mobility became the norm. Growing numbers became dependent on wage labour, while wages lagged behind inflation. Meanwhile larger yeomen consolidated ever-larger landholdings and artisans and manufacturers who were well-positioned to meet growing demand for goods accumulated increasing wealth.[28]

As Craig Muldrew has shown, this overall growth of wealth was predicated on debt. The rate of economic expansion coupled with a shortage of currency meant that transactions relied on growing levels of credit extended across much larger networks and geographic space. Most households were deeply 'enmeshed' in such networks. Yet in this context, a single failure could precipitate a potentially devastating and widespread cascade of financial suffering. Risk, uncertainty and economic anxiety became commonplace. Poor harvests, fire, ships lost at sea, fluctuations in supply and demand, war, the death of a family member, among many other potential misfortunes, could cause financial failure that had knock-on effects through large, intertwined networks of credit.[29] As Muldrew, Alexandra Shepard and Tawny Paul have all demonstrated, the instability and complexity of these networks meant that there was a lot at stake in defending individual credibility, as well as a more general interest among the middling sort in maintaining systems of social judgement. Ongoing assessments of trustworthiness and reputation were vital to stabilising these increasingly complex credit networks, and debt was understood and policed as an ethical issue of personal morality.[30]

In this context, imprisonment became a vital line of defence against failures of credit.[31] Building upon path-breaking work on expanding civil litigation and the centrality of credit and debt to early modern social relations, this study explores the role of imprisonment within a system of credit that was constituted and policed socially and culturally, as well as

[28] Keith Wrightson, *Earthly Necessities: Economic Lives in Early Modern Britain* (New Haven, CT, 2000), 22–5, 115–41, 145–9, 153–81, 190–4; Muldrew, *Obligation*, 15–22, 37–51; Alexandra Shepard, *Accounting for Oneself: Worth, Status, and the Social Order in Early Modern England* (Oxford, 2015), 68–81; R. B. Outhwaite, *Inflation in Tudor and Early Stuart England* (London, 1969), 9–14; R. H. Tawney, *The Agrarian Problem in the Sixteenth Century* (London, 1912), 177–230; Ralph Davis, *English Overseas Trade, 1500–1700* (London, 1973), 7–49; Robert Brenner, *Merchants and Revolution: Commercial Change, Political Conflict, and London's Overseas Traders, 1550–1653* (London, 2003), 3–50, 92–182.

[29] Muldrew, *Obligation*, 2–5, 15–22, 31–2, 37–51, 64–5, 91–8, 117–19, 271–303; Paul, *Poverty*, part 2.

[30] Muldrew, *Obligation*, 151, 299–303; Alexandra Shepard, 'Manhood, Credit and Patriarchy in Early Modern England c.1580–1640', *P&P*, 167 (2000), 75–106, at 101; Shepard, *Accounting*, 116–18, 136–44; Paul, *Poverty*, 7–8, 95–7, 125–32.

[31] Muldrew, *Obligation*, 275–6, 291–8; Paul, *Poverty*, chapter 1; Carl Wennerlind, *Casualties of Credit: The English Financial Revolution, 1620–1720* (Cambridge, MA, 2011), 2, 19–20.

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legally. The precipitous growth in prison populations mirrored – even outstripped – the well-documented rise in litigation, c. 1560–1640, and continued even as litigation dwindled in the later seventeenth century.[32] Imprisonment was an extreme outcome of credit failure, but one that was increasingly common. By the mid seventeenth century, most people probably knew someone who had seen the inside of a debtors' prison.[33] And while many would get out in just a few days, increasing numbers were spending months, years and even decades in prison for debt.

Creditors possessed remarkable legal powers over debtors' bodies, able to imprison them upon mere accusation of an unpaid debt. Once the debt was proved in court, incarceration could be indefinite until the debtor repaid it or reached another agreement with their creditors. This legal power was vital to credit networks because a debtor's borrowing regularly outstripped the value of goods that creditors could legally seize through distraint. This was partly because many households borrowed amounts in excess of their material worth, but also because distraint was strictly limited to moveable goods, protecting land and other forms of wealth.[34] Imprisonment thus offered an additional level of security, allowing creditors to seize the debtor's body, ostensibly coercing them either to liquidate assets not liable to distraint or to call on favours from social networks to repay their debt and regain their liberty. This arrangement greased the wheels of trade (and thus served the interests of the emergent middling sort at large) whilst also safeguarding landed estates (which were central to the status, wealth and heritability of aristocratic lordship) from forcible dissolution. Yet in many individual cases, the prison not only failed to coerce the repayment of debts, but might actively militate against such an outcome. Displaced from their vocations and social networks and now forced to pay a raft of prison fees, many imprisoned debtors who did not quickly secure their release only fell further into debt. Litigation – and the powerful coercive mechanisms that it made available – might have been among the more socially accessible 'resources' of state power that people from across the social spectrum could draw upon in managing conflicts.[35] And

[32] C. W. Brooks, *Pettyfoggers and Vipers of the Commonwealth: The 'Lower Branch' of the Legal Profession in Early Modern England* (Cambridge, 1986), 11, 50–4, 69, 101; C. W. Brooks, 'Litigation, Participation, and Agency in Seventeenth- and Eighteenth-Century England', in *The British and Their Laws in the Eighteenth Century*, ed. David Lemmings (Woodbridge, 2005), 155–7; Muldrew, *Obligation*, 234–41.

[33] See Chapter 1 and Muldrew, *Obligation*, 231–2; Paul, *Poverty*, 44–9.

[34] Muldrew, *Obligation*, 22–3, 117–18, 157, 209–10; Shepard, *Accounting*, chapter 2; Paul, *Poverty*, 9–10, 20–1, 34–40, 68–76.

[35] Braddick, *State Formation*, 90–3, 161–6, 174.

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yet, imprisonment for debt offered one such mechanism that tended to serve particular social interests, just not always those of the people who invoked legal power in pursuit of their conflicts. To be sure, the state did not want debtors in prison; creditors did. But one question this book asks is why creditors wanted that, especially when it could act against their own financial interests. As the contemporary idiom went, 'prisons pay no Debts'.[36]

Understanding why people imprisoned one another for debt on such a large scale – even when it could act against their own economic interests – requires attention to a range of other emergent carceral functions and the ideologies of confinement that they cultivated. Within a fraught system of interpersonal credit relations based on personal reputation and moral judgement, imprisonment became a crucial instrument for broadcasting failures of obligation.[37] It publicised financial failure as well as social and legal judgement, seizing upon bodies as symbols of reputation and estate. Beyond their coercive power to extract some debt repayments, prisons helped to maintain economic order by producing and diffusing shared information regarding broken debtors and their financial transgressions within a community of credit. They also acted as instruments of shame and punishment, even vengeance, within these morally fraught networks of interpersonal relationships. Incarceration both warned of serious credit failures and disciplined supposedly untrustworthy economic actors, serving as a punishment for and deterrent against non-payment of debts.

These coercive, knowledge-making, punitive and disciplinary functions coalesced into an early modern carceral logic, a growing set of assumptions about the necessity of incarceration in policing credit relations and maintaining social stability. Such common-sense assumptions help explain why creditors resorted to imprisonment even against their own financial interest, and why early modern society became so invested in stabilising a fragile carceral system that often failed in its nominal purpose. Failures of credit were moral failures, and so required disciplinary applications of power. This led to attempts to distinguish between varying levels of honesty and dishonesty among incarcerated debtors, who could be punished, relieved or reformed as appropriate. While all failures of credit were in some sense ethical failures, contemporaries

[36] Johnson, *Ludgate*, sig.[A4r]; *Imprisoning of Mens Bodies* (1622), 9; *Imprisonment of Mens Bodyes* (1641), 6; James Freize, *A Moderate Inspection into the Corruption of the Pratique Part of the Common Law of England* ([1656]), 5.

[37] Muldrew, *Obligation*, 275–6, 291–8; Paul, *Poverty*, 9–10, 21–2, 99–100.

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recognised that an unpaid debt had multiple potential moral meanings. They attempted to distinguish between the honest victims of misfortune from the fraudulent profligate who sheltered in prison. Such distinctions could prove useful to prisoners, who attempted to distinguish their own honesty from their fraudulent counterparts. But this rhetoric was also a disciplinary tool, distinguishing prisoners considered capable of moral rehabilitation from those feared irredeemable.[38]

In practice, honesty and dishonesty were matters of perspective, and making such distinctions proved impractical. Nonetheless, these cultural prejudices paralleled real distinctions between prisoners' material circumstances, namely between those reliant on their labour or trade to subsist (who thus faced rapid downward mobility in prison) and those whose profits from capital or land could subsidise relative comfort in prison (and who faced different pressures not to dissolve those non-distrainable estates). Insofar as it served to protect certain forms of economic interest (generational landed wealth and emergent capital accumulation), it produced very different effects and imperatives dependent on class position. Furthermore, distinctions of honesty and dishonesty (whatever their material basis) also underwrote attempts to devise new forms of mediation, relief and discipline in response to prison overcrowding. Faced with a growing population of perpetually imprisoned debtors, these efforts aimed to relieve those who *could not* pay their debts while exerting greater force against those who *would not*. These interventions culminated in periodic Relief Acts, which stabilised the debtors' prison by releasing a large number of poor prisoners. Yet they also revealed its structural weaknesses, not least the tendency of debt imprisonment to exacerbate financial failure, leading to growing populations of imprisoned debtors whose only chance at freedom was state intervention. If this system was in any sense functional by the eighteenth century, that was the product of political will as much as institutional capability.[39]

Social Change, State Formation and Political Conflict

Studies of the modern carceral state have demonstrated how rapid prison expansions produce not only political resistance, but also 'unexpected spaces' where wider activist 'agendas align'.[40] This was no less true in

[38] Bell, 'Charity', 24–31; Paul, *Poverty*, 125–32.
[39] For an argument in favour of their functionality, see Wakelam, *CD*, 10, 212–19. Cf. Innes, 'KB', 232; Paul, *Poverty*, 19–20, 25.
[40] Gilmore, *Golden Gulag*, 7, 11–12.

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early modern England. As prison populations swelled with debtors due to dramatic economic shifts and growing strain on credit relations, prisons became hubs of social and political activity. Reacting against the perceived injustices of the legal and prison system, some prisoners eventually demanded the abolition of debt incarceration altogether. As E. P. Thompson put it, 'people are imprisoned: in prison they meditate in new ways about the law'.[41] This activity became particularly significant (not to mention controversial) during the English Revolution, not least because incarceration became equated with royal absolutism. Indeed, the expansion of civil incarceration had major implications for prisons as political institutions. The range of purposes, actors and jurisdictions prisons served helped to define early modern carceral practices. The imprisonment of debtors, recusants, separatists, political radicals and suspected criminals alongside one another (for different reasons, by different powers and processes) was productive of new forms of thinking about the prison. In some cases, this was negative: debtors and political prisoners alike complained of perceived social contagion and physical threat from criminals and the idle poor. Yet in others, it was more productive. Thanks to their social diversity (including a high proportion of professionals and the middling sorts) and more stable populations (due to their indefinite incarceration), debtors were particularly able both to express their grievances in writing and to develop alliances with political and religious prisoners based on a shared class position and a common political language. Ultimately, this helped to foster an abolitionist prison activism that intervened into the radical politics of civil war.

Arguments against imprisonment for debt were first developed within prison societies, but in the mid seventeenth century they entered broader debates over authority and tyranny, intersecting with radical agitation taking place in London. Examining these activist dynamics, this book offers new explanations for how rapid socioeconomic change and processes of state formation interacted with political breakdown, civil war and the development of new and often radical forms of political thought. It endeavours to draw together strands of social, political and intellectual history that remain only partially reintegrated since the revisionism of the 1980s.[42] This study thus contributes to a developing literature that attempts to understand better the relationship

[41] E. P. Thompson, *The Poverty of Theory* (London, 1995), 10.
[42] See John Walter, 'Kissing Cousins? Social History/Political History before and after the Revisionist Moment', *HLQ*, 78 (2016), 703–22.

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between social change, ideological conflict and revolutionary political practice.[43]

To do so, it builds upon seminal work on early modern state formation. As this historiography demonstrates, early modern governance both relied on the participation of local elites and middling sorts and encouraged popular engagement with law courts to manage interpersonal disputes.[44] Of course, this historiography does not view increased litigation as an unalloyed good. Nonetheless, by turning to the law to resolve conflict, early modern men and women reinforced and legitimised the formative English state, which offered legal tools for use in their own lives.[45] Yet emphasis on participation, negotiation and conflict resolution tends to paint these structures as broadly socially legitimated and cohesive, offering less explanation for how they might perpetuate interpersonal antagonisms, social tensions and even political resistance.[46] By comparison, this book emphasises how experiences of state institutions and the law were often predicated upon (and could exacerbate) personal conflict and crisis caused by social and economic upheavals, which could in turn inform political resistance.

[43] For example, John Walter, *Understanding Popular Violence in the English Revolution: The Colchester Plunderers* (Cambridge, 1999); Andy Wood, *The Politics of Social Conflict: The Peak Country, 1520–1770* (Cambridge, 1999), chapter 12; Como, *RP*, 14–20; Jason Peacey, *Print and Public Politics in the English Revolution* (Cambridge, 2013); Peacey, *The Madman and the Churchrobber*; Phil Withington, *The Politics of Commonwealth: Citizens and Freemen in Early Modern England* (Cambridge, 2005), chapter 8; Noah Millstone, *Manuscript Circulation and the Invention of Politics in Early Stuart England* (Cambridge, 2016), chapter 1.

[44] Braddick, *State Formation*; Steve Hindle, *The State and Social Change in Early Modern England* (Basingstoke, 2000); Michael J. Braddick and John Walter, 'Introduction', in *Negotiating Power in Early Modern Society: Order, Hierarchy and Subordination in Britain and Ireland*, ed. Michael J. Braddick and John Walter (Cambridge, 2001), 1–42; Keith Wrightson, 'Two Concepts of Order: Justices, Constables and Jurymen in Seventeenth-Century England', in *An Ungovernable People: The English and Their Law in the Seventeenth and Eighteenth Centuries*, ed. John Brewer and John Styles (New Brunswick, NJ, 1980), 21–46; Mark Goldie, 'The Unacknowledged Republic: Officeholding in Early Modern England', in *The Politics of the Excluded, c.1500–1850*, ed. Tim Haris (Basingstoke, 2001), 153–94.

[45] Hindle, *State and Social Change*, 13–16, 30, 34–5, 83–93, 114–15; Braddick, *State Formation*, 25–7, 36, 39, 155–7, 162–5; Brooks, *LPS*; Cynthia B. Herrup, *The Common Peace: Participation and the Criminal Law in Seventeenth-Century England* (Cambridge, 1987). Cf. E. P. Thompson, *Whigs and Hunters: The Origin of the Black Act* (London, 1975), 258–69.

[46] For other critical perspectives, see Kesselring, *Mercy and Authority*, 6–21, 204–7; Andy Wood, 'The Deep Roots of Albion's Fatal Tree: The Tudor State and the Monopoly of Violence', *History*, 99 (2014), 403–17; Hillary Taylor, *Language and Social Relations in Early Modern England* (Oxford, 2024); Laura Flannigan, *Royal Justice and the Making of the Tudor Commonwealth, 1485–1547* (Cambridge, 2023), 10–16; Paul, *Poverty*, 10, 21, 39; Peacey, *The Madman and the Churchrobber*; Jonah Miller, 'The Touch of the State: Stop and Search in England, c.1660–1750', *History Workshop Journal*, 87 (2019), 52–71.

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As Ruth Wilson Gilmore points out, the state looks different when viewed from the prison.[47] From this position, the participatory and mediating nature of decentralised early modern governance becomes more ambiguous. If engagement with the law was part of a broader participatory state apparatus, it nonetheless pitted parties against one another and – as both Michael Braddick and Steve Hindle recognise – had casualties.[48] Yet less has been said about the perspective of those whose engagement with the state and legal system was not a result of their own recourse to law. In contrast to officeholders and plaintiffs, the objects of state authority and defendants at law often found their agency and discretion more circumscribed. This was especially true for prisoners, many of whom were the victims of participation, entrapped in archetypal institutions of state power as part of their (often involuntary) engagement with law courts. From this perspective, recourse to the law had not resolved conflict so much as prolonged and potentially escalated it. At least as far as the legal system is concerned, the participatory state metastasised through social strife, a process that accelerated in times of economic dynamism that many experienced as instability. It mattered on what terms an individual engaged with the early modern state. Even seemingly participatory systems of self-governance that developed within prisons felt to many like processes of self-incarceration.

Viewed from the prison, the capacity of the officeholding state to mediate conflict – and, in the process, to legitimate political authority – appears less certain.[49] If experiences of the legal system marked an unfortunate initial encounter with the state, prolonged exposure to its representatives in the form of gaolers was rarely an improvement. Unsurprisingly, stark inequalities of power defined prisons. Gaolers wielded decentralised state power on behalf of social and economic order while receiving a living through fees levied against those already suffering financial ruin. Rather than vectors of negotiation between the state and its subjects, prisoners perceived gaolers as corrupt state agents and, increasingly, as extensions of arbitrary or authoritarian rule. For their part, gaolers balanced their own economic and institutional concerns with the competing interests of creditors, debtors and the state. From either perspective, this was not

[47] Ruth Wilson Gilmore, *Abolition Geographies: Essays Towards Liberation* (London, 2022), 260–1.
[48] Braddick, *State Formation*, 163–5; Hindle, *State and Social Change*, 83–7, 93, 114–15.
[49] For recent reappraisals of officeholding, see Knights, *Trust*; Jonah Miller, *Gender and Policing in Early Modern England* (Cambridge, 2023); Jason Peacey, 'Radical Thought and Political Practice: Officeholding and Accountability in Seventeenth-Century Britain', *Journal of Social History*, 58 (2024), 100–23.

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a straightforward process of negotiation and the legitimation of state authority. Claims to legal empowerment and of acting on behalf of monarchical power and justice were central to the legitimation of office-holders' authority. Yet the law, put into practice by these officers, was also constitutive of the state and 'overarching' political legitimacy. The provision of justice – for which the monarch was ultimately responsible – 'legitimated, rather than served, the state'.[50] This has important implications for our understanding of participation in the state as a metric for and generator of legitimacy, showing how more ambivalent experiences of state institutions and officers could undermine their legitimacy, and in turn that of governance more generally. Grievances against officers and the law could redound upon the legitimacy of political authority at large. As far as prisoners were concerned, the tyranny of the gaoler both reflected and bolstered the authoritarian power of government and executive, while corruption riddled the early modern state at every level. As one 1648 pamphlet put it, 'the oppressions and abusage of Gaols and Gaolers' were 'the very Summary, yea the only Fortress and Bulwark of all the common grievances in the Kingdom'.[51]

It was these experiences that gave rise to an abolitionist prison activism during the 1620s, which in turn provided the ideological and organisational basis for new connections with the radical politics of the 1640s and 1650s. The prison thus provides a microcosm in which the mounting tensions of economic uncertainty, dislocation and legal conflict were experienced particularly acutely, and thus one through which the political ramifications of these pressures can be well observed. To this end, the present study takes one outcome of the concurrent expansion of early modern markets, increasing wealth inequality and growing popular entanglement with state institutions and representatives – that is, the rise of imprisonment for debt – and explores its relationship with wider political events and ideas. A focus on the prison demonstrates how negative experiences of socioeconomic change and consequent engagement with the state could create a predisposition towards, and even the ideological substance of, political resistance.

Yet the prison was not just a microcosm of wider tensions within society, but also a significant pressure point that became increasingly fundamental to radical political opposition during the 1640s and 1650s. As prisoners questioned prevailing ideological assumptions about the social necessity of prisons, so they developed modes of resistance and critiques of state and

[50] Braddick, *State Formation*, 25, 27, 36, 39. [51] *A Brief Dolorous Remonstrance* (1648).

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legal power also suited to political confrontation. They engaged in debates over the nature of authority, tyranny and liberty as matters of everyday social justice rather than abstract political thought. Increasingly, they did so alongside a range of political and religious prisoners critical of their governors and the law. This both informed a wave of political activism in England's prisons and influenced the wider development of radical political ideas during the English Revolution. By drawing together the bifurcated historiographies of early modern society, law, politics and radical thought, this book thus argues for the social significance of political ideas and antagonisms that defined the early modern period.

Sources and Structure

Among the principal challenges facing historians of early modern imprisonment is the dearth of surviving formal prison records prior to the eighteenth century. Due to the decentralised administration of prisons, records were kept internally, or even among the incumbent gaolers' personal papers, and passed unreliably between successive officers. As a result, no formal sixteenth- or seventeenth-century prison archives survive. Instead, we must rely on piecemeal preservation of prison records, often collected during the activities of other institutions. Notably, in the process of investigating fee-taking officeholders across England and Wales during the 1620s and 1630s, the Commissions on Fees gathered and preserved extensive prison records. The Commissions were part of wider (if unresolved) attempts at reform, springing from debates over corruption and abuse during the 1620s.[52] Tasked with determining what fees officers had historically charged, the commissions demanded copies of records from prison keepers (alongside dozens of other offices). Simultaneously, they solicited testimony and petitions from former and current prisoners, who took the opportunity to complain about issues not limited to fees. The result is an archive that combines prison records (including tables of fees, prison orders and account books) with rich firsthand accounts of prison life.

By reading this unique collection alongside a range of state, legal, parliamentary, civic and personal records, as well as print and material culture, this book reconstructs institutions that left no systematic archive

[52] TNA, E215; G. E. Aylmer, 'Charles I's Commission on Fees, 1627–40', *Historical Research*, 31 (1958), 58–67; G. E. Aylmer, *The King's Servants: The Civil Service of Charles I, 1625–1642* (London, 1974), 62–3, 160–1, 174–82, 185–95. See Chapter 1.

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to uncover a formative period in English carceral history. City of London records, especially the Court of Aldermen repertories, provide a long-term overview of the management of city gaols. And although archival survival is typically better for London's institutions, I have supplemented this research with insights into local prisons based on personal documents and correspondence, petitions, print sources and quarter sessions records. All of this suggests that, while City of London prisons were unique for their size, they were typical of the role that municipal or county gaols played in local society and credit networks. Furthermore, although based in London, the capital's largest prisons were national institutions, drawing in prisoners from across England and Wales via central courts. These prisons loomed over credit networks spread across the country, disciplining social relations far beyond the capital.

Drawing on this range of evidence, the first part of this book examines the effects of carceral growth both within and beyond the prison walls. Prisons were emblematic of early modern state formation, expanding in tandem with the growing impingement of state officers and the legal system on everyday life. Chapter 1 focuses on the institutional development of prisons, the officers who ran them and their place within the officeholding state. It surveys the variety of prisons in England, the product of gradual and uneven development that gave rise to institutions that operated within a series of overlapping jurisdictions and that struggled with a rapidly expanding carceral population. This decentralised carceral infrastructure – so typical of the early modern state – also posed challenges for prison governance and regulation, opening the system to claims of corruption and profiteering. Thus, this chapter explores the place of the gaoler within the wider dynamics of early modern officeholding authority and the disciplinary maintenance of economic and social stability.

Indeed, debtors' prisons played a vital – albeit seemingly paradoxical – role in early modern society. In many cases, those incarcerated could not or would not pay their debts. Instead, they languished in prison and racked up new debts to their gaolers. Chapter 2 addresses this seemingly self-contradictory system by showing that, even when it prevented the repayment of debts, imprisonment helped to protect wider social and economic interests. It analyses the social, economic, legal and ideological shifts that underwrote this convoluted system, excavating emergent carceral ideologies. In turn, it considers the array of measures taken to alleviate the pressure that growing numbers of insolvent debtors placed on England's prisons, mitigating the worst effects of the structural weakness of debt incarceration. These attempts to relieve an overburdened system – which

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ultimately stabilised the debtors' prison into the eighteenth century – were essential because the prison had developed disciplinary purposes that proved vital to early modern social relations, even when its coercive functions failed.

For those who ended up incarcerated, prison life was defined by inequality and social stratification. Imprisonment was an uncomfortable and costly ordeal for most, but one in which wealth could mitigate the harshest conditions. Chapter 3 turns to these day-to-day experiences of incarceration, exploring living conditions and social structures in prison (including the physical division of master's and common sides along lines of wealth and status), as well as the place of commerce and trade in prison life. It reveals the crowded and unsanitary conditions in which prisoners lived, not to mention the high costs of doing so. This chapter also considers how prisoners prosecuted their grievances, including strategies of petitioning and their relationship to rioting. Significantly, prisoners regularly appealed to local custom. In doing so, they made arguments that could win concessions but that also risked shoring up dominant carceral ideologies by conflating their interests with those of state authority, defending institutional integrity against supposedly corrupt gaolers.

Remarkable forms of self-governance and collective identity developed within these carceral communities, another means of dealing with the deprivations of captivity. They encouraged solidarity and mutual support, especially among poorer prisoners. And yet, ironically, they could enable greater social control within the prison. Chapter 4 analyses the corporations – headed by elected or customarily selected stewards – through which prisoners managed life inside. They provided the foundations for practical and symbolic collective identities that prisoners also communicated to the wider world. Based around the administration of charity, this culture of self-governance gave rise to customs and practices by which prisoners collectively negotiated their time in prison. Yet although potentially empowering, the formal extension of officeholding to prisoners also represented the wider diffusion of early modern state power into prison populations and an attempt to exert greater social control over them. Indeed, this chapter challenges our view of early modern self-government – often understood as a mechanism of local autonomy and negotiation with higher powers – by discussing an extreme example in which participants could be actively involved in constricting their own liberty.

The second part of this book explores the political ramifications of prison expansion. By the early seventeenth century, England's prisons

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were reaching breaking point. Prison unrest and rioting became increasingly common as prisoners agitated against reportedly parlous conditions, extortionate fees and abusive treatment. In the process, they formulated more general critiques of the prison system. Chapter 5 explores in detail an interrelated set of disturbances within London's Fleet and King's Bench prisons between 1618 and 1621. This period of collective violence and the petitioning that followed precipitated political and rhetorical shifts in prisoners' arguments, from opposing corruption within prisons (based on local custom) to new calls for the abolition of imprisonment for debt (based on the ancient constitution). By this means, prisoners developed a diagnosis of their condition alongside a set of remedies that challenged prevailing carceral ideologies rather than reinforcing them. Thus, this chapter suggests that while political languages based on the past could help negotiate the terms of subordination, they could also directly challenge assumptions about social order.

As imprisonment proliferated in cases of debt, its prominence also grew as an instrument of political and religious discipline. Incarceration sent a clear message about the consequences of religious and political dissent. Yet conversely, it also offered new modes of publicity and organisation to opponents of ecclesiastical and civil government. Chapter 6 explores how prisons became both venues for illicit political and religious activity and emblems of absolute power. Between the early stages of the Reformation and Charles I's Personal Rule, incarceration became a mark of honour, a source of fame and a tool of publicity, all of which took on new significance during the civil war. Indeed, the prison's increased social prominence lent it new rhetorical power in political contexts. As everyday anxieties about the threat of incarceration grew, the prison became ever more poignant as a symbol of tyranny, oppression and lost liberty. Martyrologies that emphasised spiritual solitude and monasticism in prison gave way to greater emphasis on common experiences of incarceration. This chapter thus explores new rhetorical and interpersonal connections between political activism and increasingly widespread incarceration from the reformation to the civil war.

Agitation in England's prisons came to a head in unison with midcentury political tensions. By 1641, prisoners for debt had begun to connect their suffering at the hands of a supposedly corrupt and unjust legal system with developing national concerns about tyranny and arbitrary rule under Charles I. Indeed, the anti-carceral sentiments explored in Chapter 5 had not died out in the 1620s, but formed a tradition of prison politics that simmered under the surface of Caroline rule and increasingly intersected

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with concerns about political uses of incarceration. Chapter 7 thus explores the civil war legacy of prison activism and abolitionist arguments first developed in the 1620s, following them into a wider political realm. It reconstructs a new period of turmoil within the King's Bench Prison between 1640 and 1649. On the eve of civil war, prisoners republished abolitionist arguments developed in the 1620s, now placing particular emphasis on legal and political oppression. This agitation also provided the basis for new collaboration between prisoners and London's radicals, facilitating exchanges of ideas that impacted upon prison activists, radical movements and contemporary political debates alike. Thus, prisons had become crucibles of radical thought and organisation as disaffection with state and legal authority fed into political conspiracy.

By 1647, the abolition of imprisonment for debt had become a staple of radical demands. Yet like so many radical projects, it ultimately suffered defeat and moderation. Chapter 8 traces the rise and fall of the abolitionist campaign, and the legacy of prison reform in the later seventeenth century. First, it follows arguments for abolition and the activists who made them into the new political and intellectual context of the English republic, revealing the significance of prison activism and arguments for abolition in debates over the future of the English polity. Yet these activists struggled to secure the change they envisioned. Worse still, their ideas dwindled in significance after the restoration of Charles II, giving way to prison campaigning that prioritised moderate calls for episodic relief and the reform of conditions. Yet, this also involved ambitious nationwide campaigning, connecting central prisons with county gaols for the first time. This led to increased concern with local inspection, due process and penal proportionality that anticipated the eighteenth-century prison reform movement. By the end of the seventeenth century, many aspects of imprisonment for debt and prison campaigning settled into patterns that would define the institution for another two centuries.

Overall, then, this book reveals how the social and economic experience of imprisonment and prisons' localised political traditions influenced contemporary understandings of liberty and arbitrary rule. It considers how direct engagements with the ligatures of the early modern state, precipitated by rapid economic change and social dislocation, could produce friction and contention. This was not simply a byproduct of growing participation in governance and negotiation with authority, but a key experience in generating political dissent and opposition. Yet this study also uncovers the conjuncture of interests that conditioned the rise of the debtors' prison and created powerful imperatives for its maintenance and

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stabilisation, not to mention its protection from an abolitionist politics. Ultimately, this book reveals how straining credit networks, swelling prison populations and political upheaval reshaped early modern prisons and their social worlds, and the resonances this had within and beyond the prison walls.

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