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THE PENALISATION OF POVERTY AND THE RISE OF
NEO-LIBERALISM

ABSTRACT. This article explicates and extends the analyses put forth by the author in his book, *Prisons of Poverty*, which argues that the generalised increase of carceral populations in advanced societies is due to the growing use of the penal system as an instrument for managing social insecurity and containing the social disorders created at the bottom of the class structure by neo-liberal policies of economic deregulation and social-welfare retrenchment. It retraces the steps whereby this 'neo-liberal penalty' was elaborated in the United States and then diffused throughout the world, but contends that European countries are not blindly following the American road to mass imprisonment: Europe's path to the penal state entails the conjoint intensification of both social and penal treatments of poverty and the activation of the policing functions of welfare services leading to a form of 'social panoptism'. Only the building of a Europe-wide social state can check the spread of the penalisation of poverty and its deleterious social consequences.

KEY WORDS: penal state, neo-liberalism, poverty, criminalisation, social policy, penal policy

The criminalisation to which militants from many social movements battling joblessness, homelessness and xenophobia across Europe are currently being subjected – as represented in extreme form by the wanton police assaults on anti-globalisation demonstrators in Genoa during the G-8 meeting in the Summer of 2001 – cannot be understood outside of a broader pattern of *penalisation of poverty* designed to manage the effects of neo-liberal policies at the lower end of the social structure of advanced societies. The harsh police practices and extended prison measures adopted today throughout the continent are indeed part and parcel of a wider transformation of the state, a transformation which is itself called for by the mutation of wage labour and precipitated by the overturning of the inherited balance of power between the classes and groups fighting over control of both employment and the state. In this struggle, transnational business and the 'modernising' fractions of the bourgeoisie and state nobility, allied under the banner of neo-liberalism, have gained the upper hand and engaged a vast campaign aimed at reconstructing public authority. Social deregulation, the rise of precarious wage work (against a backdrop of continued mass unemployment in Europe and steadily rising 'working poverty' in the United States) and the return of an old-style punitive state go hand in hand: the 'invisible hand' of the casualised labour market finds its



institutional complement and counterpart in the ‘iron fist’ of the state which is being redeployed so as to *check the disorders generated by the diffusion of social insecurity* (Wacquant 1999a).

The regulation of the working classes by what Pierre Bourdieu (1998) calls “the left hand” of the state, symbolised by education, public health care, social security, social assistance and social housing, is being *superseded* – in the United States – or *supplemented* – in Western Europe – by regulation through its ‘right hand’, that is, the police, courts and prison system, which are becoming increasingly active and intrusive in the lower regions of social space. The sudden and obsessive reaffirmation of the ‘right to security’ by leading politicians of both Right and Left, concurrent with the quiet dereliction of the ‘right to employment’ in its traditional form (that is, to full-time work, with a complete entitlement package, for an indeterminate term and a liveable wage), and the growing interest in and increased means devoted to law enforcement also come in handy to compensate the *deficit in legitimacy* suffered by political leaders, owing to the very fact that they have renounced the established missions of the state on the economic and social front.

Everywhere in Europe governments are thus trying to undermine the new legitimacy of militants and ‘active minorities’ within emerging social movements, acquired in and through daily struggles, so as to prevent further increases in collective mobilisation. More than mere repressive measures, the criminalisation of the advocates of social and economic rights partakes of a broader political agenda leading to the creation of a new regime that can be characterised as ‘liberal-paternalist’: it is *liberal* at the top, towards business and the privileged classes, at the level of the causes of rising social inequality and marginality; and it is *paternalistic* and punitive at the bottom, towards those destabilised by the conjoint restructuring of employment and withering away of welfare state protection or their reconversion into instrument of surveillance of the poor.

THREE SPECIES OF IMPRISONMENT AND THEIR MEANING IN THE NEO-LIBERAL PROJECT

To put the unexpected resurgence of prisons at the forefront of the institutional horizon in advanced societies over the past two decades (King and Maguire 1998; Christie 2000), it is helpful to recall that putting people behind bars to punish them is a recent historical invention. This fact comes as a surprise to many since we have grown so accustomed to seeing people locked up that it seems perfectly natural to us: the prison presents

itself as an indispensable and immutable organisation, operating since times immemorial. In reality, up until the end of the eighteenth century, places of confinement served mainly to detain those suspected or found guilty of crimes to await the administration of their sentence, which consisted then in various corporeal punishments (whipping, pillorying, burial, branding or mutilation, being put to death with or without torture), supplemented by banishment and condemnation to forced labour or to the galleys (Spierenburg 1995). Depriving people of freedom became itself a punishment, and the criminal sentence *par excellence* (to the point that it has become difficult to conceive or implement other penal sanctions without them appearing insufficiently severe) only with the advent of the modern individual presumed to enjoy personal freedom, imbued with a natural right to bodily integrity that could be removed by neither family nor state, except for the most serious motives. Reminding ourselves that *the prison is a very young institution* on the scale of the history of humankind is to stress that its growth and permanence are not a foregone conclusion.

Secondly, once it becomes the normative form of criminal sanction, imprisonment can *fulfil several functions at the same time*, successively or simultaneously. Sociologist Claude Faugeron (1995) establishes a fruitful distinction between what she calls “imprisonment of safety”, aimed at preventing individuals considered dangerous from causing harm; “imprisonment of differentiation”, designed to exclude social categories deemed undesirable; and “imprisonment of authority”, whose purpose is primarily to reaffirm the prerogatives and powers of the state. One perceives immediately that these three forms of imprisonment do not target the same populations – e.g., paedophiles, illegal migrants and violent ‘trouble-makers’ at demonstrations – and do not communicate the same message to society.

This plurality of functions fulfilled by the prison does not prevent such or such particular mission from predominating at a given time. Thus in European countries today, imprisonment for purposes of differentiation is applied with growing frequency to non-European foreigners (that is, immigrants from the former colonies of the old continent) who are thereby designated as not being part of the ‘social body’ of the emerging Europe (Palidda 2000, pp. 219–240). In America, prison has taken over the function of the black ghettos as an instrument of control and containment of a population considered as a lower caste with which one should not mix. And there it is African-Americans who ‘benefit’ from a *de facto* policy of *carceral affirmative action* resulting in their massive overrepresentation in the country’s jails and prisons: black men make up 6% of the national population but have accounted for over half of new admissions

in state and federal prisons every year since 1989 (see Wacquant 2000a, 2001).

Nonetheless, the signal fact of the end of the century is without doubt the tremendous inflation of prison populations in all advanced societies (Stern 1997; Tonry and Petersilia 1999; Garland 2001) due to the increasingly frequent, indeed routine, use of imprisonment as an instrument for managing social insecurity. This is what I argue in my book *Prisons of Poverty*: in all the countries where the neo-liberal ideology of submission to the 'free market' has spread, we observe a spectacular rise in the number of people being put behind bars as the state relies increasingly on the police and penal institutions to contain the disorders produced by mass unemployment, the imposition of precarious wage work and the shrinking of social protection.

HOW NEO-LIBERAL PENALTY IS SPREADING AND MUTATING

Erasing the economic state, dismantling the social state, strengthening the penal state: these three transformations are intimately linked to one another and all three result essentially from the conversion of the ruling classes to neo-liberal ideology. In fact, those who are glorifying the penal state today, in America as well as in Europe, are the same ones who, yesterday, were demanding the end of 'Big government' on the social and economic front, and who did indeed succeed in curtailing the prerogatives, expectations, and exigencies of the collectivity in the face of the market – that is, in the face of the dictatorship of large corporations. This may seem like a contradiction, but in reality these are the two components of the new institutional machinery for managing poverty that is being put in place in the era of mass joblessness and precarious employment. This new 'government' of social insecurity – to use Michel Foucault's terminology – rests, on the one hand, on the disciplining of the deskilled and deregulated labour market and, on the other, on an intrusive and omnipresent penal apparatus. *The invisible hand of the market and the iron fist of the state combine* and complement each other to make the lower classes accept desocialised wage labour and the social instability it brings in its wake. After a long eclipse, the prison thus returns to the frontline of institutions entrusted with maintaining social order.

The overpowering ascent of the theme of 'urban violence' and street crime in the discourse and policies of European governments, and especially in France since the return to power of the so-called *Gauche Plurielle* [plural left, composed of the Socialist, Communist and Green parties], does

not have much to do with the evolution of ‘youth’ delinquency (one should always add: youths of *working-class and foreign origin*, since it is squarely they who are meant; besides, in many countries, such as Italy and Germany, politicians feel no discomfort in coming straight out and saying ‘immigrant crime’). Instead, its aim is to foster the redefinition of the perimeter and modalities of state action: the Keynesian state that was the historic vehicle of *solidarity*, and whose mission was to counter the cycles and damaging effects of the market, to ensure the collective ‘well-fare’ and to reduce inequalities, is succeeded by a Darwinian state that makes a fetish of *competition* and celebrates individual responsibility (whose counterpart is collective irresponsibility), and which withdraws into its kingly functions of ‘law and order’, themselves hypertrophied.

The usefulness of the penal apparatus in the post-Keynesian era of *employment of insecurity* is therefore threefold: it serves to discipline the fractions of the working class that buck at the new, precarious service jobs; it neutralises and warehouses its most disruptive elements, or those considered superfluous with regard to the transformations of the demand for labour; and it reaffirms the authority of the state in the limited domain that is henceforth assigned to it.

One can distinguish three stages in the worldwide diffusion of the new ‘made-in-the-USA’ ideologies and policies of law and order, and in particular the so-called ‘zero tolerance’ measures – which, interestingly, are called ‘quality of life’ measures in New York (see Wacquant 1999b, for a more detailed examination). The first is the phase of *gestation, implementation, and showcasing in American cities*, and especially in New York, which was elevated to the rank of the Mecca of security by a systematic propaganda campaign. During this phase, the neoconservative think tanks, such as the Manhattan Institute, the Heritage Foundation, the American Enterprise Institute and a few others, play a pivotal role, because it is they who manufacture these notions before disseminating them within the American ruling class in the course of the war against the welfare state, which has been raging in the wake of the social and racial backlash experienced by America since the mid-1970s.

The second stage is that of *import-export*, facilitated by the links forged with the kindred ‘think tanks’ that have mushroomed throughout Europe over the past decade, and especially in England (Stone et al. 1999). Just as in matters of employment and social policy (King and Wickham-Jones 1999; Deacon 2000), England serves as the Trojan horse and ‘acclimation chamber’ for the new, neo-liberal penalty with a view to its propagation across the European continent (a major influence here is the Institute for Economic Affairs, which brought to the UK, first Charles Murray to ad-

vocate cutting welfare, then Lawrence Mead to urge workfare, and finally William Bratton to proselytise on 'zero tolerance'). But if the export of the new American law-and-order products is having stunning success, it is because it meets the demand of the state rulers of the importing countries: in the intervening years, the latter have converted to the dogmas of the so-called 'free market' and to the imperative of 'less government' – in social and economic affairs, that is.

A third and final stage consists in applying a thin *scholarly whitewash* to these measures, and then the trick is pulled: a conservative pig is sold in a criminological poke. In each country one finds local intellectuals who spontaneously take up the part of 'smuggler' (*passseur*) or relay by vouchsafing with their university authority the adaptation of US policies and methods for enforcing law and order to their own societies. In France, for instance, there are a number of academics who live solely off of the second-hand resale of American security ideologies (one of them is about to publish a book entitled *Is There a French 'Broken Window'?* when the so-called 'broken windows' theory has already been discredited among serious US criminologists). These are the ideologies that one encounters afterwards in the form of pseudo-concepts in the seminars of the Institute for Advanced Studies in Domestic Security (IHESI), in a *Que Sais-Je* on *Urban Violences and Insecurity*, in the documents handed to mayors when they negotiate their 'local security contracts' with the central state, and then in the newspapers and in everyday conversations.¹

This is not to say that Europe is importing US-style police and penal policies wholesale, blindly imitating politicians from across the Atlantic. European countries with a strong state tradition, either Catholic or social-democratic, are not headed towards a slavish duplication of the American model, that is to say, a sharp and brutal substitution of the social-welfare treatment of poverty by penal treatment backed by all-out 'carceralisation'. Rather, they are groping towards the invention of a 'European' (French, Italian, German, etcetera) road to the penal state, suited to the different

¹The IHESI is a state institute which conducts training seminars and 'studies' on security and law enforcement issues and policies; it is placed under the aegis not of the Ministry of Research but of the Minister of the Interior, who is in charge of the police, and its works pertain more to bureaucratic propaganda than to scholarly research. *Que Sais-Je* is a high-prestige book series published by Presses Universitaires de France consisting of short volumes reputed to provide the best, up-to-date scientific information on a given topic. Local security contracts (*Contrats locaux de sécurité*) are compacts signed with the central state through which municipalities plan, promote, and implement proactive anti-crime measures.

European political and cultural traditions, and characterised by a *conjoint, twofold accentuation* of both the social regulation and the penal regulation of social insecurity.

Thus the French State is simultaneously increasing its social intervention and its penal intervention. On the one hand, it has multiplied youth jobs and government-sponsored work contracts for the unemployed that include training (CES, or *Contrats Emploi-Solidarité*); it has raised the level of various public aid packages (however little) and significantly extended the reach of the guaranteed minimum income plan (RMI); it has instituted truly universal health coverage, and so on. But, on the other hand, it is also stationing riot police squads in the so-called 'sensitive neighbourhoods' and it has set up special surveillance units for detecting and repressing delinquency there; it is substituting judges for social workers and educators when 'at-risk' youth need to be warned to not run afoul of the law; cities are passing and enforcing utterly illegal anti-begging ordinances that serve to sweep the homeless and the derelict off the streets; the Jospin government has refused to align the norms for remand detention through *comparution immédiate* (live arrests and fast-track prosecution) with the norms for *affaires à instruction* (investigative cases following a police complaint), on the grounds that one must fight 'urban violence' (thus granting the youths of declining public housing estates a form of 'carceral affirmative action'); penalties for recidivism are made harsher; the deportation of foreigners subjected to '*double peine*'² are speeded up, and release on parole has been practically eliminated.

A second difference between the United States and France (and the countries of continental Europe more generally): the penalisation of poverty *à la française* is mainly effected by means of the police and the courts, rather than through the prison. It obeys a logic that is more *panoptic* than retributive or segregative, with the significant exception of foreigners (Wacquant 1999c). Correspondingly, the social service bureaucracies are called on to take an active part in it since they possess the informational and human means to exercise a close surveillance of 'problem populations' – this is what I call *social panopticism*.

The whole question is whether this European road is a genuine alternative to American-style carceralisation, or whether it is simply a stage on the way to mass imprisonment. If one saturates neighbourhoods of social

²The '*double peine*' refers to the fact that most foreigners sentenced to prison in France for serious crimes first serve the detention term to which the court sentenced them and then are expelled from the national territory following an administrative decree of banishment.

exclusion with police officers without improving the life chances and employment options of its residents, one is sure to increase arrests and penal sentences and thus, in the end, the incarcerated population. In what proportions? The future will tell. The same question arises, in much more dramatic and urgent terms, in Latin America, where US-style police and penal policies are being imported *wholesale*. Two decades after the ‘Chicago Boys’ reshaped the economies of that continent, the ‘New-York Boys’ of William Bratton, Rudolph Giuliani and the Manhattan Institute are spreading their law-and-order gospel there, with devastating consequences due to much higher levels of poverty, the embryonic nature of social welfare programmes, and the corrupt and violent behaviour of the crime and justice bureaucracies. In the formerly authoritarian societies of the Second World such as Argentina and Brazil, the application of neo-liberal penalty amounts to re-establishing a dictatorship over the poor (see Wacquant 2000b on Argentina and Wacquant 2001b on Brazil).

FRANCE’S ‘PLURAL LEFT’ JOINS THE ‘WASHINGTON CONSENSUS’

But it is at the heart of Europe that the worldwide battle for setting the transnational goals and norms of the penal institution in the era of hegemonic neo-liberalism and, through them, for shaping the visage of the post-Keynesian state, is being waged. And here the new crime and security orientations of France play a pivotal role. In the 1980s, the successive Mitterrand governments contributed powerfully to legitimating neo-liberal economic ideology by capitulating under the pressure from the financial markets and monetary speculation to adopt policies of budgetary austerity and privatisation. Today Jospin finds himself in much the same position on the penal front as a result of being perceived – rightly or wrongly – as the last truly Left leader in Europe and even in the world. He could anchor a breakwater of resistance to ‘*la pensée unique*’ [one-way thinking] in matters of criminal justice. Instead, he rallies the ‘Washington consensus’ on law-and-order dictated by the US neo-conservative think tanks. When he denigrates the social causes of delinquency as so many “sociological excuses” (in a high-visibility interview published in *Le Monde* at the beginning of 1999 under the unwittingly ironic title, ‘Against “one-way thinking”’), Jospin renounces sociological thought even though the latter is organically linked to socialist thought, and he legitimates the neo-liberal vision of the world in its most retrograde aspects. More generally, one might have hoped that the Left, back in power, would launch a bold policy of decriminalisation and decarceration, that it would increase the perimeter and prerogatives

of the social state, and diminish those of the penal state. And the opposite is happening (Sainatti and Bonelli 2000). The same pedagogy of retreat and renunciation that has guided economic policy is now being applied in the area of criminal justice.

The emergence in France of a so-called ‘Republican left’ which rues the days when minors received severe disciplining is a worrying trend in this respect, a teratological form of Republicanism fed by nostalgia for a ‘golden age’ that never existed. This old-fashioned education, some people seem to have forgotten, rested on fundamentally inegalitarian and violent social relations, especially between age groups and between the sexes. It is society as a whole that educates, and one cannot restore an old-fashioned system of discipline when everywhere else such a form of rigid authority has been questioned and overturned. When Mr Chevènement was Minister of Education in the 1980s under Mitterrand, his ambition was to sprinkle France with universities. When he took up the Ministry of the Interior [which oversees the national police] in the late 1990s, his plan was to line the neighbourhoods laid to waste by the government’s economic policy with police stations, while waiting perhaps to open up jails in them.

In both scenarios, the presence of the state is being reinforced, but with diametrically opposed means and consequences: the first scenario translates into an expansion of life chances, the second into their amputation; the one reinforces the legitimacy of public authority, the other undermines it. Hardly caricaturing, one could sum up this duality by this formula: for the children of the middle and upper classes, universities and professional-managerial jobs; for the offspring of the working class confined in declining housing estates, precarious service jobs, or positions as police adjuncts, surveilling the outcasts and refuse of the new labour market – under threat of being locked up. Thus fully 10% of the government-sponsored ‘youth jobs’ are *adjoints de sécurité*, police officer’s aides recruited in low-income areas and entrusted with facilitating and expanding the reach of the forces of order in these neighbourhoods.

THE ADVENT OF THE PENAL STATE IS NOT A FOREGONE CONCLUSION

Unlike in the United States, where the criminalisation of poverty has entered into custom and habit and is henceforth inscribed in the very structure of the state as well as in public culture, in Europe the dice is not yet cast, far from it. No more than precarious employment, which some try to present as a sort of natural necessity (it too comes from America), carceral inflation is not inevitable. Recourse to the prison apparatus in

advanced societies is not destiny but a matter of political choices, and these choices must be made in full knowledge of the facts and of their consequences.

To oppose the penalisation of social precariousness, a threefold battle must be waged. First of all, on the level of *words and discourses*, one must put the brakes on the semantic drifts that lead, on the one hand, to compressing the space of debate (e.g. by limiting the notion of ‘insecurity’ to physical or criminal insecurity, to the exclusion of social and economic insecurity) and, on the other, to the banalisation of the penal treatment of tensions linked to the deepening of social inequalities (through the use of such vague and incoherent notions as ‘urban violences’). It is imperative to keep close track of the pseudo-theories concocted by the American think tanks and assorted law and order ideologues, and to submit them to strict customs checks in the form of a rigorous logical and empirical critique.

Next, on the front of *judicial policies and practices*, one must thwart the multiplication of measures tending to ‘widen’ the penal dragnet and propose a social, health, or educational alternative whenever feasible. We must stress the fact that, far from being a solution, police surveillance and imprisonment typically aggravate and amplify the problems they are supposed to resolve. We know that, in addition to hitting mostly the destitute strata of the working class – the unemployed, the precariously employed, recent immigrants – incarceration is itself a powerful engine for impoverishment (Marchetti 1997). It is useful, in this connection, to recall relentlessly what are the deleterious conditions and effects of detention today, not only upon the inmates themselves but also on their families and their neighbourhoods.

Finally, much is to be gained from forging links between activists and researchers who work on the penal front and those who battle on the social front, and this *at the European level* so as to optimise the intellectual and practical resources to be invested in this struggle. There is a tremendous mine of scientific and political knowledge to be exploited and shared on the scale of the continent – and beyond: American scholars and activists have a wealth of experiences to offer that demonstrate the colossal social and human costs of mass imprisonment. For the true alternative to the drift towards the penalisation of poverty, soft or hard, is the construction of a European social state worthy of the name. The best means of making the prison recede is, again and always, to strengthen and expand social and economic rights.

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