

# Ordering Insecurity:

## Social Polarization and the Punitive Upsurge

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***Abstract:** The sudden growth and glorification of the penal state in the United States after the mid-1970s (and in Western Europe two decades later) is not a response to the evolution of crime, but a reaction to — and a diversion from — the social insecurity produced by the fragmentation of wage labor and the destabilization of ethnoracial hierarchies following the discarding of the Fordist-Keynesian compact. It partakes of a new government of poverty wedding restrictive “workfare” and expansive “prisonfare,” which ensnares the precarious fractions of the postindustrial proletariat in a carceral-assistential net designed to steer them towards deregulated employment or to contain them in their dispossessed neighborhoods and in the booming prisons that have become their satellites. This policy of penalization of urban marginality guided by moral behaviorism partakes of a broader reengineering and remasculinizing of the state that has rendered obsolete the traditional scholarly and policy division between welfare and crime. It must be grasped, not under the narrow rubric of repression, but under the generative category of production, as it has spawned new state agencies, social types, knowledges and experts. It makes the study of incarceration an essential chapter in the sociology of the state and social stratification in the era of triumphant neoliberalism.*

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Comparative analysis of penal trends and discourses in the advanced countries over the past decade reveals a close link between the ascendancy of neoliberalism, as ideological project and governmental practice mandating submission to the “free market” and the celebration of “individual responsibility” in all realms, on the one hand, and the deployment of punitive and proactive law-enforcement policies targeting



street delinquency and the categories trapped in the margins and cracks of the new economic and moral order, on the other hand.<sup>1</sup>

Beyond their national inflections and institutional variations, these policies sport six common features.<sup>2</sup> First, they purport to put an end to the “era of leniency” and to attack head-on the problem of crime, as well as urban disorders and the public nuisances bordering the confines of penal law, baptized “incivilities,” while deliberately disregarding their causes. Whence, second, a proliferation of laws and an insatiable craving for bureaucratic innovations and technological gadgets: crime-watch groups and partnerships between the police and other public services (schools, hospitals, social workers, the national tax office, etc.); video surveillance cameras and computerized mapping of offenses; compulsory drug testing, “tazer” and “flash-ball” guns; fast-track judicial processing and the extension of the prerogatives of probation and parole officers; criminal profiling, satellite-aided electronic monitoring, and generalized genetic fingerprinting; enlargement and technological modernization of carceral facilities; multiplication of specialized custodial centers (for foreigners awaiting expulsion, recidivist minors, women and the sick, convicts serving community sentences, etc.). Third, the need for this punitive turn is everywhere conveyed by an alarmist, even catastrophist discourse on “insecurity” animated with martial images and broadcast to saturation by the commercial media, the major political parties, and professionals in the enforcement of order — police officials, magistrates, legal scholars, experts and merchants in “urban safety” services — who vie to propose remedies as drastic as they are simplistic. Fourth, out of a proclaimed concern for efficiency in the “war on crime” and solicitude toward this new figure of the deserving citizen that is the crime victim, this discourse openly revalorizes repression and stigmatizes youths from declining working-class neighborhoods, the jobless, homeless, beggars, drug addicts and street prostitutes, and immigrants from the former colonies of the West and from the ruins of the Soviet empire. Fifth, on the carceral front, the therapeutic philosophy

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1. This article is based on a lecture entitled “Regulating the Poor in the Neoliberal Age: When Social Policy meets Penal Policy,” delivered to the Workshop on Social Inequality, Kennedy School of Government, Harvard University, on 31 October 2006. It lays out the agenda of my book *Punishing the Poor: The New Government of Social Insecurity* (Durham and London: Duke University Press, forthcoming in 2008), drawing on the Prologue and Chapter 1. I would like to thank William Julius Wilson and the workshop participants for their stimulating comments and critiques.

2. For an overview of the penal scene in the main countries of the First World, see John Pratt et al., eds., *The New Punitiveness: Trends, Theories, and Perspectives* (London: Willan Publishing, 2004); Laurent Mucchielli and Philippe Robert, eds., *Crime et sécurité. L'état des savoirs* (Paris: La Découverte, 2002); Alessandro Dal Lago, *Giovani, stranieri e criminali* (Rome: Manifestolibri, 2001); and Wolfgang Ludwig-Mayerhofer, ed., *Soziale Ungleichheit, Kriminalität und Kriminalisierung* (Opladen: Leske & Budrich, 2000).



of “rehabilitation” has been more or less supplanted by a managerialist approach centered on the cost-driven administration of carceral stocks and flows, paving the way for the privatization of correctional services. Lastly, the implementation of these new punitive policies have invariably resulted in an extension and tightening of the police dragnet, a hardening and speeding-up of judicial procedures and, at the end of the penal chain, an incongruous increase in the population under lock, without anyone seriously addressing the question of their financial burden, social costs, and civic implications.

These punitive policies are the object of an unprecedented political consensus and enjoy broad public support cutting across class lines, boosted by the blurring of crime, poverty, and immigration in the media as well as by the constant confusion between insecurity and the “feeling of insecurity.” This confusion is tailor-made to channel towards the (dark-skinned) figure of the street delinquent the diffuse anxiety caused by a string of interrelated social changes: the dislocations of wage work, the crisis of the patriarchal family and the erosion of traditional relations of authority among sex and age categories, the decomposition of established working-class territories and the intensification of school competition as requirement for access to employment. Penal severity is now presented virtually everywhere and by everyone as a healthy necessity, a vital reflex of self-defense by a social body threatened by the gangrene of criminality, no matter how petty. The grand American experiment of the “war on crime” has also imposed itself as the mandatory reference for the governments of the First World, the theoretical source and practical inspiration for the general hardening of penalty that has translated in all advanced countries into a spectacular swelling of the population behind bars.<sup>3</sup> Caught in the vise of the biased alternative between catastrophic and angelic visions, anyone who dares to question the self-evident commonplaces of the *pensée unique* about “insecurity” that now rules uncontested is irrevocably (dis)qualified as a vain dreamer or an ideologue guilty of ignoring the harsh realities of contemporary urban life.

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3. I retraced in *Les Prisons de la misère* (Paris: Raisons d’agir Editions, 1999; trans. *Prisons of Poverty*, Minneapolis, University of Minnesota Press, 2008) the three stages in the planetary diffusion of the notions, technologies, and policies of public safety “made in USA”: gestation and implementation (as well as exhibition) in New York City under the tutelage of the neoconservative think tanks that led the campaign against the welfare state; import-export through the agency of the media and of the kindred policy centers that have mushroomed throughout Europe, and particularly in Great Britain, the acclimation chamber of neoliberal penalty with a view toward its dissemination on the continent; scholarly “dressing up” by local *passseurs* who bring the warrant of their academic authority to the adaptation to their countries of theories and techniques of order maintenance come from the United States.

## I. The Generalization of Social Insecurity and Its Effects

The sudden growth and glorification of the penal state in the United States, starting in the mid-1970s, and then in Western Europe two decades later, does not correspond to a rupture in the evolution of crime and delinquency — the scale and physiognomy of offending did not change abruptly at the start of the two periods in question on either side of the Atlantic. Neither does it translate a leap in the efficiency of the repressive apparatus that would justify its reinforcement, as zealots of the scholarly myth of “zero tolerance” now spread around the world would have us believe. It is not criminality that has changed here so much as the *gaze that society trains on certain street illegalities*, that is, in the final analysis, *on the dispossessed and dishonored populations* (by status or origin) that are their presumed perpetrators, on the place they occupy in the City, and on the uses to which these populations can be subjected in the political and journalistic fields.

These castaway categories — unemployed youth and the homeless, aimless nomads and drug addicts, postcolonial immigrants without documents or support — have become salient in public space, their presence undesirable and their doings intolerable, because they are the living and threatening incarnation of the generalized social insecurity produced by the erosion of stable and homogenous wage-work (promoted to the rank of paradigm of employment during the decades of Fordist expansion in 1945-1975), and by the decomposition of the solidarities of class and culture it underpinned within a clearly circumscribed national framework.<sup>4</sup> Just as national boundaries have been blurred by the hypermobility of capital, the settlement of migration flows and European integration, the normalization of desocialized labor feeds a powerful current of anxiety in all the societies of the continent. This current mixes the fear of the future, the dread of social decline and degradation, the anguish of not being able to transmit one’s status to one’s offspring in a competition for credentials and positions that is ever more intense and uncertain. It is this diffuse and multifaceted social and mental insecurity, which (objectively) strikes working-class families shorn of the cultural capital required to accede to the protected sectors of the labor market and (subjectively) haunts large sectors of the middle class, that the new martial discourse of politicians and the media on delinquency has captured, fixating it onto the narrow issue of physical or criminal insecurity.

To understand how the law-and-order upsurge that has swept through postindustrial countries around the close of the century constitutes a *reaction to*,

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4. Robert Castel, *Les Métamorphoses de la question sociale. Une chronique du salariat* (Paris: Fayard, 1995); Hartmut Häußermann, Martin Kronauer, and Walter Siebel, eds., *An den Rändern der Städte: Armut und Ausgrenzung* (Frankfurt-am-Main: Suhrkamp, 2004); and Loïc Wacquant, *Urban Outcasts: A Comparative Sociology of Advanced Marginality* (Cambridge: Polity Press, 2007).



a diversion from and a denegation of, the generalization of the social and mental insecurity produced by the diffusion of desocialized wage labor against the backdrop of increased inequality, one must break with the ritual opposition of intellectual schools and wed the virtues of a *materialist* analysis, inspired by Marx and Engels and elaborated by various strands of radical criminology, attuned to the changing relations that obtain in each epoch between the penal system and the system of production, and the strengths of a *symbolic* approach, initiated by Emile Durkheim and amplified by Pierre Bourdieu, attentive to the capacity that the state has to trace salient social demarcations and to produce social reality through its work of inculcation of efficient categories and classifications.<sup>5</sup> The traditionally hostile separation of these two approaches, the one stressing the instrumental role of penalty as a vector of power and the other its expressive mission and integrative capacity, is but an accident of academic history artificially sustained by stale intellectual politics. This separation must imperatively be overcome, for in historical reality penal institutions and policies can and do shoulder both tasks at once: they simultaneously act to enforce hierarchy and control contentious categories, at one level, and to communicate norms and shape collective representations and subjectivities, at another.<sup>6</sup> The police, courts, and prison are not mere technical implements whereby the authorities respond to crime — as in the commonsensical view fostered by law and criminology — but a core political capacity through which the state both produces and manages inequality, identity, and marginality.

Indeed, the generalized hardening of police, judicial, and correctional policies that can be observed in most of the countries of the First World over the past two decades<sup>7</sup> partakes of a *triple transformation of the state*, which it helps simultaneously accelerate and obfuscate, wedding the amputation of its economic arm, the retraction of its social bosom, and the massive expansion of its penal fist. This transformation is the bureaucratic response of political elites to the mutations of wage work (shift to services and polarization of jobs, flexibilization and intensification of work,

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5. See, in particular, Karl Marx and Friedrich Engels, “Marx and Engels on Crime and Punishment,” in David Greenberg, ed., *Crime and Capitalism: Readings in Marxist Criminology* (Palo Alto: Mayfield, 1981), 45-56; Stephen Lukes and Andrew Scull, eds., *Durkheim and the Law* (Stanford: Stanford University Press, 1995); and Pierre Bourdieu, “Rethinking the State: On the Genesis and Structure of the Bureaucratic Field,” in *Practical Reasons* (Cambridge: Polity, 1998 [1994]), 35-63.

6. A forceful argument for recognizing the full “complexity of structure and density of meaning” of punishment as a multilayered social institution, that skillfully draws on Marx, Durkheim, Elias, and Foucault, is deployed by David Garland, *Punishment and Society: A Study in Social Theory* (Chicago: University of Chicago Press, 1990), esp. 280-92.

7. Norwegian criminologist Thomas Mathiesen detected and denounced it as early as 1990 on the carceral front; see Thomas Mathiesen, *Prison on Trial: A Critical Assessment* (London: Sage, 1990), 11-14.

individualization of employment contracts, discontinuity and dispersion of occupational paths) and their ravaging effects on the lower tiers of the social and spatial structure. These mutations themselves are the product of a swing in the balance of power between the classes and groups that struggle at every moment for control over the worlds of employment. And in this struggle, it is the transnational business class and the “modernizing” fractions of the cultural bourgeoisie and high state nobility, allied under the banner of neoliberalism, that have gained the upper hand and embarked on a sweeping campaign to reconstruct public power in line with their material and symbolic interests.<sup>8</sup>

The commodification of public goods and the rise of underpaid, insecure work against the backdrop of working poverty in the United States and enduring mass joblessness in the European Union; the unraveling of social protection schemes leading to the replacement of the collective right to recourse against unemployment and destitution by the individual obligation to take up gainful activity (“workfare” in the U.S. and the UK, ALE jobs in Belgium, PARE and RMA in France, the Hartz reform in Germany, etc.) in order to impose desocialized wage labor as the normal horizon of work for the new proletariat of the urban service sectors;<sup>9</sup> the reinforcement and extension of the punitive apparatus, recentered onto the dispossessed districts of the inner city and the urban periphery which concentrate the disorders and despair spawned by the twofold movement of retrenchment of the state from the economic and social front: these three trends implicate and intricate with one another in a self-perpetuating causal chain that is redrawing the perimeter and redefining the modalities of government action.

The Keynesian state, coupled with Fordist wage work operating as a spring of *solidarity*, whose mission was to counter the recessive cycles of the market economy, protect the most vulnerable populations, and curb glaring inequalities, has been succeeded by a state that one might dub neo-Darwinist, in that it erects *competition* to the rank of fetish and celebrates unrestrained individual responsibility — whose counterpart is collective and thus political irresponsibility. The Leviathan withdraws into its regal functions of law enforcement, themselves hypertrophied and deliberately abstracted from their social environment, and its symbolic mission of reassertion of common values through the public anathematization of deviant categories — chief among them the unemployed “street thug” and the “pedophile,” viewed as the walking incarnations of the abject failure to live up to the abstemious

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8. For an analysis of national variations on this common pattern, read Marion Fourcade-Gourinchas and Sarah L. Babb, “The Rebirth of the Liberal Creed: Paths to Neoliberalism in Four Countries,” *American Journal of Sociology* 108 (November 2002): 533-79.

9. Jamie Peck, *Workfare States* (New York: Guilford, 2001); and Catherine Lévy, *Vivre au minimum. Enquête dans l'Europe de la précarité* (Paris: Editions La Dispute, 2003), ch. 4.



ethic of wage work and sexual self-control. Unlike its *belle époque* predecessor, this new-style Darwinism, which praises the “winners” for their vigor and intelligence and vituperates the “losers” in the “struggle for economic life” by pointing to their character flaws and behavioral deficiencies, does not find its model in nature.<sup>10</sup> It is the market that supplies it with its master-metaphor and the mechanism of selection supposed to ensure the “survival of the fittest.” But only after the market itself has been naturalized, that is to say, depicted under radically dehistoricized trappings which, paradoxically, turn it into a concrete historical realization of the pure and perfect abstractions of the orthodox economic science promoted to the rank of official theodicy of the social order *in statu nascendi*.

Thus the “invisible hand” of the unskilled labor market, strengthened by the shift from welfare to workfare, finds its ideological extension and institutional complement in the “iron fist” of the penal state, which grows and redeploys in order to *stem the disorders generated by the diffusion of social insecurity* and by the correlative destabilization of the status hierarchies that formed the traditional framework of the national society (i.e., the division between whites and blacks in the United States and between nationals and colonial immigrants in Western Europe). The regulation of the working classes through what Pierre Bourdieu calls “the Left hand” of the state,<sup>11</sup> that which protects and expands life chances, represented by labor law, education, health, social assistance, and public housing, is *supplanted* (in the US) or *supplemented* (in the EU) by regulation through its “Right hand,” that of the police, justice, and correctional administrations, increasingly active and intrusive in the subaltern zones of social and urban space. And, logically, the prison returns to the forefront of the societal stage, when only thirty years ago the most eminent specialists of the penal question were unanimous in predicting its waning, if not its disappearance.<sup>12</sup>

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10. Mike Hawkins, *Social Darwinism in European and American Thought, 1860-1945: Nature as Model and Nature as Threat* (Cambridge: Cambridge University Press, 1997).

11. Pierre Bourdieu et al., *La Misère du monde* (Paris: Seuil, 1993), 219-28 (trans. *The Weight of the World*, Cambridge, Polity Press, 1999); and Pierre Bourdieu, *Contre-feux* (Paris: Raisons d’agir, 1997), 9-15 (trans. *Acts of Resistance: Against the Tyranny of the Market*, Cambridge, Polity Press, 1999).

12. In the mid-1970s, the three leading revisionist historians of the prison, David Rothman, Michel Foucault, and Michael Ignatieff agreed to see it as an institution in inevitable decline, destined to be replaced in the medium run by more diffuse, discrete, and diversified instruments of social control; see Franklin E. Zimring and Gordon Hawkins, *The Scale of Imprisonment* (Chicago: University of Chicago Press, 1991), ch. 2. The penal debate then turned on the implications of “decarceration” and implementation of community sentences. Since this Malthusian prognosis, the evolution of punishment has made an about-face in almost all Western societies: the population behind bars has doubled in France, Belgium, and England; it has tripled in Holland, Spain, and Greece; and it has quintupled in the United States.



The renewed utility of the penal apparatus in the post-Keynesian era of insecure employment is threefold: (i) it works to bend the fractions of the working class recalcitrant to the discipline of the new fragmented service wage-labor by increasing the cost of strategies of exit into the informal economy of the street; (ii) it neutralizes and warehouses its most disruptive elements, or those rendered wholly superfluous by the recomposition of the demand for labor; and (iii) it reaffirms the authority of the state in daily life within the restricted domain henceforth assigned to it. The canonization of the “right to security,” correlative to the dereliction of the “right to employment” in its old form (that is, full-time and with full benefits, for an indefinite period and for a living wage enabling one to reproduce oneself socially and to project oneself into the future), and the increased interest in and resources granted to the enforcement of order come at just the right time to shore up the deficit of legitimacy suffered by political decision-makers, owing to the very fact that they have abjured the established missions of the state on the social and economic fronts.

Under these conditions, one understands better why, throughout Europe, the parties of the governmental Left smitten with the neoliberal vision have proven so fond of the security thematics incarnated by “zero tolerance” come from the United States in the past decade, or its British cousins such as “community policing.” For, in their case, the adoption of policies of economic deregulation and social retrenchment amounts to a political betrayal of the working-class electorate that brought them to power in the hope of receiving stronger state protection against the sanctions and failings of the market. Thus the punitive turn taken by Lionel Jospin in France in the fall of 1997, like those negotiated by Anthony Blair in Britain, Felipe González in Spain, Massimo d’Alema in Italy, and Gerhard Schröder in Germany around the same years, after William Jefferson Clinton had plainly adopted the ultra-punitive agenda of the Republican Party in the U.S. in 1994,<sup>13</sup> has little to do with the alleged “explosion” in youth delinquency or with the “urban violence” that have invaded public debate towards the end of the past decade. It has everything to do with the generalization of desocialized wage labor and the establishment of a political regime that will facilitate its imposition. It is a regime that one may call “liberal-paternalist,” insofar as it is *liberal* and permissive at the top, with regard to corporations and the

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13. On Clinton’s embrace of traditionally republican nostrums on crime, see Ann Chih Lin, “The Troubled Success of Crime Policy,” in Margaret Weir, ed., *The Social Divide: Political Parties and the Future of Activist Government* (Washington, DC: Brookings Institution and Russell Sage Foundation, 1998), 312-57; on the punitive turn of Blair’s New Labour, product of a servile imitation of U.S. policies, read Michael Tonry, *Punishment and Politics: Evidence and Emulation in the Making of English Crime Control Policy* (London: Willan, 2004); the *aggiornamento* of the Italian Left in penal matters is described by Salvatore Verde, *Massima sicurezza. Dal carcere speciale allo stato penale* (Rome: Odradek, 2002); the law-and-order conversion of the neo-socialists under Jospin’s leadership in France is retraced in Loïc Wacquant, *Les Prisons de la misère*.



upper class, and *paternalist* and authoritarian at the bottom, towards those who find themselves caught between the restructuring of employment and the ebbing of social protection or its conversion into an instrument of surveillance and discipline.

## II. When Prisonfare Joins Welfare: The Double Regulation of the Poor

The resolutely punitive turn taken by penal policies in advanced societies at the close of the twentieth century thus does not pertain to the simple diptych of “crime and punishment.” It heralds the establishment of a *new government of social insecurity*, “in the expansive sense of techniques and procedures aimed at directing the conduct of the men”<sup>14</sup> and women caught up in the turbulence of economic deregulation and the conversion of welfare into a springboard toward precarious employment, an organizational design within which the prison assumes a major role and which translates, for the categories residing in the nether regions of social space, in the imposition of severe and supercilious supervision. It is the United States that invented this new politics of poverty during the period from 1973 to 1996, in the wake of the social, racial, and anti-statist reaction to the progressive movements of the preceding decade that was to be the crucible of the neoliberal revolution.<sup>15</sup>

The explosive rise of the carceral sector in the United States, where the confined population has quadrupled in two decades to exceed 2.2 million, even as the crime rate stagnated and then declined, partakes of a broader restructuring of the U.S. bureaucratic field tending to criminalize poverty and its consequences so as to anchor precarious wage work as a new norm of citizenship at the bottom of the class structure while remedying the derailing of the traditional mechanisms for maintaining the ethnoracial order. The planned atrophy of the social state, culminating with the 1996 law on “Personal Responsibility and Work Opportunity,” which replaced the right to “welfare” with the obligation of “workfare,” and the sudden hypertrophy of the penal state are two concurrent and complementary developments. Each in its manner, they respond, on the one side, to the forsaking of the Fordist wage-work compact and the Keynesian compromise in the mid-1970s, and, on the other side, to the crisis of the ghetto as a device for the sociospatial confinement of blacks in the wake of the Civil Rights Revolution and the wave of urban riots of the 1960s. Together, they

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14. Michel Foucault, *Résumé des cours, 1970-1982* (Paris: Juillard, 1989), “Du gouvernement des vivants,” 123. For a historiographic illustration of this notion, read Giovanna Procacci, *Gouverner la misère. La question sociale en France, 1789-1848* (Paris: Seuil, 1993); for a conceptual reconsideration and elaboration, see Nikolas Rose and Mariana Valverde, “Governed by Law?,” *Social & Legal Studies* 7, no. 4 (December 1998): 541-52.

15. Michael K. Brown, *Race, Money, and the American Welfare State* (Ithaca: Cornell University Press, 1999), 323-53.



ensnare the marginal populations of the metropolis in a *carceral-assistential net* that aims either to render them “useful” by steering them onto the track of deskilled employment through moral retraining and material suasion, or to warehouse them out of reach in the devastated core of the urban “Black Belt” or in the penitentiaries that have become the latter’s distant yet direct satellites.<sup>16</sup>

Social scientists and activists, as well as the politicians, professionals, and activists who wish to reform them, continue to approach social policy and penal policy as separate and isolated domains of public action, whereas in reality they already function in tandem at the bottom of the structure of classes and places. Just as the close of the nineteenth century witnessed the gradual disjunction of the social question from the penal question under the press of working-class mobilization and the reconfiguration of the state it stimulated, the close of the twentieth century has been the theater of a renewed fusion and confusion of these two issues, following the fragmentation of the world of the working class — its industrial dismantlement and the deepening of its internal divisions, its defensive retreat into the private sphere and crushing feeling of downward drift, its loss of a sense of collective dignity, and, lastly, its abandonment by Left parties more concerned with the games internal to their apparatus, leading to its near disappearance from the public scene as a collective actor. It follows that the fight against street delinquency now serves as screen and counterpart to the new social question, namely, the generalization of insecure wage work and its impact on the territories and life strategies of the urban proletariat.

In 1971, Frances Fox Piven and Richard Cloward published their classic book, *Regulating the Poor*, in which they argue that “relief programs are initiated to deal with dislocations in the work system that lead to mass disorder, and are then retained (in an altered form) to enforce work.”<sup>17</sup> Thirty years later, this cyclical dynamic of expansion and contraction of public aid has been superseded by a new division of the labor of nomination and domination of deviant and dependent populations that couples welfare services and criminal justice administration under the aegis of the same behaviorist and punitive philosophy. The activation of disciplinary programs applied to the unemployed, the indigent, single mothers, and others “on assistance” so as to push them onto the peripheral sectors of the employment market, on the one side, and the deployment of an extended police and penal net with a reinforced mesh in the dispossessed districts of the metropolis, on the other side, are the two components of a single apparatus for the management of poverty that aims at effecting the authoritarian rectification of the behaviors of populations recalcitrant to the

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16. Loïc Wacquant, “Deadly Symbiosis: When Ghetto and Prison Meet and Mesh,” *Punishment & Society* 3, no. 1 (Winter 2001): 95-133.

17. Frances Fox Piven and Richard A. Cloward, *Regulating the Poor: The Functions of Public Welfare*, new expanded ed. (New York: Vintage, 1993, orig. 1971), xvii.



emerging economic and symbolic order. Failing which it aims to ensure the civic or physical expurgation of those who prove to be “incorrigible” or useless. And, much like the development of modern “welfare” in the United States from its origins in the New Deal to the contemporary period was decisively shaped by its entailment in a rigid and pervasive structure of racial domination that precluded the deployment of inclusive and universalist programs, the expansion of the penal state after the mid-1970s was both dramatically accelerated and decisively twisted by the revolt and involutive collapse of the dark ghetto as well as by the subsequent ebbing of public support for black demands for civic equality.<sup>18</sup>

In the era of fragmented and discontinuous wage work, the regulation of working-class households is no longer handled solely by the maternal and nurturing social arm of the welfare state; it relies also on the virile and controlling arm of the penal state. The “dramaturgy of labor” is not played solely on the stages of the public aid office and job-placement bureau, as Piven and Cloward insist in the 1993 revision of their classic analysis of poverty regulation.<sup>19</sup> At century’s turn, it also unfolds its stern scenarios in police stations, in the corridors of criminal court, and in the darkness of prison cells.<sup>20</sup> This dynamic coupling of the Left and Right hands of the state operates through a familiar sharing of the roles between the sexes. The public aid bureaucracy, now reconverted into an administrative springboard into poverty-level employment, takes up the mission of inculcating the duty of working for work’s sake among poor women (and indirectly their children): 90% of welfare recipients in the U.S. are mothers. The quartet formed by the police, the court, the prison, and the probation or parole officer assumes the task of taming their brothers, their boyfriends or husbands, and their sons: 93% of U.S. inmates are male (men also make up 88% of parolees and 77% of probationers). This suggests, in line with a rich strand of feminist scholarship on public policy, gender, and citizenship,<sup>21</sup> that the invention of the *double regulation of the poor* in America in the closing decades of the twentieth century partakes of an overall *(re)masculinizing of the state* in the neoliberal age, which is in part as an oblique reaction to (or against)

18. The Gordian knot of racial division and penalty in the United States after the peaking of the Civil Rights movement is untied in my book *Deadly Symbiosis: Race and the Rise of the Penal State* (Cambridge: Polity Press, 2008).

19. Piven and Cloward, *Regulating the Poor*, 381-87, 395-97.

20. Similarities in the culture and organization of the supervision of single mothers who received public aid and convicts behind bars or released on parole are immediately apparent upon the parallel reading of Sharon Hays, *Flat Broke With Children: Women in the Age of Welfare Reform* (New York: Oxford University Press, 2003), and John Irwin, *The Warehouse Prison* (Los Angeles: Roxbury, 2004).

21. See Ann Orloff, “Gender in the Welfare State,” *Annual Review of Sociology* 22 (1996): 51-78; and Julia Adams and Tasleem Padamsee, “Signs and Regimes: Reading Feminist Research on Welfare States,” *Social Politics* 8, no. 1 (Spring 2001): 1-23.



the social changes wrought by the women's movement and their reverberations inside the bureaucratic field.

Within this sexual and institutional division in the regulation of the poor, the “clients” of both the assistential and penitential sectors of the state fall under the same principled suspicion: they are considered morally deficient unless they periodically provide visible proof to the contrary. This is why their behaviors must be supervised and rectified by the imposition of rigid protocols whose violation will expose them to a redoubling of corrective discipline and, if necessary, to sanctions that can result in durable segregation, a manner of social death for moral failing — casting them outside the civic community of those entitled to social rights in the case of public aid recipients, outside the society of “free” men for convicts. Welfare provision and criminal justice are now animated by the same punitive and paternalist philosophy that stresses the “individual responsibility” of the “client,” treated in the manner of a “subject,” in contraposition to the universal rights and obligations of the citizen,<sup>22</sup> and they reach publics of roughly comparable size. In 2001, the number of households receiving Temporary Assistance to Needy Families, the main assistance program established by the 1996 “welfare reform,” was 2.1 million, corresponding to some 6 million beneficiaries. That the same year, the carceral population reached 2.1 million, but the total number of “beneficiaries” of criminal justice supervision (tallying up inmates, probationers, and parolees) was in the neighborhood of 6.5 million. Moreover, welfare recipients and inmates have germane social profiles and extensive mutual ties that make them the two gendered sides of the same population coin.

### III. A “European Road” to the Penal State

Excavating the economic underpinnings and the socioracial dynamics of the rise of the penal state in the United States offers indispensable materials for a historical anthropology of the invention of neoliberalism in action. Since the rupture of the mid-1970s, this country has been the theoretical and practical motor for the elaboration and planetary dissemination of a political project that aims to subordinate all human activities to the tutelage of the market. Far from being an incidental or teratological development, the hypertrophic expansion of the penal sector of the bureaucratic field is an essential element of its new anatomy in the age of economic neo-Darwinism. To journey across the U.S. carceral archipelago, then, is not only to travel to the “extreme limits of European civilization,” to borrow the words of Alexis de Tocqueville. It is also to discover the likely contours of the future landscape

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22. Dorothy Roberts, “Welfare and the Problem of Black Citizenship,” *Yale Law Journal* 105, no. 6 (April 1996): 1563-1602.



of the police, justice, and prison in the European and Latin American countries that have embarked onto the path of “liberating” the economy and reconstructing the state blazed by the American leader. In this perspective, the United States appears as a sort of historical alembic in which one can observe on a real scale, and anticipate by way of *structural transposition*, the social, political, and cultural consequences of the advent of neoliberal penalty in a society submitted to the joint empire of the commodity form and moralizing individualism.

For the United States has not been content to be the forge and locomotive of the neoliberal project on the level of the economy and welfare; over the past decade, it has also become the premier global exporter of “theories,” slogans, and measures on the crime and safety front.<sup>23</sup> In her panorama of carceral evolution around the planet, Vivien Stern stresses that “a major influence on penal policy in Britain and other Western European countries has been the policy direction taken in the United States,” an influence to which she attributes “the complete reversal of the consensus prevailing in the postwar developed world and expressed in UN documents and international conventions” that “deprivation of liberty should be used sparingly,” and the general discrediting of the ideal of “the rehabilitation and social reintegration of the offender.”<sup>24</sup> Whether through importation or inspiration, the alignment of penal policies never entails the deployment of identical replicas. In European countries with a strong statist tradition, Catholic or social-democratic, the new politics of poverty does not imply a mechanical duplication of the U.S. pattern, with a clear and brutal swing from the social to the penal treatment of urban marginality leading to hyperincarceration. The deep roots of the social state in the bureaucratic fields and national mental structures, the weaker hold of the individualist and utilitarian ideology that undergirds the sacralization of the market, and the absence of a sharp ethnoracial divide explain that the countries of the European continent are unlikely to shift rapidly to an all-out punitive strategy. Each must clear its own path towards the new government of social insecurity in accordance with its specific national history, social configurations, and political traditions. Nonetheless, one can sketch a provisional characterization of a “European road” to the penal state (with French, Dutch, Italian, etc., variants) that is gradually coming into being before our eyes through a *double and conjoint accentuation of the social and penal regulation of marginal categories*.

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23. Loic Wacquant, “The Penalisation of Poverty and the Rise of Neoliberalism,” *European Journal of Criminal Policy and Research*, Special issue on “Criminal Justice and Social Policy,” 9, no. 4 (Winter 2001): 401-12; and Tim Newburn and Richard Sparks, eds., *Criminal Justice and Political Cultures: National and International Dimensions of Crime Control* (London: Willan, 2004).

24. Vivien Stern, “Mass Incarceration: ‘A Sin Against the Future’?,” *European Journal of Criminal Policy and Research* 3 (October 1996): 14.

Thus, during the past decade, the French authorities have stepped up both welfare and justice interventions. On the one side, they have multiplied assistance programs (public utility jobs, subsidized youth employment, training schemes, etc.), raised the various “social minima” (targeted government aid to various destitute categories), established universal medical coverage, and broadened access to the Revenu Minimum d’Insertion (RMI, the guaranteed minimum income grant). On the other, they have created special surveillance units (“*cellules de veille*”) and nested emergency riot police squads inside the “sensitive zones” of the urban periphery; replaced street educators with magistrates to issue warnings to occasional youth delinquents; passed municipal decrees outlawing begging and vagrancy (even though these are patently illegal); multiplied “crackdown” operations and sweeps inside low-income housing projects and routinized the use of “*comparution immédiate*” (a fast-track judicial procedure whereby an offender caught in the act is deferred before a judge and sentenced within hours); increased penalties for repeated offences; restricted parole release and speeded up the deportation of convicted foreign offenders; threatened the parents of juvenile delinquents or children guilty of school truancy with withholding family benefits, etc.

A second contrast between the United States and the countries of continental Europe is that penalization à l’européenne is effected mainly through *the agency of the police and the courts rather than the prison*. It still obeys a predominantly panoptic logic, rather than a segregative and retributive rationale. The correlate is that social services play an active part in this criminalizing process, since they possess the administrative and human means to exercise a close-up supervision of so-called problem populations. But the simultaneous deployment of the social and penal treatment of urban disorders should not hide the fact that the former often functions as a bureaucratic fig-leaf for the latter, and that it is ever more directly subordinated to it in practice. Encouraging state social assistance, health, and education services to collaborate with the police and judicial system turns them into extensions of the penal apparatus, instituting a *social panopticism* which, under cover of promoting the well-being of deprived populations, submits them to an ever-more precise and penetrating form of punitive surveillance.

It remains to be seen whether this “European road” to liberal paternalism is a genuine alternative to penalization in the mold of the United States or merely an intermediate stage or detour leading, in the end, to carceral hyperinflation. If neighborhoods of relegation are saturated with police without enhancing employment opportunities and life chances in them, and if partnerships between the criminal justice system and other state services are multiplied, there is bound to be an increase in the detection of unlawful conduct and an increased volume of arrests and convictions in criminal court. Who can say today where and when



the ballooning of the jails and penitentiaries visible in nearly all the European countries will stop? The case of the Netherlands, which has shifted from a humanist to a managerial penal philosophy and gone from laggard to leader in incarceration among the original 15 members of the European Union is instructive and worrisome in this regard.<sup>25</sup>

#### IV. The Penalization of Poverty as Production of Reality

Just as the emergence of a new government of social insecurity diffused by the neoliberal revolution does not mark a historical reversion to a familiar organizational configuration, but heralds a genuine political innovation, similarly the deployment of the penal state cannot be grasped under the narrow rubric of repression. In point of fact, the repressive trope is a central ingredient in the discursive fog that enshrouds and masks the sweeping makeover of the means, ends, and justifications of public authority at century's close. The leftist activists who rail against the "punishment machine" on both sides of the Atlantic — castigating the chimerical "prison-industrial complex" in America and denouncing a diabolical "*programme sécuritaire*" in France — mistake the wrapping for the package.<sup>26</sup> They fail to see that crime-fighting is but a convenient pretext and propitious platform for a broader redrawing of the perimeter of responsibility of the state operating simultaneously on the economic, social welfare, and penal fronts.

To realize that the rise of the punitive apparatus in advanced society pertains less to crime-fighting than to *state-crafting*, one must reject the conspiratorial view of history that would attribute it to a deliberate plan pursued by omniscient and omnipotent rulers, whether they be political decision-makers, corporate heads, or the gamut of profiteers who benefit from the increased scope and intensity of punishment and related supervisory programs trained on the urban castoffs of deregulation. With Pierre Bourdieu, one must recuse the "functionalism of the worst case" which casts all historical developments as the work of an omniscient strategist or as automatically beneficial to some abstract machinery of domination and exploitation

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25. David Downes and René van Swaaningen, "The Road to Dystopia? Changes in the Penal Climate of the Netherlands," in Michael Tonry & Catrien Bijleveld (eds.), *Crime and Justice in the Netherlands* (Chicago: The University of Chicago Press, 2006), 31-72.

26. For a critique of the "demonic myth of the 'prison-industrial complex'" in the United States, read Loïc Wacquant, "The New Mission of the Prison in the Neoliberal Age," in Willem Schinkel (ed.), *Globalization and the State: Sociological Perspectives on the State of the State* (Basingstoke: Palgrave, 2008).



that would “reproduce” itself no matter what.<sup>27</sup> Such a vision not only confuses the objective convergence of a welter of disparate public policies, each driven by its own set of protagonists and stakes, with the subjective intentions of state managers. It also fails to heed Foucault’s advice that we forsake the “repressive hypothesis” and treat power as a fertilizing force that remakes the very landscape it traverses.<sup>28</sup> Interestingly, this is an insight that one finds in Karl Marx’s erstwhile dispersed remarks on crime, which suggest that the advent of “liberal paternalism” is best construed under the generative category of *production*:

The criminal produces an impression now moral, now tragic, and renders a “service” by arousing the moral and aesthetic sentiments of the public. He produces not only text-books on criminal law, the criminal law itself, and thus legislators, but also art, literature, novels and the tragic drama. . . . The criminal interrupts the monotony and security of bourgeois life. Thus he protects it from stagnation and brings forth that restless tension, that mobility of spirit without which the stimulus of competition would itself be blunted.<sup>29</sup>

The transition from the social management to the penal treatment of the disorders induced by the fragmentation of wage labor is indeed eminently productive. First, it has spawned new categories of public perception and state action. Echoing the alleged discovery of “underclass areas” in the United States, in the closing decade of the century Europe has witnessed the invention of the “*quartier sensible*” in France, the “sink estate” in the United Kingdom, the “*Problemquartier*” in Germany, the “*krottenwijk*” in the Netherlands, etc., so many bureaucratic euphemisms to designate the nether sections of the city turned into a social and economic fallow by the state, and for that very reason subjected to reinforced police oversight and correctional penetration.<sup>30</sup> The same goes with the bureaucratic notion of “*violences urbaines*” (plural), coined in France by the Minister of the Interior to amalgamate offensive behaviors of widely divergent nature and motives — mean looks and rude language, graffiti and low-grade vandalism, vehicle theft for joy-riding, brawls between youths, threats to teachers, drug-dealing, and collective confrontations with

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27. “One of the principles of sociology consists in recusing this negative functionalism: social mechanisms are not the product of a Machiavellian intention. They are much more intelligent than the most intelligent of the dominant.” Pierre Bourdieu, *Questions de sociologie* (Paris: Minuit, 1980), 71, my translation (trans. *Sociology in Question*, London, Sage, 1990).

28. Michel Foucault, “Two Lectures” (1976), in *Power/Knowledge: Selected Interviews and Other Writings, 1972-1977*, ed. Colin Gordon (New York: Pantheon, 1980), 97.

29. Karl Marx, *Theories of Surplus Value*, cited in Tom Bottomore and Maximilien Rubel, eds., *Karl Marx: Selected Writings in Society and Social Philosophy* (New York: McGraw-Hill, 1958), 159.

30. Wacquant, *Urban Outcasts*, 237-41, 276-79.



the police — so as to promote a punitive approach to the social problems besetting declining working-class districts by depoliticizing them.

New social types are another byproduct of the emerging social-insecurity regime: the irruption of “superpredators” in the United States, “feral youth” and “yobs” in the United Kingdom, or “*sauvageons*” (wildings, a social-paternalistic variant of a racial insult scoffing at the alleged deculturation of the lower classes) in France has been used to justify the reopening or the expansion of detention centers for juveniles, even though all existing studies deplore their noxious effects. To these can be added the renovation of classic types such as the “career recidivist,” the latest avatar of the *uomo delinquente* invented in 1884 by Cesare Lombroso, whose distinctive psychophysiological and anthropometric characteristics are now being researched by experts in criminal “profiling”<sup>31</sup> as well as guiding the gigantic bureaucratic-cum-scholarly enterprise of “risk assessment” for the release of sensitive categories of inmates.

For the policy of penalization of social insecurity is also the bearer of new knowledges about the city and its troubles, broadcast by an unprecedented range of “experts” and, in their wake, journalists, bureaucrats, the managers of activist organizations, and elected officials perched at the bedside of the “neighborhoods of all dangers.”<sup>32</sup> These alleged facts and specialist discourses about criminal insecurity are given form and put into wide circulation by hybrid institutions, situated at the intersection of the bureaucratic, academic, and journalistic fields, which ape research to provide the appearance of a scientific warrant for lowering the police and penal boom on neighborhoods of relegation. Such is the case, in France, with the Institut des hautes études de la sécurité intérieure, an agency created by the Socialist Minister of the Interior Pierre Joxe in 1989 and then developed by his neo-Gaullist successor Charles Pasqua. This institute, “placed under the direct authority of the Minister of the Interior” in order to promote “rational thinking about domestic security,” irrigates the country with the latest novelties in “crime control” imported from America.<sup>33</sup> It is assisted in this enterprise by the Institut de criminologie de

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31. The “power-knowledge” constellation that subtends the genesis and success of the biological theory of crime (then and now) is explored by David Horn in *The Criminal Body: Lombroso and the Anatomy of Deviance* (New York: Routledge, 2003).

32. To recall the savorous expression of one of the French prophets of law-and-order doom, former police commissioner Richard Bousquet, author of *Insécurité: nouveaux risques. Les quartiers de tous les dangers* (Paris: L'Harmattan, 1998).

33. In July of 2004, the IHESI was replaced by the INHES (Institut national des hautes études de sécurité), a very similar outfit presented by Interior Minister Nicolas Sarkozy as the elite school of security that France needs. Its board of overseers features not a single researcher. Its work is complemented by the activities of the Observatory on Crime and Delinquency, created by Sarkozy and directed by Alain Bauer, self-proclaimed “criminologist” and president of Alain Bauer Associates, France’s leading consulting firm on “urban security.”



Paris, an *officine* in law-and-order propaganda which is remarkable for not including a single criminologist among its distinguished members.

It would take pages to list the full roster of the agents and devices that contribute to the collective work of material and symbolic construction of the penal state henceforth charged with reestablishing the state's grip over the populations pushed into the cracks and the ditches of urban space, from private firms of "safety consultants" to "*adjoints de sécurité*" (assistant police officers entrusted with police chores outside of law enforcement), to publishing houses eager to peddle books on this hot topic, "*citoyens relais*" (volunteers who anonymously tip the police about law-enforcement problems in their neighborhoods), and a whole series of judicial innovations (adjunct community judges, neighborhood "houses of justice," plea bargaining, etc.), which, on pretext of bureaucratic efficiency, establish a differential justice according to class and place of residence. In sum, *the penalization of precariousness creates new realities*, and realities tailor-made to legitimize the extension of the prerogatives of the punitive state according to the principle of the self-fulfilling prophecy.

A brief illustration: by treating jostling in the school corridors, rudeness in the classroom, or playground ruckus not as matters of discipline pertaining to pedagogical authority in the establishment but as infractions of the law that must be tallied and centrally compiled via a dedicated computer software (the Signa program) and systematically reported to the local police or magistrates; by assigning a "police correspondent" ("*officier référent*") to every secondary school (rather than a psychologist, nurse, or social worker, who are direly lacking in lower-class districts), the French authorities have redefined ordinary school troubles as matters of law and order and fabricated an epidemic of "school violence," even as surveys of students consistently show that over 90% of them feel completely safe at school. With the help of mass-media amplification, this "explosion" of violence serves in turn to justify the "school-police partnership" that produced it in the first place, and it validates the enrollment of teaching staff in the declining neighborhoods of the urban periphery in the police missions of surveillance and punishment. Besides, the staging of "school violence" allows state managers to avoid confronting the professional devaluation and bureaucratic dilemmas created within the educational sphere by the near-universalization of access to secondary schooling, the growing submission of the school system to the logic of competition, and the imperatives of the "culture of results" imported from the corporate world.<sup>34</sup>

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34. Eric Debardieux, "Insécurité et clivages sociaux : l'exemple des violences scolaires," *Les Annales de la recherche urbaine* 75 (June 1997): 43-50; and Franck Poupeau, *Contestations scolaires et ordre social. Les enseignants de Seine-Saint-Denis en grève* (Paris: Syllepse, 2004).



## V. Conclusion

To understand the fate of the precarious fractions of the working class in their relation to the state, it is no longer possible to limit oneself to studying welfare programs. The sociology of traditional policies of collective “well-being” — assistance to dispossessed individuals and households, but also education, housing, public health, family allowances, income redistribution, etc. — must be extended to include penal policies. Thus the study of incarceration ceases to be the reserved province of criminologists and penologists to become an *essential chapter in the sociology of the state and social stratification*, and, more specifically, of the (de)composition of the urban proletariat in the era of ascendant neoliberalism. Indeed, the crystallization of a liberal-paternalist political regime, which practices “*laisser-faire et laisser-passer*” toward the top of the class structure, at the level of the mechanisms of production of inequality, and punitive paternalism toward the bottom, at the level of their social and spatial implications, demands that we forsake the traditional definition of “social welfare” as the product of a political and scholarly common sense overtaken by historical reality. It requires that we adopt an expansive approach encompassing in a single grasp the totality of the actions whereby the state purports to mould, classify, and control the populations deemed deviant, dependent, and dangerous living on its territory.

Linking social and penal policies resolves what would appear to be a doctrinal contradiction, or at least a practical antinomy, of neoliberalism, between the downsizing of public authority on the economic flank and its upsizing on that of the enforcement of social and moral order. If the same who are demanding a minimal state in order to “free” the “creative forces” of the market and submit the most dispossessed to the sting of competition do not hesitate to erect a maximal state to ensure everyday “security,” it is because *the poverty of the social state against the backdrop of deregulation elicits and necessitates the grandeur of the penal state*. And because this causal and functional linkage between the two sectors of the bureaucratic field gets all the stronger as the state more completely sheds all economic responsibility and tolerates a high level of poverty as well as a wide opening of the compass of inequality.

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