

The penalisation of poverty and the rise of neo-liberalism*

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The criminalization 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-globalization 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 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 labor 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 ‘modernizing’ fractions of the bourgeoisie and state nobility, allied under the banner of neoliberalism, 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 casualized labor 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 calls “the left hand” of the State, symbolised by education, public health care, social security and social housing (Bourdieu 1998) is being superseded – in the United States – or supplemented – in Western Europe – by regulation through its ‘right hand’, ie., the police, courts and prison system, which are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 full entitlement package, for an indeterminate term and a livable 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 characterized 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 destabilized 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: prison presents itself as an indispensable and immutable organization, 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., pedophiles, 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 currently applied with growing frequency to non-European foreigners (i.e, immigrants from the former colonies of the old continent) who are thus designated as not being part of the ‘social body’ of the emerging Europe (Palidda 2000: 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 prison every year since 1989 (see Wacquant 2000a and 2001).

Nonetheless, the signal fact of the end of century is without doubt the tremendous inflation of prison populations in all the 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 neoliberal ideology of submission to the “free market” has spread, we observe a spectacular rise in the number of people 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 salaried work and the shrinking of social protection.

How neoliberal penalty is spreading and mutating

Erasing of the economic state, dismantling of the social state, strengthening of 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 neoliberal ideology. In point of fact, those who are glorifying the penal state today, in America 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 speak like Michel Foucault — rests, on the one hand, on the disciplining of the deskilled and deregulated labor 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 desocialized wage labor 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 the social order.

The overpowering ascent of the theme of “urban violence” and 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 neutralizes and warehouses its most disruptive elements, or those considered superfluous in regard to the transformations of the demand for labor; 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-U.S.A.” 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 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, for it is they who manufacture these notions before disseminating them within the American ruling classes 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-70’s.

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. Just as in matters of employment and social policy, England serves as the Trojan horse and “acclimation chamber” for the new, neoliberal penalty with a view to its propagation across the European continent (a major influence here is the Institute for Economic Affairs, which brings to the U.K., first Charles Murray to advocate cutting welfare, then Lawrence Mead to urge workfare, and finally William Bratton to proselytize 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” (passeur) or relay by vouchsafing with their university authority the adaptation of U.S. 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 been discredited among serious U.S. 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 Contracts for Security” 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 the 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 “carceralization.” Rather, they are groping towards the invention of a “European” (French, Italian, German, etc.) road to the penal state, suited to the different European political and cultural traditions, and characterized 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

¹ The IHESI is a state institute which conducts training seminars and “studies” on security and law-and-order 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 Contracts for Security (Contrats locaux de sécurité) are compacts signed with the central state through which municipalities plan, promote, and implement proactive anti-crime measures.

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 neighborhoods” 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 government has refused to align the norms for provisional detention for “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 sanction”² are speeded up, 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 penalization of poverty à la française is mainly effected by means of the police and the courts, rather than through 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 carceralization, or whether it is simply a stage on the way to mass imprisonment. If one saturates neighborhoods of social 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 U.S.-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 programs, and the corrupt and violent behavior of the crime and justice bureaucracies. In the formerly authoritarian societies of the Second World such as Argentina and Brazil, the application of neoliberal penalty amounts to reestablishing a dictatorship over the poor (see Wacquant 2000b on Argentina and Wacquant 2001b on Brazil).

France’s ‘Plural Left’ Joins the ‘Washington Consensus’ on Law and Order

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 neoliberalism and, through them, for shaping the visage of the postkeynesian state, is being waged. And here the new crime and security orientations of France play a pivotal role. In the 1980’s, the successive Mitterrand governments contributed powerfully to legitimating neoliberal economic ideology by capitulating under the pressure from the financial markets and monetary speculation to adopt policies of budgetary austerity and privatization policies. 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 U.S. neoconservative 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 neoliberal 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 decriminalization and decarceration, that it would increase the perimeter and prerogatives of the social state, and diminish those of the penal state. And it is the opposite that 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

² [Translator’s note] The “double peine” refers to the fact that most foreigners sentenced to prison in France 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.

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 80s 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 90s, his plan was to line the neighborhoods 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 labor market — under threat of being locked up. Thus fully ten percent 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 neighborhoods.

The Advent of the Penal State is not a Foregone Conclusion

Unlike in the United States, where the criminalization 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 to us as a sort of natural necessity (it too comes from America), carceral inflation is not an inevitability. Recourse to the prison apparatus is not destiny in advanced societies but a matter of political choices, and these choices must be made in full knowledge of the fact and of their consequences.

To oppose the penalization 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 banalization of the penal treatment of the 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. 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 neighborhoods.

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 optimize 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 penalization, soft or hard, of poverty 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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