

Prisons in the Neoliberal Era: Class and Symbolic Dimensions

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Abstract

The aim of this paper is to explore prison's class and symbolic dimensions in the Neoliberal Era. Neoliberalism was approached as the empowerment of the market which leads to the dismantlement of the social welfare state and to the strengthening of the penal state for the marginalised populations. Also, it was analysed as the 'conduct of conduct' in the Foucauldian sense, as it was argued that prison is a tool of government, functioning for the management of the marginalised populations. An effort was undertaken to discuss the differences of the US, the 'carceral example', with the European Union countries. The class and symbolic dimensions of punishment were first approached from a historical and a theoretical perspective respectively, before attempting to discuss neoliberalism, aiming to show the maintenance of prison's main characteristics through time under capitalism.

It was argued that the dismantlement of the welfare state brought to the fore the destabilisation of the labour market and the concurrent strategies of responsabilisation which led to the increased use of imprisonment. The result is the phenomenon of mass imprisonment, mainly affecting poor and marginalised populations and communities, leading to their further exclusion and social control. Furthermore, the relation of the industry with the penal policies was discussed, as part of the passage from welfare to 'workfare' and 'prisonfare'.

Concerning the symbolic dimensions of prisons, it was argued that the dominant representations of the criminals should be explored under the scope of the demonisation strategies, which aim to legitimise the harsher penal policies and to naturalise the discourse on 'criminal classes'. Therefore, emotional attitudes are emphasised, as leading to the uncritical acceptance of mass imprisonment. On the other hand, the risk management strategies were discussed, which despite having rationalistic and apolitical objectives,

disguise the responsabilisation strategies of the neoliberal era and the narrative of institutionalised insecurity. The analysis of the actuarial practises showed that the targeting of the population as a whole marks the transition from the disciplinary society to the control society.

The objective of this analysis was to establish an account of neoliberalism and the phenomenon of mass imprisonment, contributing to the radical analyses on prison aiming to provide argumentation for the promotion of radical social action towards prison abolition.

1. Introduction

The contested nature of prison has been raising heated debates since its emergence in the 16th century although it was considered a major breakthrough by the dominant discourse, reflecting Enlightenment's correctional ethos (Foucault, 1975: 307, 349; Davis, 2003: 9). Various critiques have explored the functions and social consequences of prisons. From a humanitarian perspective, it is argued that prisons dehumanise and debilitate (Mathiesen, 1990: 53) and that punishment consists of mere pain intended as pain (Christie, 1981: 5); Furthermore, it is vividly protested that prisons have failed to accomplish their aims of reducing criminality and providing safety to people and their communities (Mathiesen, 1990: 141). These critiques, while being obvious and useful for a full-fledged critique of prison, fail to establish a radical theoretical background which will allow the hidden violence of the institutions of social control to be revealed (Foucault, 1991: 44). Marx and Engels argue that 'the history of all hitherto existing society is the history of class struggles' (1848/2008: 3). From a wider angle, the history of humanity is considered as following two paths for its development: the rational and the irrational one, who have been contesting each other in a true dialectical battle; this battle results either in a heritage of dominance or in a heritage of freedom (Bookchin, 1999: 32)¹. The essay will attempt to provide adequate argumentation in its effort to make account of the class dimensions and the symbolic functions of prisons, protesting that, from the perspective described above, the prison regime belongs to the 'heritage of dominance'.

¹ The 'heritage of dominance' is the result of this dialectical battle which leads to the supremacy of the dominant forces over the lower divisions of the social scale, while its opposite, the 'heritage of freedom', is apprehended as the unfinished struggles towards the end of dominance and a future of emancipation (Bookchin, 1999: 32).

Of critical importance in the field of penology and criminology is the debate concerning penal practices and their relation to social development. As a tool for governing populations rather than oppressing them (in the classic Marxist approach of power relations²; Foucault, 1975: 37; Melossi, 2006: 65), it has been argued that penal practices do not simply reflect the socioeconomic changes that take place; they rather guide and govern those changes (Melossi, 2006: 81). This approach is distanced from the critique of the negative aspects of power relations and focuses on the positive, productive and functional aspects of disciplinary institutions (Foucault, 1987: 21; Melossi, 2006: 65). Therefore, the study of penal practices is an important way of exploring the radical socioeconomic changes that have taken place from late 1960's onwards, since the beginning of what could be called 'the Neoliberal Era'.

The current trend in the field of prison policies in most Western democracies is the phenomenon of 'mass incarceration' (Garland, 2001a; Pettit and Western, 2004; Wacquant, 2009b). Social theorists attempt to analyse social phenomena from a variety of different angles using a variety of different terms: 'risk society', 'New Times', 'post-Fordism', 'post-welfare', 'neoliberalism', 'late modernity' (Garland and Sparks, 2000: 201; Garland, 2001a: 77); the effort to discuss social change by limiting the analytic scope with the utilisation of one term (and therefore one analytic perception) inevitably leads to limited generalisability, as it explains change only by one angle (Garland and Sparks, 2000: 201). The essay will follow the analysis of neoliberalism in its effort to explore incarceration in the period after the 1960's, implying that the dominant societal rationale entails the empowerment of the market with a concurrent strengthening of the penal state (Wacquant, 2009b); furthermore, it

² Marxists analyse state power as inherently oppressive (see below the discussion of Althusser's theory), while the approach that will be emphasised in this paper is the (Foucauldian) analysis of power as productive (of 'truths', discourses, pleasure, etc.) and regulative (of behaviour and populations) - see below on Foucault's theory.

will attempt to explore the phenomenon of mass incarceration and to protest this overwhelming trend of ‘prisonisation’ of Western societies; this analysis aims to show the relation of this trend with neoliberalism; following the governmentality approach³, neoliberalism will be considered as the new ‘basis of government’ (Lemke, 2001: 200) and the new ‘conduct of conduct’ in the Foucauldian sense (Foucault, 1991: 92; Melossi, 2006: 87), while an effort will be undertaken to emphasise the class and symbolic aspects of prison growth and their relation to the rise of neoliberal political economy.

A brief introduction to neoliberalism and its dominance in the political field is essential in order to give an adequate account of the relation of this new form of governance with the penal policies and the class and symbolic dimensions of prison from the late 1960’s onwards. Neoliberalism embraces the market economy, which ‘is an ethic in itself’ (Wilson, 2007: 97) but is not confined only to the regulation of the economic sphere, the facilitation of the market and the embracing of free trade; it provides the reconstruction of the state in ‘market terms’ and results in mass privatisations and the elimination of welfare interventionism (Brown, 2006: 694)⁴. As a consequence, ‘Keynesianism’ (promoting welfare institutions, social measures, redistributive tax schemes, and collective responsibility for social problems;

³ Governmentality is a concept first developed by the French philosopher Michel Foucault; governmentality is the exercise of power without ‘reigning or ruling’, or ‘commanding’, but by practices through which the subjects are governable; moreover, governmentality practices perceive the populations as a productive force (Foucault, 2004: 69, 115). Foucault’s approach of the term ‘government’ is closer to the concept of ‘conduct of conduct’ having a double meaning: ‘governing the self’ and governing others (Lemke, 2001: 191).

⁴ The distinction between ‘classic liberalism’ and neoliberalism is based on two points: on the one hand, under classical liberalism the state regulates the market, while under neoliberalism the market itself is the organising principle underlying the state; on the other hand, neoliberalism is no longer based on the citizen who sets limits to the state’s actions (as happened under classic liberalism), but on the homo oeconomicus, who is a ‘behaviouristically manipulable being’ whose main concern is the calculation of costs and benefits (Lemke, 2001: 200).

Becket and Western, 2010: 46) is dead and a 'Darwinian' state takes over, favouring individualism and competition instead of the solidarity underlying by the Welfare State (Lemke, 2001: 201-2; van Krieken, 2006: 4; Wacquant, 2009b: 5). 'The survival of the fittest' naturalises a market ethos where there are only 'winners' and 'losers' (Wacquant, 2009b: 6). Within this context, social problems are converted into individual problems, in an embracement of market principles (Wacquant, 1999a: 328; Brown, 2006: 704), and the individuals are responsible for the risk of poverty, illness, unemployment etc. (Lemke, 2001: 201). Deviancy is approached within the same context, something which leads to responsabilisation strategies and the inevitable consequence of social exclusion (Wacquant, 2009b: 19). Therefore, we are witnessing a new legitimation of the state: economic liberty introduces a new form of sovereignty (Lemke, 2001: 196); '*homo oeconomicus*', who rationally calculates the costs and benefits of their every action, is rising, replacing and distorting the status of citizenry (Lemke, 2001: 200). This new market discourse has had major consequences in the conditions of the lower, working classes; the security of employment, standard rights, and welfare intervention have been eliminated by the deregulation of the labour market which causes the institutionalisation of domination through precariousness (Bourdieu, 2001: 29). Inevitably, the dominant trend of privatisation 'leads to the loss of collective gains' (Bourdieu, 1998: 37), and therefore to the dismantling of the social welfare state, which results in the destabilisation of the foundations of social solidarity (Bauman, 2007: 17). For Foucault's governmentality theory, neoliberalism is not simply a new way of conducting politics and regulating the economy; it is 'a political project that endeavours to create a social reality that it suggests already exists' (Lemke, 2001: 203).

On the other hand, while neoliberalism embraces freedom in terms of market regulation, it is rather 'intrusive and intolerant' when it comes to penal policies (Wacquant, 1999a: 338). The

plea for small government does not refer to crime and punishment (Pieterse, 2004: 123), as the disciplinary aspects of neoliberalism (Gill, 1995: 411) ultimately need the utilisation of prison for the government of marginal populations; as Wacquant puts it, ‘the poverty of the social state against the backdrop of deregulation elicits and necessitates the grandeur of the penal state’ (2009b: 19). The ‘reinvention of prison’ (Garland, 2001a: 14) should not surprise us; influenced by the individualistic ethos of the neoliberal discourse, criminals are perceived as economic individuals, who, having failed to invest rationally, are bound to receive the punishment that they deserve (Lemke, 2001: 199). Mass imprisonment is the inevitable result of this new ‘social discipline’ (Bourdieu, 2001: 61), as ‘the prison has become a black hole into which the detritus of contemporary capitalism is deposited’ (Davis, 2003: 16).

Current studies on modern punitive trends and neoliberal policies tend to emphasise ‘American exceptionalism’ (Downes, 2010: 61) and ‘penal globalisation’ (Cavadino and Dignan, 2006: 438) and to consider the United States as ‘the trend setter’ (Christie, 1993: 91; Pratt, 2001: 285). It could be argued, that the policies that the United States follow, influence to a great extent the formation of penal practices in many European countries (Wacquant, 2009b: 2; Garland, 2001a: ix). Bourdieu and Wacquant protest about the ‘cultural imperialism’ developed by the United States, which aims to impose on the rest of the world, the so called ‘Washington consensus’ (2001: 4). Furthermore, it has been argued that the UK follows this trend uncritically, facilitating the ‘transfer’ of punitive mentality and policies to the rest of Europe (Wacquant, 1999a: 334; 2009b: 21); England has, compared to the large EU countries, the biggest incarceration rate, the most deregulated labour market, the deepest social inequalities and the narrowest system of social protection; it is therefore argued that the heritage that Margaret Thatcher left, is the closest example of this ‘made in USA’ trend

(Wacquant, 2009a: 122). This process is advanced by the support expressed for neoliberal punitiveness by the academic world and the US- based think-tanks (Wacquant, 2009a: 342).

However, this approach overemphasises the role that the United States plays in this ‘transfer’ of penal policies and practices and neglects the fact that punishment is a complex phenomenon which is affected by a variety of different factors (Cavadino and Dignan, 2006: 436). The question of homogenised penal policies for the western world is open; the misconception that the United States is the only one to blame for the current punitive trend has led to gross overgeneralisations which put barriers against the effort for an adequate account of the ‘rise of punitiveness’; for example Canada, who belongs to the ‘English speaking world’ (which is considered as following the same trend in punitive penal policies) has shown a remarkable resistance to the dominant political climate (Doob, 2006: 334); therefore, Canada’s imprisonment rates have remained relatively stable since the 1960’s (Doob, 2006: 331). On the other hand, theorizing about crime and punishment without considering the major political, social and economic differences that exist between countries leads to an analysis of western penalty using ‘USA criteria’, which lacks sophistication and credibility. An issue related to the extent to which penal policies follow a pattern imposed by the United States brings the concepts of globalisation and penal homogenisation into the field of comparative penalty (Cavadino and Dignan, 2006: 437). Cavadino and Dignan did a comparative analysis of the relationship between the political economy and penalty in 12 contemporary capitalist countries, categorised as neoliberal, conservative corporatist, social democratic corporatist and oriental corporatist (2006: 440). Therefore, they do not consider the phenomenon of neoliberalism as a general political pattern followed around the western world; for them, it rather characterises some countries’ economies, but cannot be regarded as general. Using as their measure the countries’ prison rates, Cavadino and Dignan reach the

conclusion that neoliberal states are the most punitive; in their effort to account for the possible reasons for these differences in penal harshness, they adopt and propose the term ‘embodied culture of individualism’; as discussed above, neoliberalism embraces an individualistic ethos (Cavadino and Dignan, 2006: 447-8); marginalised citizens are solely responsible for their failures, and material inequality results in social exclusion; within this context, prison as a ‘peculiar remedy’ for crime, is much more in the forefront of governments’ choices (Cavadino and Dignan, 2006: 442).

However, despite the difficulties inherent in any comparative approach to Western penality, it should be noted that while penal policies are not transferred directly from the United States to Europe, the macroeconomic shifts in European countries are to a large extent influenced by the United States (Wacquant, 2009a: 39); therefore, as the latter reflect the shifts in penal policies, the argument that Europe follows America’s ‘populist punitiveness’ (Bottoms, 1995) is not an unreasonable one (Downes, 2010: 73). It remains to be seen if Europe will directly follow America’s punitive turn, or if the fundamental differences between the two continents will resist any homogenisation tendencies and the discussion of the Western penality will have to take these differences into consideration (Wacquant, 2009b: 26).

The objective of this paper is to take account of the shifts in penal policies and practices that result in the ‘reinvention of prison’ (Garland, 2001a: 14) and the phenomenon of mass incarceration in the Era of Neoliberalism. Furthermore, it will be discussed that these apparently radical changes do not mark a disruption from a humanitarian and non-punitive past, but follow a path that is inherent in Western capitalist- authoritarian political systems (Christie, 1993: 178). Neoliberalism is, as Bourdieu puts it, ‘a very smart and very modern repackaging of the oldest ideas of the oldest capitalists’ (1998: 34). It will be argued that prison is an institution which functions for the governing of marginal populations; in order to

achieve this, the paper will reflect on the class and symbolic dimensions of prisons. The first chapter of the essay will emphasise the class dimensions of the prison institution while the second one will explore the main symbolic aspects- functions of incarceration. Each chapter will start with an account of the ‘traditional’ critiques of prison from a class and symbolic perspective respectively, which will be followed by a more extended analysis of the issues under examination, reflecting the current trends of punishment in the Neoliberal Era, aiming to shed light on the structural forces that tend to legitimise and hide the effects of the dominant power relations, what Bourdieu calls ‘miscognition’ (1987: 813). However, it seems that most sociological accounts of punishment fall into a ‘theoretical trap’; they tend to overemphasise either a materialist- physicalist analysis or a symbolical- semiological one (Bourdieu, 1994: 12). Therefore, an effort will be undertaken to ‘break with the ritual opposition of intellectual schools and to wed the virtues of a materialist analysis... and the strengths of a symbolic approach... (Wacquant, 2009b: xv). It will be discussed that an adequate and full-fledged critique of prisons should put into consideration both the symbolic and the class dimensions of punishment in its effort to establish a radical analysis of the dominant power relations and provide argumentation for radical social action promoting the ultimate goal of prison abolition.

2. Prison as a class biased institution

Prison’s class origins and functions can be most effectively revealed by putting the prison institution into the historical context of emerging capitalism and by examining how the systemic needs of this new political rationale were reflected and promoted by criminal law.

The first part of this chapter emphasises the relation between capitalism and the appearance of the prison institution and gives an account of some neglected facts of the history of prison and its relation to racial bias as far as the history of the United States is concerned. The combined analysis of prison's class and race dimensions is of great importance to the analysis of neoliberal punitiveness that will follow; it will be argued that the phenomenon of mass imprisonment functions for the management of marginalised populations, mainly of low class people and people of colour.

2.1 The emergence of prison: Class control and racial segregation

Of great significance to the analysis of the origins of the prison institution is the passage from feudalism to capitalism, a slow process which lasted from the 14th to the 16th century (Katz, 1993: 366). The shift to capitalist economy was advanced by the abolition of serfdom; individuals could now sell their labour power as commodity, something which was essential for the radical change in the mode of production (Katz, 1993: 366); this change promoted the ideal of rationally organising formally free labour and naturalised the need for individual profit through economic exchange. Feudalism was characterised by an ethic of shared responsibility for individual conduct (Kennedy, 1978: 39). Therefore, individual guilt was strange to a normative system of collective responsibility. The shift to capitalist economy resulted in the rise of the concept of the individual (Marx, 1844/2010: 184); each citizen is responsible for their individual conduct; ones' achievements and failures are clearly attributed to their individual properties; this leads to the emergence of the concept of guilt, which promotes the idea of punishing one for their lawless actions (Kennedy, 1978: 38). The effect of this societal change to criminal law and punishment is explained by Chambliss in his analysis of the origins and functions of the Vagrancy Laws from late 14th century to the 17th

century in England (1978). Until the 15th century, in periods characterised by shortage of labour, and before the emergence of commerce and industry, the laws of vagrancy legitimised the subjection of vagrants to serfdom, as the latter were perceived as cheap source of labour; the advance of commerce provoked radical changes in the field of law: in 1530 a shift in focal concern took place, and the penal mechanism stopped focusing on labourers and targeted criminal activities; vagrants and people who could not legally account for their living were being the new targets of criminal legislation. Therefore, the change from feudalist economies to capitalist accumulation and commerce reflected the change in the content of criminal law; criminals were now perceived by the emerging bourgeoisie of England as threatening individuals, thus leading to harsher punishments and to the extended utilisation of prison for the confinement of the criminalised vagrants (Chambliss, 1978: 69, 72).

This traditionally Marxist historical account of criminal law and its relation to the emergence of capitalism is more clearly reflected in the ‘Commodity Exchange Theory of Law’ by Soviet legalist Eugene Pashukanis. According to Pashukanis, for the law of the bourgeoisie the citizen is perceived merely as an individual with economic rights and duties; therefore, the citizen is nothing more than an economic trader. In practice, the concept of liberty embraced by capitalism is the right to private property, a right fundamentally egoistic (Marx, 1844/2010: 178-9). Equality before the Law is considered an ‘absurdity’ by this conception, as law institutionalises inequality in the field of the ownership of the means of production, which, for this overwhelmingly materialist approach of societal relations, is the main measure of equality (Fuller, 1949: 1161; Chambliss, 1975: 149). Equality within the context of the bourgeois state is in essence the institutionalisation of actual inequality (Rousis, 2010: 70). Criminal law, according to this perception, favours retribution in the form of a ‘price’; punishment is not interested in justice but, as it reflects the ideology of exchange, in

responding to crime with a rational, economically oriented way, so that the criminal will 'get what is coming to him' (Fuller, 1949: 1159-61). Therefore, for Pashukanis, punishment serves merely as an institution of social control and for the legitimisation of class rule (Garland, 1990: 113). What is interesting in this account is that, in contrast to other Marxist analyses of law, this theory emphasises to some extent the ideological- symbolic functions of (criminal) law. Its rather limited (as being strictly economically oriented) perception, though, and its sole interest in the class dimensions of the ideological functions of penal practices mark the limits of this highly 'dogmatic' approach (Garland, 1990: 114, 117).

A rather important work on the origins of prisons is Rusche and Kirchheimer's 'Punishment and Social Structure' (1939/1991), a 'narrative history of penal methods' (Garland, 1990: 89) which develops a sophisticated political economy of punishment. Rusche and Kirchheimer argue that the emergence that prison was principally encouraged by 'economic necessities' rather than by the reformers- humanist' philosophy, as the principles of the latter coincided with the new societal and political environment (Garland, 1990: 94). Furthermore, they argue that the savage punishments of the past were replaced by this less violent means, as the discipline of the working class was depending on the existence of an 'industrial reserve army' (Rusche and Kirchheimer, 1939/1991: 56). George Rusche, in an earlier work, protested that 'the history of the penal system is ... the history of the relations [between] the rich and the poor' (Rusche, 1930: 13 cited in Garland, 1990: 92), aiming to show that the prison institution functioned as one mechanism among others for the discipline and exploitation of the working class.

For Rusche and Kirchheimer, punishment goes beyond a simple strategy of crime control; each system of production discovers the penal measures which reflect and serve its basic needs. According to this approach, which was latter called the 'labour surplus theory', the

degree of prison utilisation depends on the needs of the labour market; in periods characterised by abundant supply of labour, penal policy tends to be 'reckless with human lives' thus resorting to the use of prison to a larger extent (Garland, 1990: 91, 93). The analysis of Rusche and Kirchheimer starts by critiquing the declared objective of incarceration, which was the reformation of prisoners; they argue that prisons did not aim to reform detainees but rather to exploit their labour power (Rusche and Kirchheimer, 1939/1991: 49). The state, which perceived its duties only through the lens of profit-making, viewed prisons as part of a 'mercantilist program', thus encouraging the institution to 'pay'; the criminal justice objectives were considered as secondary, as they did not favour the profit making process. Therefore, since prisons established a new (and self-supporting) part of a nation's industry, they became the principle form of punishment. However, according to Rusche and Kirchheimer, in periods of mass surplus labour, prison primarily targeted the 'unneeded' labourers, as a standard labour force was already guaranteed (Rusche and Kirchheimer, 1939/1991: 51-55).

The analysis that the two Marxist penologists adopt, follows a reductionist materialist approach which puts the rise of prison within the historical context of rising capitalism; they attempt to show that the systemic needs of the mercantilist period, which was characterized by a shortage of labour and high wage costs, favoured the penal exploitation of the working class masses (Garland, 1990: 98) and that the passage to the industrial revolution period with the laissez-faire policies encouraged the transformation of prison to a place of mere penal confinement (Garland, 1990: 103). Rusche and Kirchheimer's account of the emergence of prison sheds light on the way that incarceration serves as an institution of class control but lacks in two fundamental points: On the one hand, it fails to comprehend the ideological-symbolic dimensions of punishment (Melossi, 1989: 316; Garland, 1990: 108; Melossi, 2006:

81); it underestimates the way the prison communicates social messages to the law-abiding citizens and the social consequences of these functions (Garland, 1990: 109). On the other hand, this analysis remains strictly economist⁵, fundamentally ignoring, or underestimating as secondary, the multiple factors which form the complex nature of punishment (Garland, 1990: 108).

A neglected aspect of the critical approaches to the emergence of the prison regime is the 'race question' in the United States and its relation to the origins and functions of prisons. Wacquant considers prison as an institution that marked the continuance of a tradition of ethnoracial segregation and of labour exploitation (2002), in a context where 'whiteness' operated 'as property' (Davis, 2003: 30). This approach suggests that 'slavery and mass imprisonment are genealogically linked' (Wacquant, 2002: 41) and places the emergence of prison into the historical context of rising capitalism (Davis, 2003: 43) and racial segregation and control. Thus, penal confinement is presented as the follower of three 'peculiar institutions' (Wacquant, 2002: 44-49): Slavery (1619- 1865), the Jim Crow system of racial division (1865- 1965), and the Ghetto (1915- 1968), all of them resulting to the 'extraction of labour and social ostracization of an outcast group' (Wacquant, 2002: 44). Angela Davis argues that the ideology and functions of the punishment techniques in the period after the American Revolution were very similar to Slave Codes (2003: 27), as race played an important role in the criminalisation of black people; the new Black Codes directly criminalised some acts only when the person charged was black. This new system operated clearly in order to 'legally restrict the possibilities of freedom for newly released slaves' and

⁵ Economism is the Marxian/ Marxist emphasis on economic determinism; as it will be discussed when analysing Althusser's theory, under this conception, economy determines the basic societal relationships, the others- the state, the legal system, culture, the school, etc.- being of less importance and directly influenced by the mode of production (i.e. the economy) (Althusser, 1976: 75-7).

for the control of black labour. It is therefore evident that the institution of prison replaced slavery in its social functions and despite the perceptions which accounted for a progressive-humanist reform it operated as the ‘reincarnation of slavery’ (Davis, 2003: 23, 27-31). The ‘race question’ will be addressed in a more extended analysis in the next part of the chapter within the political context of Neoliberalism, in order to make account of the ‘carceral continuum’ characterising the penal policies of the United States and the relation of these policies with the criminalisation of immigrants and immigration in the European context.

2.2 Class dimensions of prisons in the Neoliberal Era: Managing the poor

In this part of the paper specific focus will be laid on the passage to the neoliberal rational and its consequences in the penal field, encouraging the increasing utilisation of prison and the concentration of the penal control to the lower classes; furthermore, the links of punishment with private interests will be discussed.

2.2.1 Mass incarceration: Class and race dimensions

As discussed in the introduction and the discussion on neoliberalism, from the late 1960’s onwards, Western Democracies have followed a trend characterised by privatisations, smaller welfare state and a curtailment of social investments (Wacquant, 2009a, p. 55). As a result of

this neoliberal shift, the social damage concentrated in the lower classes was not unexpected: job precariousness, social insecurity, galloping poverty rates and the generalisation of social inequality are the social products of the neoliberal dominance (Wacquant, 2009a: 55-6). It is worth noting that while neoliberalism provides a context which facilitates the enrichment of some parts of the population, lower classes cannot rely on the deregulated labour market for their survival. Prisons are 'reinvented' for the regulation of the impoverished- proletarianised middle and lower classes; as mentioned in the introduction, 'to the deliberate atrophy of the welfare state corresponds the dystopic hypertrophy of the penal state' (Wacquant, 2009a: 58).

Therefore, as the market ethos is naturalised, penal policies are increasingly defined by 'an 'economic'' style of reasoning' (Garland, 2001a: 188); the crime problem, which was addressed with social means until the 1960's (as having social roots and context), is currently considered as a problem of management. This has led to the adoption of an economic language ('cost- benefit', efficiency, 'best- value' etc.) which marks a managerialist era (Garland, 1996: 455); crime has to be made tolerable as it cannot be eliminated (Feeley and Simon, 1992: 455-7). Furthermore, the new penal strategies are not driven by any penological objectives, but are rather influenced by political dynamics, which however have no broader agenda for a progressive social change and 'for the overcoming of social divisions' (Garland, 1996: 462, 466). The penalisation of poverty provokes the transition from the Welfare State to the Police State, favouring a 'second exclusion' for the already excluded proletarians (Panousis, 2002: 33). Thus, the theory of Rusche and Kirchheimer (1939/1991), to the extent that it emphasises economic variables and objectives as the main tools for analysing penalty, is confirmed; the neoliberal- inspired reconstruction of public authority is both liberal and paternalistic: liberal at the top, concerning the business elites' financial advancement, and paternalistic at the bottom, favouring punishment as a tool for the surveillance and

management of the poor (Wacquant, 2001a: 402). Neoliberal penalty is characterised by three transformations of the social sphere: the erasing of the economic state, the dismantling of the social state and the strengthening of the penal state. These three advances work together, as ‘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’ (Wacquant, 2001a: 404). As is obvious, this approach to neoliberal governmentality reflects on both the material consequences of punishment and its symbolic meanings, dimensions and objectives, which will be discussed in the next chapter.

The US is currently characterised by a phenomenon of mass incarceration; the prison population has ‘doubled in ten years and quadrupled in twenty’: from 380,000 in 1975 to the outstanding 1,931,850 in 2000 (Wacquant, 2009b: 114); currently, more than two million people are held in the US prisons (Walmsley, 2009: 3); furthermore, the total number of adults under any form of ‘penal supervision’ has raised to more than 5 million, representing nearly 3 percent of the adult population (Simon, 2007: 471). This remarkable rise in the USA’s prison rates does not correspond to crime rates; indeed, even in periods where crime rates were declining or remaining stable, the use of incarceration was overwhelmingly high, marking an undisputed shift to punitiveness (Mauer, 2010: 12). Zimring relates the radical rise in US’s imprisonment rates to a ‘new politics of punishment’, which emphasises penal severity and a ‘zero sum’ philosophy relating the satisfaction of the crime victims to the levels of pain delivered to offenders (2001: 164). Moreover, it should be noted that the form this turn to punitiveness takes in the US is much less attributed to the lengthening of prison sentences; it is rather caused by the specific policies that have been adopted: this ‘carceral bulimia’ is caused by policy choices such as determinate sentencing, mandatory minimums,

‘truth in sentencing’, and ‘three strikes and you’re out’ (Zimring, 2001: 162; Wacquant, 2009a: 60, 68; Mauer, 2010: 14). The punitive turn, though, is mostly expressed by the ‘anti-drug’ laws adopted by most US states; the concentration of the anti-drug penal control at the bottom of the social scale (Wacquant, 2009a: 62) is to a large extent responsible for the phenomenon of mass incarceration; this shift is in line with the passage from the ‘war on poverty’, characterising the Keynesian- Welfare US state of the 1950’s to the ‘war against the poor’ of the neoliberal era; the shift in political orientation from social intervention towards the construction of the poor as the ‘scapegoats’, brought a new societal rationale: the precarious workers are responsible for the major ills of society and thus have to take care of themselves, to ‘minimize their social demands’ and to accept a social situation of exclusion and punitiveness (Wacquant, 2009b: 49).

The dominant discourse attributing the phenomenon of crime to the ‘undeserving poor’ (Reiman, 1998: 164) has legitimised the social consequences of this concentration of the penal control to the most precarious, ‘low class and subproletarian families of colour’ (Wacquant, 2001a: 63), and has led them to a life course increasingly determined by imprisonment and the ‘criminal stigma’; released prisoners are increasingly doomed to a life of ‘weakened social connections to legitimate employment opportunities’ (Western, 2007: 510) and are therefore deprived of the ‘normalising’ factors of an acceptable social life (Western, 2007: 515). Thus, the socially marginalised groups that the penal control targets, are condemned to further impoverishment and social exclusion (Mallory, 2007: 102; Western, 2007: 529). Racial segregation plays an important role in this climate, as prison has become a normal part of young black males’ lives in urban centres (Pettit and Western, 2004: 156; Mallory, 2007: 103).

Indeed, the ‘carceral boom’ in the US has mainly affected people of colour (Hispanics, Latinos, and mostly black people) leading to their further exclusion and social control (Roberts, 2007). The combined practices of mass incarceration and racial segregation legitimise the stereotype of the black person as ‘naturally prone to crime’ (Roberts, 2007: 263). The numbers speak for themselves: the study of Pettit and Western found that the imprisonment rates for black people are about eight times higher than those for white people (2004: 152). In some cities, the prison or other correctional administration is the first state administration that young black Americans face; from the mid-1970’s, the withdrawal of the state from the social protectiveness of its welfare programs led to the concentration of the penal control to the subproletarian communities of colour (Wacquant, 2009b: 63), mostly as part of the ‘War on Drugs’, despite the steady decline of drug use figures since 1977-79 (Wacquant, 2009b: 61). But, as Wacquant puts it, it is not the increase in *stricto sensu* discrimination that has led to the overrepresentation of black people in the US prisons, but the differential application of the criminal (and mostly anti- drug) law; this has caused a ‘deep structural symbiosis... between the collapsing ghetto and the booming prison’ (Wacquant, 2009a: 156-7). This approach emphasises the role of ghetto as a ‘race making’ technique of governance, in the sense that it ‘constructs race’ (through alienation and marginalisation), favouring intrusion and social control, and also argues that the passage to the prison regime serves as the new dominant way of governing and managing the racially defined populations (Wacquant, 2010). Hence, prison as a race-making technique naturalises the ‘centuries- old association of blackness with criminality’ and legitimises the racially biased penal policies and practises that have led to the overrepresentation of black people in the US prisons (Wacquant, 2010: 117). Therefore, as discussed in the first part of this chapter, incarceration in the US has not escaped the ‘logic of slavery’; white supremacy is currently expressed

through the disproportional concentration of the penal control and prison sentences upon black people and their communities (Roberts, 2007: 267-8).

While the ‘carceral hyperinflation’ that is observed in the US could be described as a remarkable example of the relation between the neoliberal shift and the rise of punitiveness, we cannot describe Europe as following one trend, as ‘quite contradictory impulses are at work’ (Downes, 2010: 70). While there has been a continuous increase in the prison populations in almost every country- member of the European Union from 1985 onwards (Wacquant, 2009a: 88), the differences that exist between Europe and USA are worth discussing: on the one hand, while the prison rates in most European Union countries are rising, still the United States is by far the ‘biggest incarcerator of the world⁶’. This difference could be explained by the fact that the European states resort to the use of prison to a smaller extent than in the US, as they preferentially utilise the police force to prevent the social unrest characterising the low-class areas (Wacquant, 2009c). Furthermore, while incarceration in the US rose in a period of steady or declining crime rates, it could be argued that Europe faces a rather increase in crime rates. Finally, while the rise in the US incarceration rates is, as discussed above, the result of more punitive penal policies and practices which have led to more prison admissions, the prison boom in the European Union is mostly attributed to the lengthening of the prison sentences (Wacquant, 2009a: 88). The prison rates and the prison-building programmes around the continent though, imply that Europe is following a rather punitive turn, similar to the trend followed by the United States: ‘the Europe of the free circulation of capital, goods, and persons is also the Europe of police, judicial, and correctional cooperation’ (Wacquant, 2009a: 128). However, the European Union countries

⁶ According to the World Prison Population List of 2009, US’s prison population is 756 per 100,000 of the national population, while the biggest prison population in the EU is Latvia’s 288 per 100,000, the average being considerably lower (Walmsley, 2009: 3, 5).

have not reached the same levels of welfare state dismantlement as the US; they have rather emphasised both welfarism and police surveillance; the result though, is similar: a revision of public policy, favouring punishment and exclusion rather than inclusion and social protectiveness (Wacquant, 2009c).

From this comparative point of view, it is interesting to examine the issue of foreigners and immigrants, who could be described as ‘the ‘blacks’’ of Europe’ (Wacquant, 1999b: 216). Europe has faced large immigrant waves in the last 30 years; it seems though that there is a growing tendency of ‘ethnoracial disproportionality’ in the criminalisation of immigrants in the European Union members, with the leading countries being Greece, Belgium, Germany, France and Sweden. The difference though from the US example is that black people have been under exploitation, stigmatisation and exclusion for centuries long, while the confinement of immigrants as a penal policy choice is a modern phenomenon in Europe (Wacquant, 1999b: 217-8). Overall, despite the current rise of punitiveness in Europe, the differences observed between the two continents imply that researchers should be careful when generalising about the rise of punitiveness. It remains to be seen if Europe will follow the ‘paradigm’ set by the United States (Wacquant, 2009b: 26; Downes, 2010: 74).

In an analysis that attempts to challenge Wacquant’s materialist approach, De Koster and colleagues analyse the rise of punitiveness within the context of the current dominance of right-wing parties in the political field, as a new political culture leading to the increased use of prison (De Koster et. al., 2008: 722). Right- wing parties in the Western world, tend to over-concentrate their efforts in the fight against crime aiming to restore and maintain order in the nation. Therefore, the phenomenon of mass incarceration could be better explained, according to these authors, not by the shift to the neoliberal political economy but to the political priorities of the right-wing parties (De Koster et, al., 2008: 723-4). Their analysis