

The Place of the Prison in the New Government of Poverty

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More than the specifics of statistical figures and trends, it is the deep-seated logic of this swing from the social to the penal that one must grasp here. Far from contradicting the neoliberal project of deregulation and decay of the public sector, the irresistible rise of the U.S. penal state constitutes, as it were, its negative — in the sense of obverse but also of revelator — since it manifests the implementation of a *policy of criminalization of poverty that is the indispensable complement to the imposition of precarious and underpaid wage labor* as civic obligation for those locked at the bottom of the class and caste structure, as well as the redeployment of social-welfare programs in a restrictive and punitive sense that is concomitant with it. At the time of its institutionalization in the United States of the mid-nineteenth century, “imprisonment was above all a method aiming at the control of deviant and dependent populations,” and inmates were mainly poor people and European immigrants recently arrived in the New World.¹ Nowadays, the carceral apparatus of the United States fills an analogous role with respect to those groups rendered superfluous or incongruous by the twofold restructuring of the wage labor relation and state charity: the declining fractions of the working class and poor blacks at the core of formerly industrial cities. In so doing, it has regained a central place in the system of the instruments for the government of poverty, at the crossroads of the deskilled labor market, the collapsing urban ghetto, and social-welfare services “reformed” with a view to buttressing the discipline of desocialized wage work.

(i) Prison and the deskilled labor market. In the first place, *the penal system contributes directly to regulating the lower segments of the labor market* — and it does so in a manner more coercive and consequential than labor legislation, social insurance schemes, and other administrative rules, many of which do not cover insecure work. Its effect on this front is threefold. First, the stupendous prevalence and escalation of penal sanctions helps to discipline the reticent fractions of the working class by raising the cost of strategies of resistance to desocialized wage labor via “exit” into the informal economy. Faced with aggressive policing, severe courts, and the likelihood of brutally long prison sentences for drug offenses and recidivism, many shrink from getting or staying involved in the illegal commerce of the street and submit instead to the dictate of insecure employment. For some of those coming out of “the pen,” the tight mesh of postcorrectional supervision increases pressure to opt for the “straight” life anchored in work, when available.² On both counts, the criminal justice system acts in concordance with workfare to push its clientele onto the peripheral segments of the job market.

* Excerpted from *Prisons of Poverty*, Minneapolis, University of Minnesota Press, forthcoming in 2007.

¹ David Rothman, *The Discovery of the Asylum: Social Order and Disorder in the New Republic* (Boston: Little Brown, 1971): 254-255.

² Marta Nelson, Perry Dees and Charlotte Allen, *The First Month Out: Post-Incarceration Experiences in New York City* (New York: Vera Institute, 1999).

Second, the carceral apparatus helps to “fluidify” the low-wage sector and artificially depresses the unemployment rate by forcibly subtracting millions of unskilled men from the labor force. It is estimated that penal confinement shaved two full percentage points off of the U.S. jobless rate during the 1990s. Indeed, according to Bruce Western and Katherine Beckett, when the differential between the incarceration level of the two areas is taken into account, the United States posted an unemployment rate *higher* than the average for the European Union during eighteen of the twenty years between 1974 and 1994, contrary to the view propagated by the adulators of neoliberalism and critics of “Eurosclerosis.”³ While it is true that not all inmates would be in the labor force if free, that two-percentage point gap does not include the Keynesian stimulus provided by booming public expenditures and employment in corrections: the number of jail and prison jobs at the local, state, and federal level more than doubled over the past two decades, jumping from under 300,000 in 1982 to over 716,000 in 1999, when monthly payroll exceeded \$2.1 billion.⁴ Penal growth has also boosted employment in the private sector of carceral goods and services, a sector with a high rate of precarious jobs and turnover, and which goes rising along with the privatization of punishment (since the source of the “competitiveness” of correctional firms is the exceedingly low wages and meager benefits they give their staff.

Western and Beckett argue that carceral hypertrophy is a two-pronged, delayed mechanism with contradictory effects: whereas it embellishes the employment picture in the short run by amputating labor supply at the bottom of the occupational ladder, in the longer term it can only aggravate it by making millions more or less unemployable. In their view, “incarceration has lowered the U.S. unemployment rate, but... sustained low unemployment in the future will depend on continuing expansion of the penal system.”⁵ But this overlooks a third impact of mass imprisonment on the labor market, which is to facilitate the development of subpoverty jobs and the informal economy by continually (re)generating a large volume of marginal laborers who can be superexploited at will. Former inmates can hardly lay claim to better than degraded and degrading work because of their interrupted trajectories, distended social ties, ignominious judicial status, and the manifold legal restrictions and civil liabilities it carries. The half-million convicts streaming out of American prisons every year provide the vulnerable labor power suited to fuel the temporary employment sector, the fastest growing segment of the U.S. labor market over the past two decades (it accounts for one-fifth of all new jobs created since 1984).⁶ Mass incarceration thus feeds contingent employment, which is the spearhead for the flexibilization of wage labor in the lower tier of the jobs distribution. In addition, the proliferation of detention facilities across the country — their number has tripled in thirty years to surpass 4,800 — contributes directly to the national growth and diffusion of illicit

³ Bruce Western and Katherine Beckett, “How Unregulated is the U.S. Labor Market? The Penal System as a Labor Market Institution,” *American Journal of Sociology* 104, n.4 (January 1999): 1030-1060.

⁴ Sidra Lea Gifford, *Justice Expenditures and Employment in the United States, 1999* (Washington, D.C.: Bureau of Justice Statistics, 2002): 7. This gives the United States 24 correctional employees per 10,000 residents in full-time equivalents, compared to 4 per 10,000 for France (24,220 staff), 5 for Spain (22,035), and 8 for England and Wales (41,065) (according to data from *Statistique pénale annuelle du Conseil de l’Europe, Enquête 2000*, Strasbourg, Council of Europe, 2001, p. 47).

⁵ Western and Beckett, “How Unregulated is the U.S. Labor Market,” 1031.

⁶ Jamie Peck and Nikolas Theodore, “The Business of Contingent Work: Growth and Restructuring in Chicago’s Temporary Employment Industry,” *Work, Employment & Society* 12, n.4 (1998): 655-674, and Kathleen Barker and Kathleen Kristensen (eds.), *Contingent Work: American Employment Relations in Transition* (Ithaca: Cornell University Press, 1998).

trafficking (drugs, prostitution, stolen goods) that are the driving engine of the booty capitalism of the street.

(ii) Prison and the Preservation of Ethnoracial Order. The massive and growing overrepresentation of African Americans at every level of the penal apparatus shines a harsh light on the second function assumed by the carceral system in the new government of poverty in America: *to complement and compensate for the collapsing ghetto as device for the confinement of a population considered deviant, devious, and dangerous as well as superfluous, on an economic plane — Mexican and Asian immigrants make more docile laborers — as well as on a political plane — poor blacks hardly vote and, in any case, the country's center of electoral gravity has shifted from away from declining central cities to well-off white suburbs.*⁷

Under this angle, incarceration is only the paroxysmic manifestation of the logic of ethnoracial exclusion of which the ghetto has been the instrument and product since its historical inception. During the half century (1915-1965) dominated by the Fordist industrial economy to which blacks contributed an indispensable pool of unskilled labor, i.e., from World War I, which triggered the “Great Migration” from the segregationist states of the South to the worker metropolises of the North, to the Civil Rights revolution, which finally gave them access to the ballot box a hundred years after the abolition of slavery, the ghetto served as a “social prison” in that it ensured the systematic social ostracization of African Americans while enabling the exploitation of their labor power in the city. Since the debilitating crisis of the ghetto, symbolized by the great wave of urban revolts that swept the country during the 1960s, it is the prison which is in turn serving as surrogate “ghetto,” by warehousing the fractions of the black (sub)proletariat that have been marginalized by the transition to the dual service economy and by state policies of welfare retrenchment and urban withdrawal.⁸ The two institutions have thus become coupled and they complement each other in that each operates in its own manner to enforce the setting apart (the etymological meaning of *segregare*) of an undesirable category perceived as threatening the metropolis with a twofold menace, inseparably physical and moral. And this structural and functional symbiosis between ghetto and prison finds a striking cultural expression in the lyrics and the lifestyle flouted by “gangsta rap” musicians, as attested by the tragic destiny of the singer-composer Tupac Shakur.⁹ Born in prison from an absentee father (his mother, Afeni Shakur, was a member of the Black Panthers), the apostle of “thug life,” hero to a multitude of ghetto youths (and hordes of white suburban teens), died in 1996 in Las Vegas, riddled with bullets in a car ambush set up by members of a rival gang, after having himself been accused of shooting at police officers and serving eight months for sexual assault.

⁷ For a compressed historical and conceptual elaboration on the coupling between (hyper)ghetto and prison after the ebbing of the Civil Rights Movement, see Loïc Wacquant, “The New ‘Peculiar Institution’: On the Prison as Surrogate Ghetto,” *Theoretical Criminology* 4, n.3 (Special issue on “New Social Studies of the Prison,” 2000): 377-389.

⁸ Kerner Commission, *The Kerner Report. The 1968 Report of the National Advisory Commission on Civil Disorders* (New York: Pantheon, 1968 [orig. 1968]); Thomas Byrne Edsall et Mary D. Edsall, *Chain Reaction: The Impact of Race, Rights, and Taxes on American Politics* (New York: W.W. Norton, 1991); and Fred R. Harris and Lynn Curtis (eds.), *Locked in the Poorhouse: Cities, Race, and Poverty in the United States* (Lanham: Rowman & Littlefield, 1998).

⁹ Armond White, *Rebel for the Hell of It: Life of Tupac Shakur* (London: Quartet Books Ltd, 1997 [2nd ed. New York: Thunder's Mouth Press, 2002]).

(iii) Prison and Welfare-turned-Workfare. As it was at its birth, the carceral institution is now directly connected to the gamut of organizations and programs entrusted with “assisting” dispossessed populations, in step with the increasing organizational and ideological interpenetration between the social and penal sectors of the post-Keynesian state. On the one side, the panoptic and punitive logic proper to the penal field tends to contaminate and then redefine the objectives and mechanisms of delivery of public aid.¹⁰ Thus, in addition to replacing the right of indigent children to state assistance with the obligation for their parents to work after two years, the “welfare reform” endorsed by Clinton in 1996 subjects public aid recipients to intrusive practices of lifelong record-keeping and close supervision, and it establishes a strict monitoring of their behaviors — in matters of education, employment, drug consumption, and sexuality — liable to trigger sanctions both administrative and criminal. (One example: since October 1998, in central Michigan welfare recipients must submit to periodic drug testing, as do convicts on probation or parole, and their testing is carried out by the state’s department of corrections in offices where they mingle with parolees). On the other side, correctional facilities must *nolens volens* face up, under conditions of permanent penury and emergency, to the social and medical hardship that their “clientele” did not manage to resolve on the outside: in the country’s major cities, the biggest homeless shelter and the largest mental health facility readily accessible to subproletarians is the county jail.¹¹ And the same population cycles through from one pole of this institutional continuum to the other in a near-closed orbit that entrenches their socioeconomic marginality and intensifies their sense of indignity.

Finally, budgetary constraints and the political fashion for “less government” have converged to push towards the commodification of welfare no less than of incarceration. Several jurisdictions, such as Texas and Tennessee, already consign a sizable portion of their convicts to private establishments and subcontract the administrative handling of public aid recipients to specialized firms. This is a way of making poor people and prisoners (the vast majority of whom were poor on the outside and will be poor again when they get out) “profitable,” on the ideological if not on the economic level. What are witnessing here is the genesis, not of a “prison-industrial complex,” as suggested by some criminologists following after journalists and justice activists mobilized against the growth of the penal state,¹² but of a truly novel organizational figure, a partially *commercialized, carceral-assistential continuum* which is the spearhead of the nascent liberal-paternalist state. Its mission is to surveil and subjugate, and if need be chastise and neutralize, the populations refractory to the new economic order according to a gendered division of the labor, with its carceral component handling mainly the men while its assistential component exercises its tutelage over (their) women and children. In keeping with the American political tradition established during the colonial era, this composite institutional ensemble *in statu nascendi* is characterized, on the one hand, by the deep interpenetration of the

¹⁰ Michael B. Katz, *In the Shadow of the Poorhouse: A Social History of Welfare in America* (New York: Basic Books, 1996 [expanded edition]): chapter 11, and Joel Handler and Yeheskel Hasenfeld, *We the Poor People: Work, Poverty, and Welfare* (New Haven: Yale University Press, 1997).

¹¹ Torrey E. Fuller, “Jails and Prisons: America’s New Mental Hospitals,” *American Journal of Public Health* 85, n.12 (December 1995): 1611-1613.

¹² J. Robert Lilly and Paul Knepper, “The Corrections-Commercial Complex,” *Crime and Delinquency* 39, n.2 (April 1993): 150-166; Eric Schlosser, “The Prison-Industrial Complex,” *The Atlantic Monthly* 282 (December 1998): 51-77; and Eve Goldberg and Linda Evans, *The Prison Industrial Complex and the Global Economy* (Boston: Kersplebedeb, 1998). A trove of activist writings, calls, and information on the topic is the site www.prisonsucks.com run by the Prison Policy Initiative (based in Northampton, Massachusetts).

public and private sectors and, on the other, by the fusion of the functions of branding, moral redress, and repression of the state.

The demonic myth of the “prison industrial complex”

The refrain of the rise of a “prison-industrial complex” that would have succeeded (or supplemented) the “military-industrial complex” of the Cold War era, with defense industry giants retooling from supplying arms to the Pentagon to providing surveillance and punishment for the poor, the fear of the “red enemy” of the exterior being replaced by dread for the “black enemy” of the interior, and private operators acting in cahoots with corrections officials and politicians to constitute a shadowy “subgovernment” pushing for limitless carceral expansion aimed at exploiting the booming captive workforce, is a leitmotiv of the oppositional discourse on prison in the United States.¹³ Anchored in a conspiratorial vision of history, this thesis suffers from four major lacunae that undercut its analytical import and ruin its practical pertinence.

First, it reduces the *twofold, conjoint and interactive, transformation of the social and penal components* of the bureaucratic field to the sole “industrialization” of incarceration. But the changing scale of confinement in America is only one element of a broader redefinition of the perimeter and modalities of state action with regard to the “problem populations” residing in the nether regions of social and urban space. It is tightly connected to, and cannot be explained in isolation from the the epochal transition from “welfare” to “workfare.”¹⁴ By contrast, it is very dubious whether it can be tied to the “globalization” of the overly large and vague “isms” of capitalism and racism—the two favorite culprits in this activist tale of government evil—neither of which provide the necessary and sufficient conditions for America’s unprecedented and unrivaled carceral experiment.

Second, the imagery of the “prison-industrial complex” accords the role of driving force to the pecuniary interest of firms selling correctional services and wares or allegedly tapping the vast reserves of labor held under lock. It maintains that the profit motive is crucial to the onset of mass incarceration when, in reality, the latter pertains first and foremost to a *political logic and project*, namely, the construction of a post-Keynesian, “liberal-paternalistic” state suited to institute desocialized wage labor and propagate the renewed ethic of work and “individual responsibility” that buttress it. Profiteering from corrections is not a primary cause but an incidental and *secondary consequence* of the hypertrophic development of the penal apparatus. Indeed, the fact that private concerns are reaping benefits from the expansion of a government function is neither new nor specific to imprisonment: the delivery of every major public good in the United States, from education and housing to safety and health care, grants a vast role to commercial or third-sector parties—relative to medical provision for instance, punishment remains distinctively *public*. Nor is privatization necessary: banning imprisonment for profit did not prevent California from becoming a leader in the drive to mass incarceration.

Similarly, the ritual denunciation of the superexploitation of inmates under conditions evocative of penal slavery cannot hide the fact that only a minuscule and stagnant fraction of the US carceral population works for outside firms (well under 1% by the most generous counts) and that no economic sector relies even marginally on convict laborers. As for the prisoners toiling for

¹³ E.g. Elihu Rosenblatt (ed.), *Criminal Injustice: Confronting the Prison Crisis* (Boston: South End Press, 1996): esp. 13-72; Angela Davis and A.F. Gordon, “Globalism and the Prison-Industrial Complex: An Interview with Angela Davis”, *Race and Class* 40, n.2/3 (1999): 145-157; and Rose Braz et al., “Overview: Critical Resistance to the Prison-Industrial Complex” (introduction to a symposium on “The Prison-Industrial Complex”) *Social Justice* 27, n.3 (Fall 2000): 1-5.

¹⁴ Loïc Wacquant, “De l’Etat charitable à l’Etat pénal: notes sur le traitement politique de la misère en Amérique,” *Regards sociologiques* 11 (1996): 30-38.

state or federal industries behind bars, their output is negligible and they are “employed” at a net loss to the government, even though their activity is massively subsidized and heavily protected.¹⁵ Its spectacular growth notwithstanding, it is hard to square the claim that “the prison industrial complex is becoming increasingly central to the growth of the U.S. economy”¹⁶ with the raw statistics of national accounting: the \$57 billion that the US spent on corrections at the local, state, and federal level in 2001 amounted to barely one-half of one percent of the Gross Domestic Product of \$10,128 billion that year. Far from being “an essential component of the US economy,” corrections remains insignificant on the production side and acts not as an overall stimulus to corporate profits but a gross drain on the public coffers.

Third, this activist vision is premised on a flawed parallelism between the state functions of national defense and penal administration, which overlooks this crucial difference: military policy is highly centralized and coordinated at the federal level, whereas crime control is widely decentralized and dispersed among federal authorities, one hundred state departments of justice and corrections, and thousands of county and city administrations in charge of the police, courts, and jails. The phrase “criminal justice system” hides a loosely coupled web of bureaucratic agencies endowed with wide discretion and devoid of an overarching penal philosophy or policy. Even if some far-sighted ruling group had somehow concocted a nightmarish plan designed to turn the carceral system into a lucrative industry using the bodies of the dark-skinned poor as “raw materials,” there is no single lever that it could have seized and used to ensure their delivery. The simplistic thesis that capitalist lucre drives carceral growth leaves unexplained the specific mechanisms that have produced the remarkable convergence of correctional trends across the different jurisdictions of the United States and only adds to the “compound mystery” of nationwide hyperincarceration in the absence of “a distinctive policy precursor.”¹⁷

Finally, constricted by its prosecutorial approach, the woolly notion of “prison-industrial complex” overlooks the wide-ranging effects of the introduction, albeit in a limited and perverted form, of the *welfarist logic within the carceral universe* itself. Correctional institutions have been profoundly transformed over the past three decades, not only by changes in the scale and composition of their clientele, but also by the prisoners’ rights movement, the rationalization and professionalization of confinement, and the increasing oversight of the courts.¹⁸ Thus judges have demanded of jail and prison authorities that they meet a battery of minimal norms in matters of individual rights and institutional services, entailing for example the provision of education to under-age inmates and psychiatric services on a mass scale. However deficient it remains, correctional health care has improved substantially to the point where it is typically superior to the meager medical services accessible to the poorest convicts on the outside and it reaches millions yearly. So much so that public health scholars and officials have come to view the carceral system as a crucial point of intervention for detecting and treating a range of infectious disease common among low-income urban populations.¹⁹

¹⁵ In fiscal 2001, UNICOR, the Federal Prison Industries program, employed 22,600 inmates to produce a variety of goods (law-enforcement uniforms and kevlar helmets, bedding and draperies, office furniture, laundry services, bindery, vehicular repair, electronics recycling, etc.) sold to the government for a turnover of \$583 million. Despite financial subsidies, a captive market (two-thirds of sales are to the Defense Department), and inmate wages averaging a paltry 23 cents to \$1.15 an hour, the program turned up a negative cash flow of \$5 million dollars [Federal Bureau of Prisons, *UNICOR 2001 Annual Report* (Lexington: KY)].

¹⁶ Goldberg and Evans, *The Prison Industrial Complex and the Global Economy*, 5.

¹⁷ Zimring and Hawkins, *The Scale of Imprisonment*, 173.

¹⁸ Malcolm Feeley et Edward L. Rubin, *Judicial Policy Making and the Modern State: How the Courts Reformed America's Prisons* (New York: Oxford University Press, 1998).

¹⁹ Jordan B. Glaser and Robert B. Greifinger, “Correctional Health Care: A Public Health Opportunity,” *Annals of Internal Medicine* 118, n.2 (January 1993):139-145.