

# Rethinking the political economy of punishment

Alessandro De Giorgi argues for a better understanding of the relationship between labour and punishment.

The label ‘political economy of punishment’ refers to a neo-Marxist critique of penality. Although Marx himself never dealt systematically with the penal question, the broader materialist approach, which sees processes of social change as shaped by the structural relationship between modes of production and legal/political institutions, has represented a powerful framework for critical sociologies of punishment (*cfr.* Melossi 1998).

The early co-ordinates of what would become one of the main currents in critical criminology, were laid down in the 1930s by Georg Rusche and Otto Kirchheimer (henceforth, R&K) in *Punishment and Social Structure* (1939: 5): ‘Every system of production tends to discover punishments which correspond to its productive relationships. It is thus necessary to investigate the origin and fate of penal systems, the use or avoidance of specific punishments, and the intensity of penal practices as they are determined by social forces, above all by economic and then fiscal forces’.

In other words, both the historical transformations of penal practices (e.g. the abandonment of corporal punishments in favour of prisons, in modern Europe) and their persistence in a particular age (e.g. the unabated hegemony of incarceration today, despite its failures), can only be explained by situating them within a specific social structure and by analysing the role they play in the reproduction of its class-hierarchies. In this sense, the ‘origin and fate’ of penal systems has less to do with humanitarianism than with the ‘utility’ of penal strategies for the preservation of a given economic system and the enforcement of its relations of production.

In a capitalist society the geographies of class power – and the strategic position of penal practices inside them – are primarily articulated by the labour market: unlike pre-capitalist societies relying on non-economic forms of control over unfree workers, in capitalist social formations the labour market becomes the arena in which power relations between capital and labour are defined.

However, how do labour market dynamics affect penal practices and institutions? Basically, by establishing the ‘value’ of human labour, and therefore the living conditions of those who are the targets of punishment: the proletarian class. These are the ones who must be kept obediently at work and who must be deterred from committing those

crimes (i.e. against private property and authority) which symbolise an assault on the legitimacy of a capitalist order. In Rusche’s own words (1933: 4): ‘All efforts to reform the punishment of criminals are inevitably limited by the situation of the lowest socially significant proletarian class which society wants to deter from criminal acts. All reforms, however humanitarian and well meaning, which go beyond this restriction, are condemned to utopianism’. This is the crucial principle of *less eligibility*: living conditions for those who are punished (e.g. prisoners) must be in any case worse than the standards of life available to the ‘free’ proletarian class. It follows that whenever there is a *surplus* labour force large enough to function as an ‘industrial reserve army of labour’, penal practices will become harsher and ‘bloody legislations’ of any kind will be easily exhumed from the shadows of penal history (Marx, 1867).

The materialist paradigm has inspired both historical and contemporary critiques of penality. On the one hand, the ‘revisionist histories’ of punishment which appeared between the 1970s and 1980s connected penal developments such as the invention of the prison, to the emergence of the factory as the main site of capitalist production (Melossi and Pavarini 1981). On the other hand, neo-Marxist criminologists like Ivan Jankovic, Dario Melossi, Steven Box, Chris Hale, David Greenberg and Katherine Beckett, applied these critical tools to the current penal landscape, offering materialist interpretations of such developments as mass-incarceration and the ‘war on crime’ in late-capitalist societies. These authors have operationalised R&K’s hypothesis by analysing the relationship between rates of unemployment (as an indicator of the ‘situation of the lowest significant proletarian class’ in capitalist economies) and rates of imprisonment (as a valid indicator of penal severity).

In general, this literature has shown that such a relation is indeed observable and that penal severity is significantly correlated to unemployment, while relatively independent of criminal activity. Following Laffargue and Godefroy (1989:373): ‘The rise in unemployment and the fall of a fraction of the working class into the sub-proletariat during economic recession result in the extension of those ‘target groups’ affected by the punitive criminal

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justice circuit. This leads to an increase in prison populations, regardless of variations in crime'. And this seems indeed to have happened in several Western countries since the 1980s, with high rates of unemployment associated with vertical increases in prison populations.

However, such an 'orthodox' translation of R&K's model is embedded in a specific paradigm of capitalist production – the Fordist/Keynesian model articulated around mass-industrial production, stable labour markets and a network of 'social rights' guaranteed by the welfare state according to a clear distinction between 'employment' and 'unemployment' – that has been revolutionised in the last three decades by a new framework of production defined by some as 'post-Fordism' (cfr. Amin 1994).

Now, I would argue that several features of this transition – such as the shift from industrial production to the service economy, the flexibilisation of work, the globalisation of capitalist networks, the fragmentation of labour markets, the vertical increase in social inequalities, the controlled mobilisation of migrant labour – have undermined the very social structure on which the Fordist political economy of punishment was based. The fact is that rates of unemployment – but more in general, any economic indicator based on binary distinctions such as inclusion/exclusion, or work/non-work – no longer seem to offer adequate grounds for a Marxist critique of penalty, within a late-capitalist mode of deregulated production whose functioning seems to be based precisely on the *blurring* of those distinctions.

Whole economic sectors, from domestic labour to constructions, from MacJobs to agriculture, are based today on an immigrant, invisible, insecure and disposable labour force whose hyper-exploitation takes place *across* the thin border separating 'subordinate inclusion' from downright poverty (Gorz 1999).

This socio-economic *borderland* – which the dismantling of welfare under neo-liberal imperatives in countries like the US and the UK has turned into a *wasteland* – is populated by the growing army of the working poor. These are today the representatives of Rusche's 'lowest socially significant proletarian class': the usual suspects, who must be convinced by any means that working 'legally' – even without a contract, for poverty wages, without rights and at constant risk of deportation if immigrants – is *more eligible* than being caught in the hypertrophic net of punitive regulation.

The point I would like to make here, is that a post-Fordist political economy of punishment should be able to investigate precisely that socio-economic wasteland and the practices deployed by the neo-liberal state for the punitive regulation of the dispossessed populations who inhabit its territories.

This would require a significant shift in some of the theoretical and methodological tenets of the political economy of punishment. On the side of the *social structure*, in order to grasp the complex articulation of subjective experiences and objective constraints which shapes today the 'situation' (in Rusche's own terms) of the post-Fordist labour force, Marxist criminology should abandon the safe haven of abstract statistical correlation and begin to undertake qualitative and ethnographic research on the transformations of work and its impact on the daily lives of the populations most targeted by contemporary penal practices; current geographies of class power should be analysed in light of the increasingly racialised and gendered patterns of post-Fordist economy; finally, we should realise the extent to which national labour markets have been already *globalised* by

international migrations – something which suggests that the relation between 'punishment and social structure' might be extended well beyond the national borders, thus configuring a paradigm of *global less eligibility*.

This leads me back to the field of penalty. Here, a new political economy of punishment should reconsider its exclusive attention to incarceration rates, and shift its focus toward what I would call the 'punitive assemblage'. This refers to a complex of punitive practices and institutions which includes the prison, but extends well beyond its walls: in fact, this widening network of punitive regulation contemplates both penal institutions used for the governing of entire populations (e.g., mass-imprisonment/immigration detention) and institutions of social government recently turned into devices for the penalisation and stigmatisation of disposable others (e.g. workfare). In this sense the punitive assemblage includes both penal and extra-penal strategies, ordinary prisons as well as immigration detention centres, tough anti-crime policies as well as restrictive 'anti-poor' welfare reforms – through a punitive *continuum* targeting those inside prisons as much as those entrapped in the surrounding wastelands, in a constant reminder of what awaits them if they refuse to surrender to the imperatives of an over-exploitative economic order (cfr. Wacquant 1999).

Finally, a radical critique of that *continuum* and of the dystopic model of punitive democracy that is being built around it in much of the Western world, is the challenge awaiting the political economy of punishment for the 21st century.

**Alessandro De Giorgi** is based at the Dept. of Justice Studies, San Jose State University, California.

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