

How to escape the law and order trap

Loïc Wacquant argues for an expansion of social and economic rights.

It is an aberration to separate the politics and policies of criminal 'insecurity' from the rise of the social insecurity that feeds it in reality as well as in collective representations. It is equally absurd to deal with minor illegalities with an instrument as crude and inefficient as prison. And it is urgent that we take full stock of the perverse judicial effects and social harms caused by penal sanction and the uncontrolled expansion of an already overloaded carceral apparatus that, in its day-to-day functioning, discredits the ideals of justice and equality it is supposed to uphold.

It is not a matter of denying the reality of crime or the need to find responses to it, *including penal ones* where they are appropriate. Rather, it is a matter of properly understanding crime by re-embedding it in the complete system of social relations which help explain its form and incidence as well as the hysterical reactions it currently provokes. For this, it is necessary to engage in a rational and

known that the economic and social costs of white collar and business crime in Europe and America is considerably higher than that of run-of-the-mill delinquency or even violent crime.

A rational public debate on crime would differentiate between offences and rigorously measure their incidence and effects. It would eschew the short-term perspective and emotional cast of daily journalism to make a clear-cut differentiation between blips and groundswells, incidental variations from year-to-year and long-term trends. It would not confuse the rising fear of crime, intolerance of crime, or concern over crime with an increase in law-breaking itself. And it would recognise that 'spikes' in the fear of crime are generally a response to media campaigns or political crusades whereby officials seek to divert attention from more discomfiting issues.

But above all, an intelligent crime policy would recognise that delinquent acts are the product, not

A rational public debate would not confuse the rising fear of crime, intolerance of crime, or concern over crime with an increase in law-breaking itself.

informed debate on illegalities, plural, and not focus exclusively on street-level delinquency – it is well

of a singular and autonomous individual endowed with a warped will or vicious aims, but of a network of multiple causes and reasons entangled according to various logics (predation, exhibition, alienation, humiliation, transgression, confrontation with authority, etc.). Such acts therefore call for remedies that are just as diverse and take full account of the congenitally low efficacy of the penal apparatus to put in place a *plurality of mechanisms of reduction and diversion*.

'Savoir pour prévoir, prévoir pour pouvoir' ('know in order to predict; predict in order to act'), said Auguste Comte, the forefather of modern sociology. Criminality is, in all societies, too serious a matter to be left to experts and ideologues, and even less to the police and politicians eager to exploit it. Instead, opposing the contemporary

Continued on next page



A new understanding of crime is called for.

penalisation of poverty and its correlates means waging a triple battle.

First of all, at the level of *words and discourse*, one must fight to halt the seemingly harmless semantic drifts that shrink the space of the thinkable and hence the doable (for instance, by arbitrarily restricting the meaning of the word 'security' to the criminal sphere, disconnected from employment security, income security, housing security, etc.). These, in turn, contribute to the punitive treatment of tensions linked to the deepening of social inequalities.

Second, on the front of *judicial policies and practices*, it is necessary to block the multiplication of mechanisms that tend to widen the penal net and, in their place, to propose, wherever possible, an economic, social, health, or educational alternative by showing that each of these helps to tackle the problem at its roots, whereas punitive containment most frequently makes it worse. The predicament of poor people suffering from severe psychological afflictions is a case in point: they should never be held in penal establishments when the fundamental reason for their arrest and incarceration is the lack of mental health care on the outside; the same is true for the homeless who find themselves thrown behind bars in increasing numbers due to the conjoint erosion of the low-wage and low-income housing markets, together with the apathy of governments in dealing with this derelict population. It is useful in this regard to emphasise the destructive conditions and effects of confinement, not only for the inmates, but also for their families and their neighbourhoods. The prison is not simply a shield against delinquency, but a double-edged sword: an organism for coercion which, when it develops to excess, as in the United States over the past quarter-century, or in the Soviet Union during the Stalinist period, mutates into an autonomous vector of pauperisation and marginalisation (Wacquant 2008).

Third, it is necessary to defend the autonomy and dignity of the occupations making up what Pierre Bourdieu (1998) calls the '*left hand*' of the state, dealing with education, housing, health, and welfare. They must be given the budgetary and human resources needed to fulfil their mission and *nothing but their mission*. This is to say they must refuse to become an extension of the police or an annex of judicial administration under cover of better co-ordination between public services and bureaucratic efficiency. Synergies between public administrations are desirable in principle but, in practice, the key question is which of them imposes its logic, language, criteria for action, temporal horizon, and objectives: does partnership aim to increase the long-term *social* security of families and individuals facing hardships by affording them greater stability and capacity for managing their life, or to produce short-term gains in *criminal* security by forcing down the statistical indicators of recorded crime and make a show of paternalistic severity for electoral purposes?

Finally, it is essential to *forge connections between activists and researchers on the penal and social fronts*, between members of unions and associations in the welfare, education, housing, and health sectors, on the one hand, and their counterparts mobilised around the police, justice, and correctional services, on the other. The double regulation of the poor through the conjoined welfare and judicial wings of the state in the age of economic deregulation must be met by new alliances of analysts and militants taking account of the distinctive anatomy of the neo-liberal state. A formidable pool of theoretical and practical knowledge to be exploited and shared across Europe already exists: it must be utilised to dissect and remake the link between social justice and criminal justice. For the true alternative to the drift towards the penalisation of poverty is the construction of a European social state worthy of the name. Three-and-a-half centuries after the birth of the prison, the most effective way to diminish its power still resides in the expansion of social and economic rights.

This paper is adapted from the concluding chapter of Loïc Wacquant's book Punishing the Poor: The New Government of Social Insecurity (Durham and London: Duke University Press, 2008).

Loïc Wacquant is Professor of Sociology at the University of California, Berkeley, and Researcher at the Centre de sociologie européenne, Paris. His books include Urban Outcasts A Comparative Sociology of Advanced Marginality (2007) and Punishing the Poor (2008).

References

- Bourdieu, P. et al., (1998), *The Weight of the World: Social Suffering in Contemporary Society*, Cambridge: Polity Press.
- Wacquant, L. (2008), *Deadly symbiosis: race and the rise of the penal state*, Cambridge: Polity Press.