

PUNISHING THE POOR

THE NEW GOVERNMENT OF SOCIAL INSECURITY

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The resolutely punitive turn taken by penal policies in advanced societies over the two past decades does not pertain to the simple diptych of “crime and punishment.” It heralds the establishment of a new government of social insecurity aimed at fashioning the behavior of the men and women caught up in the turbulences of economic deregulation and of the reconversion of welfare into a springboard toward precarious employment. Within this “liberal-paternalist” apparatus, the police and the prison have recovered their original mission: to tame the populations and the territories rebellious to the emerging economic and moral order.

It is in the United States that this new politics and policy of marginality has been invented, in the wake of the social and racial reaction that was to be the crucible of the neoliberal revolution. This is why this book takes the reader inside America’s prison to probe the entrails of the bulimic carceral state that has risen on the ruins of the charitable state and of the big black ghettos. It demonstrates how, in the era of fragmented and unstable labor, the regulation of the lower classes no longer involves the sole arm, maternal and supportive, of the social-welfare state, but implicates also that, virile and stern, of the penal state. And why the fight against crime serves as both screen and counterpart to the new social question that is the generalization of insecure work and its impact on the life spaces and strategies of the urban proletariat.

By uncovering the material underpinnings and unhinging the symbolic springs of the punitive “one-way-thinking” on law and order that is now sweeping through the countries of the First and Second worlds, this book makes an original contribution to the historical anthropology of the state in the age of triumphant neoliberalism. And it points a way out of the pornographic punitiveness that leads political elites everywhere to use the prison as a social vacuum cleaner entrusted with making the rejects of the market society disappear.

-CHAPTER 1-

SOCIAL INSECURITY AND THE PUNITIVE UPSURGE

Comparative analysis of the evolution of penalty in the advanced countries during the past decade reveals a close link between the ascendancy of neoliberalism, as ideological project and governmental practice mandating submission to the “free market” and the celebration of “individual responsibility” in all realms,^{*} on the one hand, and the deployment of punitive and proactive law-enforcement policies targeting street delinquency and the categories trapped in the margins and cracks of the new economic and moral order coming into being under the conjoint empire of financialized capital and flexible wage labor, on the other hand.

Beyond their national inflections and institutional variations, these policies sport six common features.¹ First, they purport to attack head-on the problem of crime as well as urban disorders and the public nuisances that border the confines of penal law, baptized “incivilities,” while deliberately disregarding their causes. Second, to do so they claim to rely on the recovered or renewed capacity of the state to durably submit so-called problem populations and territories to the common norm. Whence, third, a proliferation of laws and an insatiable craving for bureaucratic innovations and technological gadgets: crime-watch groups and “guarantors of place”; partnerships between the police and other public services (schools, hospitals, social workers, the national tax office, etc.); fast-track judicial processing and the extension of the prerogatives of probation and parole agents; video surveillance cameras and computerized mapping of offenses; compulsory drug testing and “flash-ball” guns; criminal profiling, electronic monitoring, and generalized genetic fingerprinting; enlargement and technological modernization of carceral facilities; multiplication of specialized detention centers (for foreigners waiting to be expelled, recidivist minors, women and the sick, convicts serving community sentences, etc.).

Next, these punitive policies are conveyed everywhere by an alarmist, even catastrophist discourse on “insecurity” animated with martial images and broadcast to saturation by the commercial media, the major political parties, and professionals in the enforcement of order – police officials, magistrates, legal scholars, experts and merchants in “urban safety” counseling and services – who vie to propose remedies as drastic as they are simplistic. Made up of amalgamation, approximation, and exaggeration, this discourse is amplified and ratified by the prefabricated productions of a certain magazine sociology that shamelessly lumps together schoolyard brawls, stairwell graffiti, and riots in derelict housing projects in accordance with the demands of the new political common sense.[†] Fourthly, out of a proclaimed concern for

^{*} One would need to deconstruct these two notions, which function in the manner of magical incantations that support one another. This to recall that, just as no durable system of commodity exchange can exist without a vast infrastructure of social relations and a recognized juridical framework, the autonomous individual and her free will are, as Durkheim showed long ago, not universal anthropological givens but creations of the modern society and state. Emile Durkheim, *Leçons de sociologie* (Paris: PUF, 1950), esp. 93-99.

[†] From among the unstoppable flood of books, each catchier than the last, that has submerged French bookstores these past few years, the most representative (and thus the most grotesque) are those by judge Georges Fenech,

efficiency in the “war on crime” as much as for proof of solicitude toward this new figure of the deserving citizen that is the crime victim, this discourse heedlessly revalorizes repression and stigmatizes the youths from declining working-class neighborhoods, the jobless, homeless, beggars, drug addicts and prostitutes, and immigrants from the former colonies of the West and the ruins of the Soviet empire, designated as the natural vectors of a pandemic of minor offenses that poison daily life and “urban violence” that borders on collective chaos.² Following which, in the prison domain, the therapeutic philosophy of “rehabilitation” has been more or less supplanted by a managerialist approach centered on the cost-driven regulation of carceral stocks and flows, paving the way for the privatization of the correctional services. Lastly, the implementation of these new punitive policies have invariably resulted in an extension and tightening of the police dragnet, a hardening and speeding-up of judicial procedures and, at the end of the penal chain, an incongruous increase in the population under lock and key, even though their impact on the incidence of offenses has never been established other than by pure proclamation, and without anyone raising the question of their financial and social costs and their civic implications.

Thanks to the tenacious media blurring of crime, poverty, and immigration as well as the constant confusion of insecurity and the “feeling of insecurity,” tailor-made to channel towards the (dark-skinned) figure of the street delinquent the diffuse anxiety caused by the dislocations of wage work, the crisis of the patriarchal family, and the erosion of traditional relations of authority among sex and age categories, the decomposition of working-class territories and the generalization of school competition,³ these policies are the object of an unprecedented political consensus but also enjoy broad public support cutting across class lines. And how could it be otherwise when the parties of the governmental Left in all of the postindustrial countries have converted to a narrowly behaviorist and moralistic Rightist vision that opposes “individual responsibility” and “sociological excuses” in the name of the (electoral) “reality principle”? It follows that penal severity is now presented virtually everywhere and by everyone as a healthy necessity, a vital reflex of self-defense by a social body threatened by the gangrene of criminality, no matter how petty.⁴ Caught in the vise of the biased alternative between catastrophic and angelic visions, anyone who dares to question the self-evident commonplaces of the security *pensée unique* that now rules uncontested is irrevocably (dis)qualified as a vain dreamer or an ideologue guilty of ignoring the harsh realities of contemporary urban life.

THE GENERALIZATION OF SOCIAL INSECURITY AND ITS EFFECTS

But reality, properly speaking, is not what we are made to think it is. The sudden proclamation of a “state of emergency” on the police and penal front in the United States starting in the mid-sixties, and then in Western Europe according to the same schemas a quarter-century later, does not correspond to a rupture in the evolution of crime and delinquency, which we shall see did not

Tolérance zéro. En finir avec la criminalité et les violences urbaines (Paris: Grasset, 2001); Socialist house representative Julien Dray, *Etat de violence. Quelles solutions à l'insécurité?* (Paris: J'ai lu, 2001); the merchants in “urban safety” consulting, Alain Bauer and Xavier Raufier, *Violences et insécurité urbaines. Les chiffres qui font réfléchir* (Paris: PUF, 2002); and the former general director of the national police Olivier Foll, *L'Insécurité en France. Un grand flic accuse* (Paris: Flammarion, 2002), whose title (“Insecurity in France: A Top Cop Accuses”) is revealing of the logic of indignant denunciation that is typical of the genre, and which opens with this fiery tirade: “I say it, I yell it, the state is responsible of failure to assist persons in jeopardy with regard to thousands of minors and citizens” [“failure to provide assistance to a person in jeopardy” is a criminal offense according to the French penal code – Tr.].

abruptly change in scale and physiognomy at the start of the two periods in question on either side of the Atlantic. Neither does it translate a forward leap in the efficiency of the repressive apparatus that would justify its reinforcement, as the zealots of “zero tolerance” would have us believe. And it is not the spawn of advances in criminological science authorizing a refining of deterrence and judicial pressure, as claimed by the myth of the “broken window.” It is not criminality that has changed here so much as the *gaze that society trains on certain street illegalities*, that is, in the final analysis, *on the dispossessed and dishonored populations* (by status or origins) that are their presumed perpetrators, on the place they occupy in the City, and on the uses to which these populations can be subjected in the political and journalistic fields. These castaway categories – unemployed youth left adrift, the beggars and the homeless, aimless nomads and drug addicts, postcolonial immigrants without documents or support – have become salient in public space, their presence undesirable and their doings intolerable, because they are the *living and threatening incarnation of the generalized social insecurity* produced by the erosion of stable and homogenous wage-work (promoted to the paradigm of employment during the decades of Fordist expansion, 1945-1975), and by the decomposition of the solidarities of class and culture it underpinned within a clearly circumscribed national framework.⁵ Just as national boundaries have been blurred by the hypermobility of capital, the settlement of migration flows, and European integration, the normalization of desocialized labor feeds a powerful current of anxiety in all the societies of the continent. This current mixes fear of the future, dread of social decline and degradation, the anguish of not being able to transmit one’s status to one’s offspring in a competition for credentials and positions that is ever more intense and uncertain. It is this diffuse and multifaceted social and mental insecurity, which (objectively) strikes working-class families shorn of the cultural capital required to accede to the protected sectors of the labor market and (subjectively) haunts large sectors of the middle class, that the new martial discourse of politicians and the media on delinquency has captured, fixating it onto the sole issue of physical or criminal insecurity.

Indeed, the generalized hardening of police, judicial, and correctional policies that can be observed in most of the countries of the First World over the past two decades⁶ partakes of a *triple transformation of the state*, which it helps simultaneously accelerate and obfuscate, wedding the amputation of its economic arm, the retraction of its social bosom, and the massive expansion of its penal fist. This transformation is the bureaucratic response of political elites to the mutations of wage work (shift to services and polarization of occupations, flexibilization and intensification of work, individualization of employment contracts, discontinuity and dispersion of occupational paths) and their ravaging effects on the lower tiers of the social and spatial structure. These mutations themselves are the product of a swing in the balance of power between the classes and groups that struggle at every moment for control over the worlds of employment. And in this struggle, it is the transnational business class and the “modernizing” fractions of the cultural bourgeoisie and the high state nobility, allied under the banner of neoliberalism, that have gained the upper hand and embarked on a sweeping campaign to reconstruct public power in line with their material and symbolic interests.⁷

The commodification of public goods and the rise of underpaid, precarious work against the backdrop of working poverty in the United States and enduring mass joblessness in the European Union; the unraveling of social protection schemes leading to the replacement of the collective right to recourse against unemployment and destitution by the individual obligation to take up gainful activity (“workfare” in the US and UK, ALE jobs in Belgium, PARE and RMA in France, etc.) in order to impose desocialized wage labor as the normal horizon of work for the

new proletariat of the urban service sectors;⁸ the reinforcement and extension of the punitive apparatus, recentered onto the dispossessed districts of the inner city and urban periphery which concentrate the disorders and despair spawned by the twofold movement of retrenchment of the state from the economic and social front: these three trends implicate and intricate with one another in a self-perpetuating causal chain that is redrawing the perimeter and redefining the modalities of government action. The Keynesian state, coupled to Fordist wage work operating as a spring of *solidarity*, whose mission was to counter the recessive cycles of the market economy, protect the most vulnerable populations, and reduce the most glaring inequalities, has been succeeded by a state that one might dub *neo-Darwinist*, in that it erects *competition* and celebrates unrestrained individual responsibility – whose counterpart is collective and thus political irresponsibility. The Leviathan then withdraws into its regal functions of law enforcement, themselves hypertrophied and deliberated abstracted from their social environment, and its symbolic mission of reassertion of common values through the public anathematization of deviant categories. Unlike its *belle époque* predecessor, this new-style Darwinism, which praises the “winners” for their vigor and intelligence and vituperates the “losers” in the “struggle for [economic] life” by pointing to their character flaws and behavioral deficiencies, does not find its model in nature.⁹ It is the market that supplies it with its master-metaphor and the mechanism of selection supposed to ensure the “survival of the fittest.” But this market itself has been naturalized, that is to say, depicted under radically dehistoricized trappings which, paradoxically, turn it into a concrete historical realization of the pure and perfect abstractions of the orthodox economic science promoted to the rang of official theodicy of the social order *in statu nascendi*.

Thus the “invisible hand” of the unskilled labor market finds its ideological extension and institutional complement in the “iron fist” of the penal state, which grows and redeploys in order to *stem the disorders generated by the diffusion of social insecurity* and by the correlative destabilization of the status hierarchies that formed the traditional framework of the national society (such as the division between whites and blacks in the United States or between nationals and colonial immigrants in Western Europe). The regulation of the working classes through what Pierre Bourdieu calls “the Left hand” of the state,¹⁰ that which protects and expands life chances, represented by labor laws, education, health, social assistance, and public housing, is *supplanted* (in the US) or *supplemented* (in the EU) by regulation through its “Right hand,” that of the police, justice, and correctional administrations, increasingly active and intrusive in the subaltern zones of social and urban space. And, logically, the prison returns to the forefront of the societal stage, when only thirty years ago the most eminent specialists of the penal question were unanimous in predicting its waning, if not its disappearance.[‡] The renewed utility of the penal apparatus in the post-Keynesian era of *insecure employment* is threefold: it works to bend the fractions of the working class recalcitrant to the discipline of the new fragmented service wage-labor by increasing the cost of strategies of exit into the informal economy of the street; it neutralizes and warehouses its most disruptive elements, or those rendered wholly superfluous

[‡] Recall that, in the mid-1970s, the three leading revisionist historians of the prison, David Rothman, Michel Foucault, and Michael Ignatieff, agreed with sociologists Stanley Cohen and Andrew Scull as well as with penologists Hermann Mannheim and Norval Morris, to see it as an institution in inevitable decline, destined to be replaced in the medium run by more diffuse, discrete, and diversified instruments of social control. (Franklin E. Zimring and Gordon Hawkins, *The Scale of Imprisonment* (Chicago: University of Chicago Press, 1991), ch. 2.) The debate then turned decisively toward the implications of “decarceration” and implementing community sentences. Since this Malthusian prognosis, the evolution of punishment has made an about-face in almost all Western societies: the population behind bars has doubled in France, Belgium, and England; it has tripled in Holland, Spain, and Greece; and it has quintupled in the United States.

by the recomposition of the demand for labor; and it reaffirms the authority of the state in daily life within the restricted domain henceforth assigned to it. The canonization of the “right to security,” correlative to the dereliction of the “right to employment” in its old form (that is, full-time and with full benefits, for an indeterminate period and at a living wage enabling one to reproduce oneself socially and project oneself into the future), and the increased interest in and resources granted to the enforcement of order come at just the right time to *shore up the deficit of legitimacy* suffered by political decision-makers owing to the very fact that they have abjured the established missions of the state on the social and economic front.

Under these conditions, one understands better why, throughout Europe, the parties of the governmental Left smitten with the neoliberal vision have proven so fond of the security thematics incarnated by “zero tolerance” that have come from the United States in the past decade, or its British derivatives such as “community policing.” For, in their case, the adoption of policies of economic deregulation and social retrenchment amounts to a *political betrayal of the working-class electorate* that put them in power in the hope of receiving stronger state protection against the sanctions and failings of the market. Thus the punitive turn taken by Lionel Jospin in France in the fall of 1997, like those negotiated by Anthony Blair in Britain, Felipe González in Spain, Massimo d’Alema in Italy, and Gerhard Schröder in Germany around the same years, after William Jefferson Clinton had plainly adopted the ultra-repressive agenda of the Republican Party in the US in 1994,¹¹ has little to do with the alleged “explosion” in youth delinquency or with the “urban violence” that have invaded public debate towards the end of the past decade – the climax of this media crescendo in France being reached during the presidential campaign of 2002, which saw the Socialist Party mimicking the positions of the RPR, which had aligned itself on the more punitive stance of the National Front, reducing the debate on “insecurity” to a frantic bidding up in severity.[§] It has everything to do with the generalization of desocialized wage labor and the establishment of a political regime that will facilitate its imposition. It is a regime that one may call “liberal-paternalist,” insofar as it is *liberal* and permissive at the top, with regard to corporations and the upper class, and *paternalist* and authoritarian at the bottom, towards those who find themselves caught between the restructuring of employment and the ebbing of social protection or its conversion into an instrument of surveillance and discipline.

“Sociological Excuses” and “Individual Responsibility”

Just as neoliberal ideology in economic matters rests on an impermeable separation between the economic (supposedly governed by the neutral, fluid, and efficient mechanism of the market) and the social (inhabited by the unpredictable arbitrariness of powers and passions), so the new penal

[§] According to the UBM index (*Unité de bruit médiatique*, Unit of Media Noise, elaborated by the firm TNS Media Intelligence, to measure the space occupied in 80 press outlets and television and radio news segments in France), “insecurity” weighted eight times more than unemployment in public debate during the election campaign of winter 2002 (even as official crime figures were declining and those for joblessness rising). On the eve of the second round of the election, the mad race for audience ratings even led *Le Monde* to cover all the kiosks of Paris with a poster promoting a “Major Dossier” on “Insecurity” with this panicked interpellation: “Is France a Dangerous Country?” (which a senior editor Thomas Ferenczi answered in the positive, thus illustrating the *disabused* observation of sociologist Philippe Robert in the same supplement on “the poverty of the French debate”). The political mistake of candidate Jospin in spring 2002 was to believe that he could draw electoral profits from manipulating the thematics of crime in order to mask the rise of precariousness and poverty under an allegedly Left government.

doxa come from the United States postulates a clean and definitive caesura between (social) circumstances and (criminal) acts, causes and consequences, sociology (which explains) and the law (which regulates and sanctions). The same behavioristic mode of reasoning then serves to devalue the sociological point of view, implicitly denounced as demobilizing and “deresponsibilizing” -- and thus infantile, even feminizing -- in order to substitute for it the virile rhetoric of personal uprightness and responsibility, tailor-made for deflecting attention from the abdications of the state on the economic, urban, schooling, and public health front. This is indicated by this typical statement by Prime Minister Lionel Jospin in an interview of January 1999, curiously entitled “Against the international *pensée unique*” even though it would appear to have come straight out of the mouth of an expert from a “think tank” of the American Right:

From the moment we took up office, we have insisted on problems of security. To prevent and to punish are the two poles of the action we are conducting. These problems are linked to serious phenomena of badly managed urbanism, family breakdown, and social misery, but also to the deficit of integration of part of the youths living in the *cités* [public housing projects]. But these do not constitute, for all that, an *excuse* for delinquent *individual behaviors*. One must not confound sociology with law. *Each remains responsible for his acts*. So long as we allow *sociological excuses* and we do not implicate *individual responsibility*, we will not resolve these questions.¹²

Social and economic structures disappear to make room for reasoning of a marginalist kind that debases collective causes to the rank of “excuses” in order to better justify individual sanctions, which, being assured of having no durable traction on the mechanisms generative of delinquent conduct, can have no other function than to underline the authority of the state on the symbolic level (with a view to electoral dividends) and to reinforce its penal sector on the material level, to the detriment of its social sector. It is therefore not surprising to find this same individualistic and repressive philosophy in great many speeches by leaders of the U.S. Right, such as in this “Address to Students on the ‘War on Drugs’” delivered by George Bush (the father) in 1989:

[*retrieve/insert US original] We must raise our voices and correct an insidious tendency – the tendency which consists in attributing crime to the society instead of the individual. ... In my view, as in the view of the majority of Americans, I believe that we will begin to build a safer society by first agreeing on the fact that *it is not society itself which is responsible for crime: it is the criminals who are responsible for crime.* **

In March 1999, in a speech delivered via video to the “National Meetings of Agencies for the Prevention of Delinquency,” Justice Minister Elisabeth Guigou bid up on the imperative necessity to dissassociate social causes from individual responsibility, in conformity with the root schema of the neoliberal vision of the social world. And she even found Reaganite tones in which to *fustiger/denounce a “culture of indulgence” allegedly fostered by “prevention” programs, bluntly dismissing the advocates of the social treatment of precariousness as utopians:

The turn we undertake together must be a turn towards the *reality principle*. ... Who does not see that certain methods of prevention support, sometimes inadvertently, a certain culture of indulgence that *relieves individuals of responsibility* [literally: “deresponsibilizes”]? Can one develop a young person’s

** George Bush, “Address to Students Concerning the ‘War on Drugs’ (1989),” cited in Penny Green and Andrew Rutherford, eds., *Criminal Justice in Transition* (Dartmouth: Hart, 2001), 145 (my emphases). This *forte pensée* can be found over and over again in the statements of French Socialist leaders ten years later, for example on the lips of Paris congressman Christophe Caresche, who asserted with remarkable aplomb in *Le Parisien* of 31 October 2001: “We know that delinquency has no social nature whatsoever and that it pertains to the individual responsibility of each person.”

autonomy by ceaselessly conceding that his infractions have *sociological, even political, causes* – causes which, more often than not, he would not have thought of on his own – even though a mass of his peers, placed in exactly the same social conditions, do not commit any offense¹³

It is this same “reality principle” to which Ronald Reagan himself never missed a chance to summon us, as indicated in these “Remarks at a Conservative Action Committee Dinner” made in 1983:

[*retrieve/insert US original] It is all too obvious that most of our crime problem was caused by a social philosophy that conceives man as essentially the product of his material environment. This same liberal philosophy which intended to bring about an era of prosperity and virtue through massive public expenditures sees criminals as the unfortunate products of adverse socioeconomic circumstances or being from an underprivileged group. It is society, they say, and not the individual, that is at fault when a crime is committed. It is our fault. Well, now a new consensus completely rejects this point of view.¹⁴

One can measure how much this “new consensus” on the individual foundations of social and penal justice, which reduces delinquency to the simple sum of private acts of delinquents, each exercising their free will the better to invite repression, transcends the traditional political divide between the Right and the governmental Left in France by noting the frank and full agreement between Deputy Julien Dray, the Socialist Party “specialist” on security issues, and Nicolas Sarkozy, human spearhead of the hyperactive law-and-order policy engaged by the Right since its return to power in the spring of 2002, during the parliamentary debate on the implementation of that policy. Under the approving exhortations of the Right deputies, Dray held forth:

Following our Prime Minister, Jean-Pierre Raffarin... for us, *a delinquent is a delinquent*. So there are not, on the benches of this Assembly, on the one side those who are undecided and, on the other, those who are determined – contrary to Manicheans for whom life is so simple and whose views are often the loudest. Yes, there exists a propitious soil for delinquency. But to recognize this neither excuses delinquency nor, for all that, justifies it. If you do not choose where you were born, you do choose your life and, at a given moment, *you choose to become a delinquent*. *Whence society has no other solution than to repress these acts*. ... For the wellbeing of our country and fellow citizens, ... I can only wish your success. Your project is an extension of the strategic plan prepared by the previous [Socialist] government and comes out of the discussion of November 2001.¹⁵

Taking much care to distance himself from any “sociological complacency,” Julien Dray then struck up the anthem that serves as the slogan (and screen) for the repressive policy of Tony Blair’s New Labour, which is responsible for an unprecedented increase in the incarceration rate of England. “It is necessary to be tough on crime, but also on the causes of crime.” To which Nicolas Sarkozy was happy to respond:

I would like to say to you, and through you to all the members of the Socialist Party, that I found your intervention courageous and useful. It rests on your competence as a grass-roots representative and it expresses your refusal to make something ideological out of the issue [sic]. ... Monsieur Dray, it gave me such *pleasure to hear you hail the American model*, and with such talent, such honesty, and such exactitude! Never would I have dared to go so far. Thank you for doing me this service! [Laughter and applause from the benches of the Union pour la Majorité Présidentielle and the Union pour la Démocratie Française, the two main right-wing parties.]¹⁶

AN AMERICAN INVENTION WITH PLANETARY IMPLICATIONS

The resolutely punitive turn taken by penal policies in advanced societies at the close of the twentieth century thus does not pertain to the simple diptych of “crime and punishment.” It heralds the establishment of a *new government of social insecurity*, “in the expansive sense of techniques and procedures aimed at directing the conduct of the men”¹⁷ and women caught up in the turbulence of economic deregulation and the conversion of welfare into a springboard toward precarious employment, an organizational design within which the prison assumes a major role and which translates, for the groups residing in the nether regions of social space, in the imposition of severe and supercilious supervision. It is the United States that invented this new politics of poverty during the period from 1975 to 1995, in the wake of the social, racial, and statist reaction to the progressive movements of the previous decade that was to be the crucible of the neoliberal revolution.¹⁸ This is why this book takes the reader across the Atlantic to probe the entrails of this bulimic penal state that has surged out of the ruins of the charitable state and the big black ghettos.

The argumentation unfolds in four movements. The first part (“Poverty of the Social-welfare State”) shows how the rise of the carceral sector partakes of a broader restructuring of the US bureaucratic field tending to criminalize poverty and its consequences so as to anchor precarious wage work as a new norm of citizenship at the bottom of the class structure while remedying the derailing of the traditional mechanisms for maintaining the ethnoracial order (Chapter 2). The planned atrophy of the social state, culminating with the 1996 law on “Work and Personal Responsibility,” which replaces the right to “welfare” with the obligation of “workfare,” and the sudden hypertrophy of the penal state are two concurrent and complementary developments (Chapter 3). Each in its manner, they respond, on the one side, to the forsaking of the Fordist wage-work compact and the Keynesian compromise in the middle of the 1970s, and, on the other side, to the crisis of the ghetto as a device for the sociospatial confinement of blacks in the wake of the Civil Rights Revolution and the wave of urban riots of the 1960s. Together, they ensnare the marginal populations of the metropolis in a *carceral-assistential net* that aims either to render them “useful” by steering them onto the track of deskilled employment, or to warehouse them out of reach in the devastated core of the urban “Black Belt” or in the penitentiaries that have become the latter’s distant satellites.¹⁹

The second part (“Grandeur of the Penal State”) dissects the modalities and identifies the engines behind the ascent of the US penal state. Chapter 4 retraces the onset of a regime of permanent and generalized carceral hyperinflation without precedent in a democratic society, while crime rates stagnate and then recede, and sketches the lateral expansion of the “penal dragnet” that today holds several tens of millions of Americans in its mesh by means of judicial supervision and criminal databanks. Chapter 5 documents the stupendous expansion of the means devoted to the punitive supervision of the poor and weighs the astronomical financial and social costs of the ascent of the correctional institution among public bureaucracies while the economic and social weight of the state decreases. It also shows how the country’s authorities have striven to enlarge their carceral capacity by resorting to private imprisonment, by hardening conditions of detention, and by shifting part of the cost of their confinement onto the inmates and their families.

The third part (“Privileged Targets”) explains why the “great confinement” of *fin-de-siècle* America strikes first and foremost the subproletariat of the black ghettos undermined by deindustrialization, among the declining fractions of the working class (Chapter 6), and the

reviled figure of the “sex offender,” among vectors of deviance in violation of the Puritan ethic of work and domestic order (Chapter 7). It gives us an opportunity to stress the *properly symbolic effects of the unleashing of the penal system*, especially how the latter reinforces, by dramatizing it, the legal, social, and cultural demarcation between the community of “law-abiding citizens” and criminals so as to turn the latter into a sacrificial category that concentrates within itself all the of the negative properties (immorality, poverty, blackness) that this community wishes to expel outside itself. The penalization of poverty thus vividly reminds everyone that, by its sole existence, poverty constitutes an intolerable offense against this “strong and definite state of the collective conscience”^{††} of the nation that conceives of America as a society of affluence and “opportunity for all.”

The central thesis of the present book resides in its very architecture, that is, in the empirical and analytical rapprochement it effects between social policy and penal policy. These two domains of public action continue to be approached separately, in isolation from each other, by social scientists as well as by those, politicians, professionals, and activists, who intend to reform them, whereas in reality they already function in tandem at the bottom of the structure of classes and places. For, just as the close of the nineteenth century witnessed the gradual disjunction of the social question from the penal question under the press of working-class mobilization and the reconfiguration of the state it stimulated, the close of the twentieth century will have been the theater of a renewed fusion and confusion of these two issues, following the fragmentation of the world of the popular classes^{‡‡} – its industrial dismantlement and the deepening of its internal divisions, its defensive retreat into the private sphere and crushing feeling of downward drift, and, lastly, its abandonment by Left parties more concerned with the games internal to their apparatus that with “changing life,” followed by its near disappearance from the public scene as a collective actor.²⁰ It follows that *the fight against street delinquency now serves as screen and counterpart to the new social question*, namely, the generalization of insecure wage work and its impact on the territories and life strategies of the urban proletariat.

In 1971, Frances Fox Piven and Richard Cloward published their classic book, *Regulating the Poor*, in which they argue that “relief programs are initiated to deal with dislocations in the work system that lead to mass disorder, and are then retained (in an altered form) to enforce work.”²¹ Thirty years later, this cyclical dynamic of expansion and contraction of public aid has been superseded by a new division of the labor of nomination and domination of deviant and dependent populations that couples welfare services and criminal justice administration under the aegis of the same behaviorist and punitive philosophy. The activation of disciplinary programs applied to the unemployed, the indigent, single mothers, and others “on assistance” so as to push them onto the peripheral sectors of the employment market, on the one side, and the deployment of an extended police and penal net with a reinforced mesh in the

^{††} To borrow the language of Durkheim, who reminds us that “to gain an accurate idea of punishment, one must reconcile the two contrary theories that have been offered of it: that which sees in it an expiation and that which makes it a weapon for social defense.” Emile Durkheim, *De la division du travail social* (Paris: PUF, 1930 (1893)), 77, my translation.

^{‡‡} In the French case, this dissociation was accomplished between 1888 and 1914. (Christian Guitton, “Le chômage entre question sociale et question pénale en France au tournant de siècle,” in Malcolm Mansfield, Robert Salais, and Noel Whiteside, eds., *Aux sources du chômage, 1880-1914. Une comparaison interdisciplinaire entre la France et la Grande-Bretagne* (Paris: Belin, 1995), 63-91.) Future historians will perhaps date their renewed conjunction to October 1997, the date of the famous Villepinte Symposium organized by the Jospin government on “Safe Cities for Free Citizens” (we note in passing the masculinist character this designation, which partakes at the discursive level in the virilization of state action and the priority it gives to security over freedom).

dispossessed districts of the metropolis, on the other side, are the two components of a single apparatus for the management of poverty that aims at effecting the authoritarian rectification of the behaviors of populations recalcitrant to the emerging economic and symbolic order. Failing which it aims to ensure the civic or physical expurgation of those who prove to be “incorrigible” or useless.²²

In the era of fragmented and discontinuous wage work, the regulation of working-class households is no longer handled solely by the maternal and nurturing social arm of the welfare state; it relies also on the virile and controlling arm of the penal state. The “dramaturgy of labor” is not played solely on the stages of the public aid office and job-placement bureau;²³ it also unfolds its stern scenarios in police stations, in court hallways, and in the darkness of prison cells.²⁴ This dynamic coupling of the Left and Right hands of the state operates through a familiar sharing of the roles between the sexes. The public aid bureaucracy, now reconverted into an administrative springboard into poverty-level employment, takes up the mission of inculcating the duty of working for work’s sake among poor women (and indirectly their children): 90 percent of welfare recipients in the US are mothers. The quartet formed by the police, the court, the prison, and the probation or parole officer assumes the task of taming their brothers, their boyfriends or husbands, and their sons: 93 per cent of US inmates are male. Beyond this sexual and institutional division in the regulation of the poor, the “clients” of both the assistential and penitential sectors of the state fall under the same suspicion: they are considered morally deficient unless they periodically provide visible proof to the contrary. This is why their behaviors must be supervised and regulated by the imposition of rigid protocols whose violation will expose them to a redoubling of corrective discipline and, if necessary, to sanctions that can result in durable segregation, a manner of *social death for moral failing* – casting them outside the civic community of those entitled to social rights in the case of public aid recipient, outside the society of “free” men for the convict. Welfare provision and criminal justice are thus animated by the same punitive and paternalist philosophy that stresses the “individual responsibility” of the “client” (in contraposition to the rights and obligations of the citizen), and they reach publics of roughly comparable size. In 2001, the number of households receiving Temporary Assistance to Needy Families, the main assistance program established by the 1996 “welfare reform,” was 2.1 million, corresponding to some 6 million beneficiaries. That the same year, the carceral population reached 2.1 million, and the total number under criminal justice supervision (adding up inmates, probationers, and parolees) was in the neighborhood of 6.5 million.

It follows that, if one wishes to decipher the fate of the precarious fractions of the working class in their relation to the state, it is no longer possible to limit oneself to studying welfare programs. One must extend and supplement the sociology of traditional policies of collective “well-being” – assistance to dispossessed individuals and households, but also education, housing, public health, family allowances, income redistribution, etc. – by that of penal policies. Thus the study of incarceration ceases to be the sole province of criminologists and penologists to become an *essential chapter in the sociology of the state and social stratification, and, more specifically, of the (de)composition of the urban proletariat* in the era of ascendant neoliberalism. Indeed, the crystallization of a liberal-paternalist political regime, which practices “*laisser-faire et laisser-passer*” toward top of the class structure, at the level of the mechanisms of production of inequality, and punitive paternalism toward the bottom, at the level of their social and spatial implications, demands that we *forsake the traditional definition of “social welfare”* as the product of a political and scholarly common sense overtaken by reality

and adopt an expansive approach that encompasses in a single grasp the totality of the actions whereby the state purports to mould, classify, and control the populations deemed deviant, dependent, and dangerous living on its territory.²⁵

Thus is resolved what could appear to be a doctrinal contradiction, or at least a practical antinomy, of neoliberalism, between the downsizing of public authority on the economic flank and its upsizing on that of the enforcement of social and moral order. If the same people who are demanding a minimal state in order to “free” the “active forces” of the market and submit the most dispossessed to the sting of competition do not hesitate to erect a maximal state to ensure everyday “security,” it is because *the poverty of the social state against the backdrop of deregulation elicits and necessitates the grandeur of the penal state*. And because this causal and functional linkage between the two sectors of the bureaucratic field gets all the stronger as the state more completely sheds all economic responsibility and tolerates a high level of poverty as well as a wide opening of the scale of inequalities.^{§§}

But the interest in excavating the economic underpinnings and the social incubation of carceral bulimia on this side of the Atlantic is not merely archeological or limited to the sole domain of American studies. For to dissect the penal state in the United States is to offer indispensable materials for a historical anthropology of the *invention of neoliberalism in action*, insofar as this country has, since the rupture of the mid-1970s, been the theoretical and practical motor for the elaboration and planetary dissemination of a political project that aims to subordinate all human activities to the tutelage of the market. Far from being an incidental or teratological development, the hypertrophic expansion of the repressive sector of the bureaucratic field is an essential element of its new anatomy in the age of economic neo-Darwinism. To journey across the US carceral archipelago, then, is not only to travel to the “extreme limits of European civilization,” to use the words of Alexis de Tocqueville. It is also to discover the possible, nay probable, contours of the future landscape of the police, justice, and prison in European and Latin American countries that have embarked upon the path of “liberating” the economy and reconstructing the state blazed by the American leader.²⁶ In this perspective, the US appears as a sort of historical alembic in which one can observe on a real scale, and anticipate by way of transposition, the social, political, and cultural consequences of the advent of neoliberal penalty in a society submitted to the joint empire of the commodity and moralizing individualism.

A “EUROPEAN ROAD” TO THE PENAL STATE?

By retracing the making, in the United States, of this new government of social insecurity that weds the “invisible hand” of the deregulated labor market and contractualized public aid to the “iron fist” of the punitive state, this book takes us into the living laboratory of the neoliberal revolution. In so doing, it brings to light the springs and reason for the diffusion of the “one-way security-think” (*pensée unique sécuritaire*) that is holding sway *sévit everywhere today in Europe, and particularly in France. For the United States has not been content to be the forge and locomotive of the neoliberal project on the level of the economy and welfare; over the past decade, it has also become the premier exporter of “theories,” slogans, and measures on the

^{§§} Proof is the fact that the inverse correlation established between the incarceration rate and the level of welfare support across the 50 states has increased over the past two decades. Katherine Beckett and Bruce Western, “Governing Social Marginality: Welfare, Incarceration, and the Transformation of State Policy,” *Punishment & Society* 3, no. 1 (January 2001): 43-59.

crime and safety front.²⁷ In her panorama of carceral evolution around the planet, Vivien Stern stresses that “*a major influence on penal policy in Britain and the other European countries has been the policies followed by the United States,” an influence to which she attributes “the complete reversal of the consensus prevailing in the developed world after World War II and expressed by the conventions of the United Nations” that “deprivation of liberty must be used in a restrictive fashion,” and the general discrediting of the ideal of “the rehabilitation and social reintegration of the offender.”²⁸

The fourth part of the book (“European Fac-Similé”) analyzes how France’s state nobility has fallen – or, rather, has enthusiastically thrown itself – into the law-and-order trap set from the other side of the Atlantic. Seduced by “scholarly myths” that dress it in rational garb (Chapter 8), France has rallied to the “Washington consensus” in matters of crime fighting, to the point that it is currently experiencing a gust of carceral inflation comparable to that posted by the United State twenty years ago at the acme of its correctional boom (Chapter 9). Besides, we need do no more than examine the main provisions of the so-called Perben 2 Law on Crime, promulgated by French parliament in the spring of 2004 – but this demonstration would hold *mutatis mutandis* for the Everyday Security Act, called the Vaillant law, passed on 15 November 2001 at the initiative of a Socialist government – to detect the clear and deleterious influence of the US model, based on the intensification of police activity, the escalation of judicial repression, and the extension of the scope of imprisonment.

This controversial law, which, uniquely in the annals of French justice, triggered a near-unanimous strike by the judicial professions, highlighted by solemn street demonstrations by judges in their robes and ermines, effects the fifteen reform of the penal code in ten years on the pretext of adapting judicial procedures to the evolution of delinquency – but, curiously, it omits white-collar and official criminality, in spite of their spectacular resurgence in recent years. It increases the powers and prerogatives of the police through a set of measures, such as authorizing nocturnal searches and video recording in private places, extending provisional detention (“*garde à vue*”) without charges from 48 to 96 hours, monthly remuneration for police informants, and creation of a legal status of “repentant,” exempting from penalty any criminal who would identify his accomplices, directly inspired by American programs that have normalized the use of *délation/denunciations and “snitches” in police operations in the black ghetto.²⁹ Perben 2 enlarges the definition of “organized crime” and increases the penalties set for a whole series of infractions (extortion, corruption of minors, weapons manufacturing, etc.), as the United States had already done. It institutes a “guilty plea” procedure copied after American plea bargaining that will authorize a defendant to receive a reduce sentence (typically one year in prison for offenses punishable with five) in exchange for dispensing with a trial, allowing the courts to save on costs.^{***} It extends to some fifty new offences the application of *composition pénale*, whereby a prosecutor can impose a fine, suspend a driver’s license, or assign a stint of community service to the presumed perpetrator of a misdemeanor who admits to the facts. It creates a national database with the files of sex offenders which, in addition to abolishing the “right to *oubli/be forgotten” for this category of convicts, includes the genetic fingerprints of minors, of individuals who have been found innocent, and of persons suspected but not charged

^{***} However, the French *plaider coupable* is hardly a conforming copy of the US plea bargaining, since in the French case the detainee has access neither to his file nor to counsel, unlike with its American counterpart. This measure is thus more akin to judicial blackmail than with “bargaining,” and it is guaranteed to further exacerbate the already sharp ethnic and class bias that affects its use in the United States. See Thierry Lévy, “L’empoisonnement progressif,” *Dedans Dehors* 41 (January-February 2004): 21.

of infractions of a sexual nature, along with requiring former sex offenders to register with the police – awaiting the day when they will be obliged to publicize their presence, on the pattern of Megan’s Law in the United State, the ins and outs of which we will examine in Chapter 7. Finally, the Perben 2 law extends post-penal control by generalizing furloughs into community facilities and release under electronic supervision for those leaving prison, which will not fail to increase the rate of return to custody. Normalization of measures of exception, acceleration of procedures, hardening of penalties, extension of the perimeter of judicial supervision: this renovation of the penal code encourages the use of confinement for all and sundry and facilitates a slaughterhouse approach to justice to cope with the predictable inrush of inmates. In its motives as well as its architecture and its anticipated effects, Perben 2 is emblematic of the *de-autonomization of the penal field* and its growing subordination to the political and media fields. In this, it vividly illustrates the Americanization of criminal justice in France.^{†††}

Whether through importation or inspiration, the alignment or convergence of penal policies does not entail that the deployment of identical replicas. No more than other European countries with a strong statist tradition, Catholic or social-democratic, the adjustment that France is effecting in its politics of poverty does not imply a mechanical duplication of the US pattern, with a clear and brutal swing from the social to the penal treatment of urban marginality leading to hyperincarceration. The deep roots of the social state in the framework of the bureaucratic field no less than in the national mental structures, the weaker hold of the individualist and utilitarian ideology that undergirds the sacralization of the market, and the absence of an ethnorracial divide explain that the countries of the European continent are unlikely to shift rapidly to an all-out punitive strategy. Each must clear its own path towards the new government of social insecurity in accordance with its specific national history, social configurations, and political traditions. Nonetheless, one can sketch a provisional characterization of a “European road” to the penal state (with French, Dutch, Italian, etc., variants) that is gradually coming into being before our eyes by a *double and conjoint accentuation of the social and penal regulation of marginal categories*.

Thus, during the past decade, the French authorities have stepped up both social and penal interventions – even if their “social” action has been increasingly stamped with the coin of punitive moralism. On the one side, they have multiplied assistance programs (public utility work with Contrats Emploi-Solidarité, subsidized youth employment, training schemes, the TRACE program, etc.), raised the various “social minima” (targeted government aid to various poor categories), established the Universal Medical Cover, and broadened access to the Revenu Minimum d’Insertion (RMI, the guaranteed minimum income grant). On the other, they have created surveillance units (“*cellules de veille*”) and nested emergency riot police squads inside the “sensitive zones” of the urban periphery; replaced street educators with magistrates to issue warnings to marginal delinquents; passed municipal decrees outlawing begging and vagrancy (which are perfectly legal); multiplied “crackdown” operations and sweeps inside low-income housing projects and routinized the use of “*comparution immédiate*” (a fast-track judicial procedure whereby an offender caught in the act deferred before a judge and sentenced within

^{†††} As for the “automatic base sentences” for “habitual offenders” that Interior Minister Nicolas Sarkozy promised to establish during the regional election campaign of winter 2004, to the delight of audiences revelling in the the public vituperation of criminals, it is a French imitation of the “mandatory minimums” that have engorged US prisons with petty offenders serving terms of imprisonment running into decades. The fact that the transplantation of this mechanism is impossible in France – since the automaticity of penal sentences is contrary to constitutional texts – does not prevent it from serving the law-and-order guignol. (In his time, Daniel Vaillant, the last Interior Minister of the Plural Left government, had also proposed instituting automatic prison terms for recidivists).

hours); increased penalties for repeated offences; restricted parole release and speeded up the deportation of convicted foreign offenders; threatened the parents of juvenile delinquents or children guilty of school truancy with withholding family benefits, etc.

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 effected mainly through *the agency of the police and the courts rather than the prison*.³⁰ It still obeys (but for how much longer?) a predominantly panoptic logic, rather than a segregative and retributive rationale. The correlate is that social services play an active part in this criminalizing process, since they possess the administrative and human means to exercise a close-up supervision of so-called problem populations. But the simultaneous deployment of the social and penal treatment of urban disorders should not hide the fact that the former often functions as a bureaucratic fig-leaf for the latter, and that it is ever more directly subordinated to it in practice. Encouraging state social assistance, health, and education services to collaborate with the police and judicial system turns them into extensions of the penal apparatus, instituting a *social panopticism* which, under cover of promoting the well-being of deprived populations, submits them to an ever-more precise and penetrating form of punitive surveillance.

The Police to the Rescue of “Youths Having Trouble Integrating”

One found a concrete and caricatural illustration of this at the beginning of 2000 in the Southern city of Nîmes after the regional daily *Le Midi Libre* confirmed a public rumor according to which the local police had, on order of the prefect, compiled in perfect illegality a database of individual files on 179 youths with whom its services had had runs ins. In blatant violation of laws protecting privacy, this data bank combined personal information collected on these youths by the national education authority, the Protection Judiciaire de la Jeunesse (juvenile justice bureau), the Agence nationale pour l'emploi (ANPE, the national employment agency), the Mission Locale d'Insertion (a state job-placement program), la Jeunesse et les sports (the antenna of the Ministry of sports), and the local social welfare services. These youths (19 of whom were under 16) all came from five “sensitive neighborhoods”; 83 percent of them had North African-sounding surnames and most of the others Gypsy surnames. The alphabetic listing produced by the prefecture within the framework of the Commission d'Accès à la Citoyenneté (an administrative council charged with facilitating access to rights among the low-income immigrant population) included their name, date of birth, and the neighborhood they lived in, followed by annotations supplied by the various services involved: the regional police headquarters (Direction Départementale des Services de Police) indicated those who were “DDSP priorities” and “repeat offender minors”; the schools district director summarized their academic trajectory over eight columns; the ANPE contributed their experience in the area of employment according to ten variables; as for the Mission locale d'insertion, it listed the “first contact,” “last contact,” and in some cases measures taken for the youth considered (“vocational degree in painting,” “ANPEm” “Absent. entr. indiv.,” [Truancy, individual interview] etc.).

The fact that Chief of staff of the Prefect of Gard (the *département* containing Nîmes) dared to publicly justify this flagrant violation of the legislation on privacy^{†††} he is supposed to enforce by

^{†††} The law “Informatics and Liberties” of 6 January 1978, modified in July 2004, protects the privacy of personal data on French citizens and residents. It created a national agency, the Commission nationale Informatique et Libertés, that strictly regulates the production, retention, and access to computerized data files by public and private bureaucracies containing nominal information.

invoking – perhaps even sincerely – his desire to help a “panel” of “youths having trouble integrating” speaks volume about the normalization of recourse to the repressive apparatus to regulate marginal categories: “In practical terms, and once again in a republican spirit, it is necessary to work on concrete cases to wage the fight against exclusion.”^{§§§} The assurance and even pride with which the Chief of staff for the Interior Minister then defended the appropriateness of this operation before the civil service unions who questioned its justification as “an extension of the decisions made during the internal security councils” [*add note explaining *Conseils de sécurité intérieure*] show to what extent the equivalence between “youths in a situation of marginality” or “having trouble integrating” and youths accused by the police is taken for granted in the minds of state managers.^{§§§} This incident, which is but the tip of an immense iceberg of invisible administrative practices on the border of legality, shows well how the activities of educational and social services can be annexed, even subordinated, to a police and punitive logic contrary to their basic philosophy.

It remains to be seen whether this “European road” to liberal paternalism is a genuine alternative to penalization in the mold of the United States or merely an intermediary stage or a detour leading, in the end, to mass incarceration. If neighborhoods of relegation are saturated with police without truly enhancing employment opportunities and life chances in them, and if partnerships between the criminal justice system and the other state services are multiplied, there is bound to be an increase in the detection of unlawful conducts and an increased volume of arrests and convictions in criminal court. Who can say today where and when the ballooning of the jails and penitentiaries visible in nearly all European countries will stop?

It bears stressing here that, in Europe at least, the social regression towards flexible employment, “freed” from the administrative restrictions and legal protections put in place throughout a century and a half of working-class and trade-union struggles, does not entail a simple return to the government of poverty characteristic of the savage capitalism of the close of the 19th century, founded on the naked violence of industrial relations of power, local solidarities, and state charity.^{****} There are three major reasons for this. Firstly, the resurgence of conditions of employment worthy of Dickens is taking place against the backdrop of collective enrichment and sustained prosperity for the majority of the population; this renders all the more incongruous and unacceptable the crumbling of living standards and the sudden shrinking of the life space and possibilities visited upon the new urban (sub)proletariat.³² Next, casualization comes up against the *butoir [=device that stops a slide] constituted by the continual elevation of collective expectations of dignity, produced in particular by the universalization of secondary education and the institutionalization of social rights independent of labor performance, which soften if not practically contradict the sanction of the market. Witness, on the one side, the pressure from business and the international institutions colonized by corporations (such as the

^{§§§} According to this senior ministry official, the approach of the Prefect of Gard aimed to “make the action of state services toward youth in serious difficulty more coherent and more pertinent and to arrive at an expert evaluation, on their behalf, of the effectiveness of the public programs mobilized to help them,” so that they could “reach the point of making real life choices” and “fully exercising their citizenship.” And he concludes that “it is to the credit of the Republic when it mobilizes such an effort for its most underprivileged children” (letter by Jean-Paul Proust, Staff director for the Minister of the Interior, to the president of the SNPES-FSU union for the judicial protection of youth, Gard section, dated January 19, 2000). But then what grounds is there to reserve this generous intention for these 179 youths from the most notorious neighborhoods of the town singled out by the police?

^{****} Contrary to the suggestion of Etienne Balibar, for whom the reduction of the state to its repressive functions “seems to take us back to a ‘primitive’ stage in the constitution of the public sphere in bourgeois societies.” “Sûreté, sécurité, sécuritaire,” *Cahiers marxistes* 200 (1995): 193.

OECD or the European Commission) to pare or eliminate “social minima,” and, on the other side, the multiplication of legal and activist challenges mounted before public bureaucracies by recipients swindled of their benefits by the permanent recomposition of assistance or employment programs (e.g., in France the annual demonstrations by the unemployed for a “Christmas bonus,” or the successful court action against Unedic launched in spring 2004 by workfare recipients). To wit also the persistent public demand for the protective and corrective action of the welfare-state throughout the developed world, in spite of the vigorous media and political campaigns aimed at stifling it.³³ Finally, the generalization of wage-labor instability has itself spawned novel forms of mobilization and transversal solidarities, illustrated by the burgeoning of associations to defend the dispossessed and the sudden spread of “coordinations” among precarious workers (thus, in France recently, among the staff of McDonalds, Pizza Hut, and Go Sports, but also the FNAC, Arcade, etc.), which are rooted in the possession of a cultural capital devalorized by the fragmentation of positions, tasks, and work schedules, as well as in the refusal of the docile deference commonly demanded in face-to-face relations with clients in personal commercial services.³⁴

On the penal side, the state of the dawn of the third millennium has been endowed with budgetary, human, and technological resources without equivalent in history for their volume, imbrication/reach, and degree of rationalization, which bestow upon it a bureaucratic capacity for *quadrillage and control that its industrial-era predecessors could have never even imagined. Nowadays a suspect or convict can be detected spotted, tracked at a distance, and captured virtually at any time and in any location, owing to interlinking of a plethora of instruments of quasi-instantaneous identification and surveillance (video cameras, electronic cards, telecommunication, administrative and commercial databases, background checks by employers and realtors, etc.) that cover the most remote corners of a given country,³⁵ whereas at the end of the nineteenth century it sufficed for an individual to change his name and move to a different city or region and melt into the surrounding landscape for the authorities to lose track of him. Indeed, as the state disengages itself from the economy and defaults on its mission of social protection, its “infrastructural power” – i.e., its ability to penetrate the populations under its aegis and rule over their behaviors³⁶ – operates increasingly through the networks woven by its repressive apparatus, which thus become one of the main vectors of unification of its territory at the national or supranational level (as in Europe’s Schengen area). Besides, the dispossessed categories that are the favorite prey of criminal justice are already placed right in the sights of the bureaucracies of public assistance that supervise their ordinary conducts and even their intimate life with neither scruples or respite.³⁷

THE PENALIZATION OF POVERTY AS PRODUCTION OF REALITY

Just as the emergence of a new government of the social insecurity diffused by the neoliberal revolution does not mark a historical reversion to a familiar configuration but a genuine *political innovation*, similarly the deployment of the penal state cannot be grasped solely within the narrow rubric of repression. The advent of “liberal paternalism” must be construed also, as Marx erstwhile suggested, under the generative category of *production*:

The criminal produces an impression now moral, now tragic, and renders a ‘service’ by arousing the moral and aesthetic sentiments of the public. He produces not only text-books on criminal law, the criminal law itself, and thus legislators, but also art, literature, novels and the tragic drama.... The criminal interrupts the monotony and security of bourgeois life. Thus he protects it

from stagnation and brings forth that restless tension, that mobility of spirit without which the stimulus of competition would itself be blunted.³⁸

The transition from the social management to the penal treatment of the disorders induced by the fragmentation of wage labor is indeed eminently productive. It has spawned *new categories* of public perception and state action: the “*quartier sensible*” in France, the “sink estate” in the United Kingdom, the *check in the Netherlands, etc., are bureaucratic euphemisms for a section of the city turned into a social and economic fallow by the state, and for that very reason subjected to reinforced police oversight; so too its close cousin of “*violences urbaines*,” an asinine nomenclature designed by a police commander to amalgamate acts of deviance of widely divergent natures and motives (graffiti and low-grade vandalism, brawls between youths, insults to teachers, drug-dealing or fencing, collective confrontations with the police, etc.) so as to promote a punitive approach to the social problems of declining working-class areas by depoliticizing them.³⁹ New *social types* are another byproduct of the emerging social-insecurity regime: the irruption of “superpredators” in the United States, “feral youth” and “yobs” in the United Kingdom, or Jean-Pierre Chevènement’s “*sauvageons*” in France (a social-paternalistic variant of a racial insult scoffing at the alleged deculturation of the lower classes) has been used to justify the reopening or the expansion of detention centers for juveniles, even though all existing studies deplore their noxious effects. Not to forget the “sexual predator” or pedophile, who stands as the vilified embodiment of every threat to the integrity of the family cell, and who is all the more feared as the latter is more submitted to the strains and distortions born of the casualization of labor. To these can be added the renovation of classic types such as the “career recidivist,” the latest avatar of the *uomo delinquente* invented by Cesare Lombroso in 1884, whose distinctive psychophysiological and anthropometric characteristics are now researched by criminal “profiling.”

For the policy of penalization of social insecurity is also the bearer of new knowledges of the city and its troubles, broadcast by an unprecedented range of “experts” and, in their wake, journalists, bureaucrats, managers of neighborhoods and activist organizations, and elected officials perched at the bedside of “neighborhoods of all dangers,”^{††††} to recall the blunt expression of a former French police chief reconverted as a prophet of law-and-order doom. These knowledges are given form and put into wide circulation by hybrid institutions, supposedly neutral, situated at the intersection of the bureaucratic, academic, and journalistic fields, university and media, which ape research to provide the appearance of a scientific warrant for lowering the police and penal boom on neighborhoods of relegation. This is the case, in France, with the Institut des hautes études de la sécurité intérieure, an agency created by Pierre Joxe in 1989 (the Socialist Minister of the Interior) and then developed by Charles Pasqua (his Gaullist successor), “placed under the direct authority of the Minister of the Interior” in order to promote “rational thinking about domestic security,” which irrigates the country with the latest novelties in “*crime control*” imported from America, and the Institut de criminologie de Paris, an *officine for law-and-order propaganda which has the remarkable characteristic of not counting a single criminologist among its distinguished members.

^{††††} According to the expression of one of the prophets of law-and-order catastrophe, police commissioner Richard Bousquet, the author of *Insécurité: nouveaux risques. Les quartiers de tous les dangers* (Paris: L’Harmattan, 1998), with a preface by unshakeable “urban security” entrepreneur Alain Bauer. The properties and social bases of the success of these new experts are dissected by Pierre Rimbart, “Les nouveaux managers de l’insécurité: production et circulation d’un discours sécuritaire,” in Gilles Sainati and Laurent Bonelli, eds., *La Machine à punir* (Paris: Dagorno, 2001), 203-34.

Two Official Organs of Law-and-Order Propaganda

Staffed by some 60 “police officers, gendarmes, customs officers, academics, and judges” but bereft of credentialed researchers, the IHESI (Institut des hautes études sur la sécurité intérieure, Institute for Higher Studies in Domestic Security) is the main platform for diffusing the new law-and-order *doxa* within the state apparatus and the dominant media in France. Its priorities: “to train security actors” and to supply technical assistance to “partners within the societal body who wage a difficult struggle against insecurity on a daily basis or who are its privileged witnesses,” but also and more broadly to “sensitize” the political, economic, and intellectual elites through the training and pedagogical action of its network of graduates (now numbering in excess of 1,300).

Notwithstanding a resolutely technicist and ostensibly neutral approach, the instructors of the IHESI cannot conceal their fascination with the policing and penal “experiments” of the United States, a country “where imagination is at work” and whose law-and-order boldness demonstrates that “it is possible to push down real delinquency and the subjective feeling of insecurity.”^{###} Thus the Institute published in French translation in its internal journal, *Les Cahiers de la sécurité intérieure*, the “foundational” article by James Q. Wilson and George Kelling on the American “theory of the broken window” (but none of the critiques that demolished it on the other side of the Atlantic, as we will discover in Chapter 8). It has produced and distributed countless technical reports on “*police de proximité*,” inspired by the recent experience of “community policing” in Chicago, and (without fear of contradiction) it hails “zero tolerance” incarnated by that of New York in the practical dossiers it publishes to guide elected officials in establishing Local Security Contracts with the central state. It is in the classrooms of this institute that Socialist deputy and future Interior Minister Daniel Vaillant took “courses” that convinced him, along with others (Gérard Le Gall, Bruno Le Roux, Julien Dray, and Alain Bauer, CEO of Alain Bauer Associates, a private firm in “urban security” consulting), to push his party to openly assume its punitive turn by recognizing that “security” is “a republican value” and is “neither of the Right nor of the Left.”⁴⁰

Housed by the University of Panthéon-Assas (Paris 2), since 1998 the Institut de criminologie de Paris has offered a postgraduate degree in the “analysis of *menaces criminelles contemporaines*” (MCC, contemporary criminal threats), which easily rivals with the doctorate in “astro-sociology” granted in 2001 to Elizabeth Tessier by the neighboring university of Paris 5-Sorbonne.^{§§§§} Set up with the collaboration of senior police officials reconverted into the juicy sector of security “consulting” for business and local government, this degree program is co-directed by Xavier Raufer, the author of numerous works on security co-signed with Alain Bauer and Stéphane

^{###} According to Frédéric Ocqueteau, his edited volume *Community Policing et Zero Tolerance à New York et Chicago. En finir avec les mythes* (Paris: La Documentation française, “La sécurité aujourd’hui” series, 2003). Hired by the Institute in 1990 on the basis of doctorate in law, Ocqueteau is editor-in-chief of the in-house journal of the IHESI. He is the author of *Défis de la sécurité privée* (Paris: L’Harmattan, 1997) and *Vigilance et sécurité dans les grandes surfaces* (Paris: L’Harmattan, 1995), a survey of supermarket managers that describes how their “services of vigilance” ensure the “protection of goods and clients, and thus commercial peace.” He is also the sole “academic” member of the Conseil de l’Observatoire de la délinquance instituted by Interior Minister Nicolas Sarkozy in November 2003 and placed under the stewardship of the omnipresent Alain Bauer.

^{§§§§} [Trans.] In April 2001, the astrologist and television celebrity Elizabeth Tessier (famous for being the personal “astral counselor” of President Mitterrand) was granted a doctorate in Sociology by the University of Paris-Sorbonne, under the direction of Michel Maffesoli, for a thesis advocating the scientific validity of astrology and the primacy of astral over social causality. The scientific community mobilized to get the degree rescinded, but without success.

Quéré (the documentarian of Alain Bauer Associates, misleadingly presented on the backcover of books as a “criminologist”).**** A former activist of the extreme-right wing group Occident close to the American intelligence services, Raufer (whose real name is Christian de Bongain) is a journalist specializing in terrorism. He became a “security consultant” on the basis of his political contacts, which he parlayed into being hired as editor of the “International Criminality” series at the Presses universitaires de France (by Pascal Gauchon, the leader of the extreme-right Parti des Forces Nouvelles) and then as “lecturer in methodology” (sic) at Paris 2-Assas.⁴¹ His criminological oeuvre comprises 165 articles that appeared in the weekly magazine *L'Express* and writings published internally in the *Notes & Etudes de l'Institut de Criminologie*; it does not include a single scholarly publication.

The MCC Department, whose program of “Études” is directed by Raufer, has made its mission to describe, detect, and prevent the “chaotic, rapid, and volatile dangers” born of the “hybridization of criminalities stimulated by globalization.”⁴² The teaching body in charge of the seemingly academic “training” it delivers includes a divisional police commissioner, a senior customs official, the security director of the Alcatel telecommunications multinational, a retired prefect, novelists, directors of “security firms” (among them the inevitable Alain Bauer and the CEO of Fichet-Bauche, a leading lock and armored door company), a reporter for the weekly *Le Point*, an infantry officer from Malta, and a Colombian journalist. The supervision of the students’ theses leading to the granting of the MCC Diploma at the end of a semester of bi-weekly, two-hours courses is entrusted to an “entrepreneur, holder of a MCC degree.” The lucky recipients of this “education” include student officers from the gendarmerie, who undergo 200 hours of courses bearing in particular on “urban violences,” “trafficking,” and “fanaticisms” (sic).

There is no end to the roster of agents and devices that contribute, each on its level, to the collective work of *material and symbolic construction of the penal state* henceforth charged with reestablishing the state’s grip over the populations pushed into the cracks and the ditches of urban space, from private firms of “safety consultants” to “*adjoints de sécurité*” (assistant police officers, hired as part of a state plan to fight unemployment in low-income areas, and entrusted with police chores outside of law enforcement), to publishing houses eager to sell books on this hot topic (among whom a special mention must go to L’Harmattan and Presses Universitaires de France), the “*citoyens relais*” (volunteers who anonymously tip the police about problems in their neighborhoods), and a whole series of judicial innovations – *rappel à la loi* (formal legal warning by a magistrate), *juges de proximité* (adjunct community judges), *composition pénale* (a variant of plea bargaining for misdemeanors), etc., which, on the pretext of bureaucratic efficiency, establish a differential justice according to class and place of residence. In sum, *the penalization of precariousness creates new realities*, and realities tailor-made to legitimize the extension of the prerogatives of the punitive state according to the principle of the self-fulfilling

**** The peddlers in law-and-order ideology and services are fond of decking themselves out in academic titles and posts they do not have, with the complicity of the journalists and publicists who promote them. For example, the publisher of *La Guerre ne fait que commencer* (The War Has Only Begun; Paris: Jean-Claude Lattès, 2002), a work warning that “virulent forms of urban violence” in the French urban periphery “could soon evolve toward terrorism pure and simple,” joining up with “the global war” that opened with the September 11 attacks, write about its authors: “Professor of Criminology at the Sorbonne, specialist in geopolitics and terrorism, for this book Xavier Raufer has joined Alain Bauer, who, aside from his very high duties at the masonic Grand Orient, is a globally recognized expert on security for multinationals.” Elsewhere, Bauer is regularly presented by the press as a “teacher,” a “criminologist,” and even “Professor at the Sorbonne” or the Institut d’études politiques in Paris (when he is none of the like).

prophecy. An illustration: the practice of treating the slightest jostling in the school corridors, rudeness in the classroom, or playground ruckus not as matters of discipline pertaining to pedagogical authority in the establishment but as infractions of the law, to be systematically reported to the local police or magistrates, and the assignment of a “police correspondent” (“*officier référent*”) to every secondary school (rather than a psychologist or a social worker, who are direly lacking), one fabricates an epidemic of “school violence.” With the help of mass-media amplification, this “explosion” of “violence” serves in turn to justify the “school-police partnership” that produced it in the first place, and the enrollment of teaching staff in the declining neighborhoods of the urban periphery in the police missions of surveillance and repression. Besides, the staging of “school violence” allows state managers to avoid confronting the professional devaluation and bureaucratic dilemmas created within the educational sphere by the growing submission of the school system to the logic of competition and the imperatives of the “culture of results” imported from the corporate world.⁴³

Finally, let us note for the benefit of readers who might be surprised that a work on the penal state in America does not address the question of the death penalty that this omission is considered and deliberate.⁴⁴ It arises from the conviction, acquired from historical and comparative observation, that the capital sentence does not constitute a major cog in the contemporary economy of punishment in this county. To be sure, the spectacular resurgence of judicial executions after the quasi-abolitionist interlude of 1966 to 1983 (during which the United States did away with only fourteen convicts, and killed none between 1968 and 1976) does partake on its own level in the ascent of punitive populism that gradually seized the country after the mid-1970s as the social, urban, and penal policies of the state were restructured with a view to anchoring the diffusion of desocialized wage labor and containing the repercussions of the crumbling of the black ghettos. And it is endowed with a particular emotive charge that has led it to be commonly depicted as the emblem of US judicial rigor or cruelty, by its supporters as well as its detractors, especially abroad — two scholars of judicial cultures attest that “over the last 25 years the death penalty has become one of the main stumbling blocks in the dialogue between the two versions of Western civilization, the European and the North American.”⁴⁵ Moreover, it is not by chance that America is the sole Western democracy that not only routinely applies capital punishment, but also the only one which, under the hold of a narrow legalism wedded to unrestrained moral individualism and tenacious racial contempt, inflicts in on minors, women, the mentally handicapped, and convicts sentenced for non-violent crimes,^{††††} in spite of the social biases and procedural failings that have been amply demonstrated in its implementation. Yet, for all its symbolic salience, the death penalty remains structurally marginal and functionally superfluous.

Indeed, if capital punishment figures in the penal code of 38 states and the federal government, only 13 of them applied it in 2002 and two-thirds of the 820 executions carried out since 1977 have taken place in just five jurisdictions: Texas (with 289 judicial killings), Virginia (87), Missouri (59), Oklahoma (55), and Florida (54).^{††††} If tomorrow the federal Supreme

^{††††} Only 19 of 38 states that apply the death penalty exclude the mentally handicapped from its field of application; 16 authorize its use in the case of minors (including seven that do not specify any minimum age). Roger Hood, “Capital Punishment,” in Michael Tonry, ed., *The Handbook of Crime and Punishment* (New York: Oxford University Press, 1998), 739-75.

^{††††} Thomas Bonczar and Tracy L. Snell, *Capital Punishment, 2002* (Washington: Bureau of Justice Statistics, 2003). The number of judicial executions since 1977 passed the 900-mark in February of 2004. In 2003, the United States put to death 65 convicts, compared to 64 in Vietnam, 108 in Iran, and 726 in China (according to the official

Court (the only instance empowered to pronounce on the national level on the constitutionality of a penal sanction whose application falls under the authority of the fifty members of the Union and their legislatures) were to render the ultimate penalty unlawful or legally impracticable, as it did between 1972 and 1976 with the *Furman v. Georgia* decision, such a measure would certainly ease the psychological torture suffered by the 3,560 Americans currently rotting on death row. And it would save the lives of the several dozens of them who are put to death every year by lethal injection or electrocution (over the past decade, the members of the Union have executed between 31 and 98 convicts per year).

But legal or de facto abolition would diminish neither the immense scope of the US carceral archipelago nor the tightening material and symbolic hold that the penal apparatus exerts on the social body. It would change nothing about the fates of the other 2,262,700 adults stacked in the country's correctional establishments at the start of 2003 and the roughly 4,748,000 of their compatriots placed under criminal justice supervisions outside their walls at that time. It would leave untouched the prevalence of confinement and its extreme concentration on the populations situated at the very bottom of the ethnic and class hierarchy, which ensures that one black American citizen in six is doing or has done hard time and one in three is destined to serve a sentence of imprisonment in the future.^{§§§§§} The *practical disconnection between mass incarceration and capital punishment* is amply demonstrated by the recent experience of California, which counted 614 convicts on death row among its 200,000 inmates in 2002 but executed only one of them that year. Such a disjunction confirms that the question of the implementation or extinction of capital punishment in America pertains to the register of the debate of civic morals and political philosophy more than to the sociology of the penal state.

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¹ For an overview of the penal scene in the main countries of the First World, see John Pratt et al., eds., *The New Punitiveness: Current Trends, Theories, and Perspectives* (London: Willan Publishing, 2004); Iñaki Rivera Beiras, *Recorridos y posibles formas de la penalidad* (Barcelona: Anthropos Editorial, 2004); Laurent Mucchielli and Philippe Robert, eds., *Crime et sécurité. L'état des savoirs* (Paris: La Découverte, 2002); Alessandro Dal Lago, *Giovani, stranieri e criminali* (Rome: Manifestolibri, 2001); and Wolfgang Ludwig-Mayerhofer, ed., *Soziale Ungleichheit, Kriminalität und Kriminalisierung* (Opladen: Leske und Budrich, 2000).

² The emergence of this discursive nebula is described in the French case by Annie Collovald, "Des désordres sociaux à la violence urbaine," *Actes de la recherche en sciences sociales* 136-37 (March 2001): 104-14.

³ See in particular, on these points, Serge Paugam, *Le Salarié de la précarité* (Paris: PUF, 2000); Gøran Therborn, *Between Sex and Power: Family in the World 1900-2000* (London: Routledge, 2004); Loïc Wacquant, *Urban Outcasts: Toward a Sociology of Advanced Marginality* (Cambridge: Polity, 2006) and

figure, which is vastly inferior to the estimates from the best scholars on the question, which range from 10,000 to 15,000 per year if extra-judicial executions are included).

^{§§§§§} This figure is an estimate of the cumulative probability of being sentenced to at least one year of imprisonment over the course of a lifetime, calculated on the basis of the national incarceration rate in a state or federal establishment in 1992. Thomas P. Bonczar, *Prevalence of Imprisonment in the U.S. Population, 1974-2001* (Washington: Bureau of Justice Statistics, 2003), 1 and 5.

Hartmut Häußermann, Martin Kronauer, and Walter Siebel, eds., *An den Rändern der Städte: Armut und Ausgrenzung* (Frankfurt/Main: Suhrkamp, 2004); and Stéphane Beaud, *80% au bac et après? Les enfants de la démocratisation scolaire* (Paris: La Découverte, 2003).

⁴ On the punitive turn of Blair's New Labour, product of a servile imitation of US policies, and its disastrous results on the double level of criminal and social justice, read Michael Tonry, ed., *Punishment and Politics: Evidence and Emulation in the Making of English Crime Control Policy* (London: Willan, 2004); the *aggiornamento* of the Italian Left in penal matters is described by Salvatore Verde, *Massima sicurezza. Dal carcere speciale allo stato penale* (Rome: Odradek, 2002); the law-and-order conversion of the neo-socialists led by Jospin in France is retraced in Loïc Wacquant, *Les Prisons de la misère* (Paris: Raisons d'agir, 1999).

⁵ Loïc Wacquant, "The Rise of Advanced Marginality," *Acta sociologica* 39, no. 2 (1996): 121-39, and Ian Taylor and Ruth Jamieson, "Fear of Crime and Fear of Falling: English Anxieties Approaching the Millennium," *European Journal of Sociology* 39, no.1 (Spring 1998): 149-75.

⁶ Norwegian criminologist Thomas Mathiesen detected and denounced it as early as 1990 on the carceral front; see Thomas Mathiesen, *Prison on Trial: A Critical Assessment* (London: Sage, 1990), 11-14.

⁷ For a detailed case study of these struggles in the exemplary case of Mexico, read Sarah Babb, *Managing Mexico: Economists from Nationalism to Neoliberalism* (Princeton: Princeton University Press, 2001); see also the issue of *Actes de la recherche en sciences sociales* coordinated by Yves Dezalay on the "Sociology of Globalization" (151-152, February 2004).

⁸ Jamie Peck, *Workfare States* (New York: Guilford, 2001), and Catherine Lévy, *Vivre au minimum. Enquête dans l'Europe de la précarité* (Paris: Editions La Dispute, 2003), ch. 4.

⁹ Mike Hawkins, *Social Darwinism in European and American Thought, 1860-1945: Nature as Model and Nature as Threat* (Cambridge: Cambridge University Press, 1997).

¹⁰ Pierre Bourdieu et al, *La Misère du monde* (Paris: Seuil, 1993), 219-28 (trad. *The Weight of the World*, Cambridge, Polity Press, 1999), and idem., *Contre-feux* (Paris: Raisons d'agir, 1997), 9-15 (trad. *Acts of Resistance*, Cambridge, Polity Press, 1999).

¹¹ Ann Chih Lin, "The Troubled Success of Crime Policy", in Margaret Weir, ed., *The Social Divide: Political Parties and the Future of Activist Government* (Washington: Brookings Institution and Russell Sage Foundation, 1998), 312-57.

¹² "M. Jospin contre la pense unique internationale. Un entretien avec le Premier Ministre," *Le Monde*, 7 January 1999 (my emphasis).

¹³ "Le gouvernement veut allier prévention et répression contre la délinquance," *Le Monde*, March 20, 1999 (my emphases). We recognize in passing here the trope of "perversity," dear to reactionary thought. See Albert O. Hirschman, *The Rhetoric of Reaction: Perversity, Futility, Jeopardy* (Cambridge, MA: Harvard University Press, 1991).

¹⁴ Ronald Reagan, "Remarks at the Conservative Action Committee Dinner (1983)," cited in Penny Green and Andrew Rutherford, eds., *Criminal Justice in Transition* (Dartmouth: Hart, 2001), 147.

¹⁵ Transcript from the National Assembly debate on the orientation and programming bill for domestic security (n°s 36 et 53), first session of , Tuesday 16 July 2002, presided by Jean-Louis Debré; available online at www.assemblee-nat.fr (my emphases).

¹⁶ Idem. Later in the debate, Maurice Leroy thanked Julien Dray for his intervention and his solid "spirit of responsibility" on behalf of the UDF parliamentary group.

¹⁷ Michel Foucault, *Résumé des cours, 1970-1982* (Paris: Juillard, 1989), "Du gouvernement des vivants," 123. For a historiographic illustration of this notion, read Giovanna Procacci, *Gouverner la misère. La question sociale en France, 1789-1848* (Paris: Seuil, 1993).

¹⁸ Michael C. Brown, *Race, Money, and the American Welfare State* (Ithaca: Cornell University Press, 1999), pp. 323-353.

¹⁹ Loïc Wacquant, "Deadly Symbiosis: When Ghetto and Prison Meet and Mesh," *Punishment & Society* 3, no. 1 (Winter 2001): 95-134.

²⁰ Michel Pialoux and Florence Weber, “La gauche et les classes populaires. Réflexions sur un divorce,” *Mouvements* 23 (September-October 2002): 10-21.

²¹ Frances Fox Piven and Richard A. Cloward, *Regulating the Poor: The Functions of Public Welfare*, new expanded ed. (New York: Vintage, 1993), xvii.

²² This coupling of the assistential and penitential sectors of the state rises to the level of a deliberate strategy for remaking public authority among some apostles of the new US government of poverty, such as Lawrence Mead, ed., *The New Paternalism: Supervisory Approaches to Poverty* (Washington: The Brookings Institution, 1997); for a discussion, see Wacquant, *Les Prisons de la misère*, 36-44.

²³ Piven and Cloward, *Regulating the Poor*, 381-87, 395-97.

²⁴ Similarities in the culture and organization of the daily supervision of single mothers who received public aid and convicts behind bars or released on parole are immediately apparent upon the parallel reading of Sharon Hays, *Flat Broke With Children: Women in the Age of Welfare Reform* (New York: Oxford University Press, 2003), and John Irwin, *The Warehouse Prison* (Los Angeles: Roxbury, 2004).

²⁵ In the 1993 edition of their book, Piven and Cloward note that “The welfare state literature generally is plagued by theoretically significant definitional problems, such as the question of whether education is a welfare-state policy, or whether non-governmental services and income supports are appropriately part of the definition” (*Regulating the Poor*, 407). But at no point do they envisage the possibility of including in their perimeter of study the penal sector of the state. Similarly, the canonical works of Theda Skocpol, Michael Katz, Linda Gordon, and Jill Quadagno are silent on the targeting of the poor by judicial policies, in spite of the pivotal role of punishment in the history of state institutions in the country. (Thomas L. Dumm, *Democracy and Punishment: Disciplinary Origins of the United States* (Madison: University of Wisconsin Press, 1987).) A comprehensive overview of recent research on social policy in the United States contains one line and a single reference to the part played by criminal justice in the management of precarious populations. Edwin Amenta, Chris Bonastia, and Neal Caren, “U.S. Social Policy in Comparative and Historical Perspective: Concepts, Images, Arguments, and Research Strategies,” *Annual Review of Sociology* 27 (2003): 213-34.

²⁶ I have outlined the implications of the punitive containment of marginality in Brazil in “Towards a Dictatorship over the Poor? Notes on the Penalization of Poverty in Brazil,” *Punishment & Society* 5, no. 2 (April 2003): 197-205.

²⁷ Loïc Wacquant, “The Penalisation of Poverty and the Rise of Neoliberalism,” *European Journal of Criminal Policy and Research*, Special issue on “Criminal Justice and Social Policy,” 9, no. 4 (Winter 2001): 401-12. On the accelerating international circulation of crime-fighting discourses and policies in recent years, and the preponderant influence of American products in these exchanges, see the studies collected by Tim Newburn and Richard Sparks, eds., *Criminal Justice and Political Cultures: National and International Dimensions of Crime Control* (London: Willan, 2004).

²⁸ Vivien Stern, “Mass Incarceration: ‘A Sin Against the Future’?,” *European Journal of Criminal Policy and Research* 3 (October 1996): 14.

²⁹ Jerome G. Miller, *Search and Destroy: African-American Males in the Criminal Justice System* (Cambridge: Cambridge University Press, 1997), 102-3.

³⁰ Bernard Brunet, “Le traitement en temps réel: la justice confrontée à l’urgence comme moyen habituel de résolution de la crise sociale,” *Droit et société* 38 (1998): 91-107; Gilles Sainatti, “Le souverainisme policier, nouvelle doctrine pénale,” *Justice* 161 (July 1999): 12-18; and Laurent Bonelli, “Evolutions et régulations des illégalismes populaires en France depuis le début des années 1980,” *Cultures et conflits* 51 (Fall 2003): 9-43.

³¹ “La préfecture de Nîmes fiche secrètement 179 jeunes,” *Libération*, January 10, 2000. Thanks to Aline Cahoreau and Jean Launay, from the Syndicat of the Nîmes Magistrature, for having sent me the various pieces of this file.

³² Parick Bruneteaux and Corinne Lanzarini, *Les Nouvelles figures du sous-prolétariat* (Paris : L’Harmattan, 2000).

³³ Gøsta Esping-Andersen, ed., *Welfare States in Transition: National Adaptations in Global Economies* (London: Sage, 1996).

³⁴ On this point, see the account of Abdel Mabrouki and Thomas Lebègue, *Génération précaire* (Paris: Le Cherche-Midi, 2004), and the practical recommendations of Attac, *Travailleurs précaires, unissez-vous* (Paris: Mille et une nuits, 2003); and, on the other side of the Atlantic, Dan Clawson, *The Next Upsurge: Labor and New Social Movements* (Ithaca: Cornell University Press, 2003).

³⁵ David Lyon, *The Electronic Eye: The Rise of the Surveillance Society* (Minneapolis: University of Minnesota Press, 1993).

³⁶ On the notion of the “infrastructural power” of the state, as against its “despotic power,” see Michael Mann, “The Autonomous Power of the State: Its Origins, Mechanisms and Results,” *Archives européennes de sociologie* 25, no. 2 (Summer 1984): 185-213.

³⁷ The nightmarish functioning of this “digital poorhouse” in a remote region of the Appalachian mountains is described in painstaking detail from the inside by John Gilliom, *Overseers of the Poor: Surveillance, Resistance, and the Limits of Privacy* (Chicago: University of Chicago Press, 2001); the proximate social control of recipients of public aid in Europe is discussed by Catherine Lévy, *Vivre au minimum*, 69-89.

³⁸ Karl Marx, *Theories of Surplus Value*, cited in Tom Bottomore and Maximilien Rubel, eds., *Karl Marx: Selected Writings in Society and Social Philosophy* (New York: McGraw-Hill, 1958), 159.

³⁹ On the invention of this notion by the Renseignements généraux (the division of the French police entrusted with “domestic spying”), see Laurent Bonelli, “Renseignements Généraux et violences urbaines,” *Actes de la recherche en sciences sociales* 136-137 (March 2001): 95-103; also Laurent Mucchielli, “L’expertise policière de la ‘violence urbaine’: sa construction intellectuelle et ses usages dans le débat public français,” *Déviance et société* 24, no. 4 (December 2000): 351-75.

⁴⁰ Most of the commonplaces conveyed in a “technicized” form by the IHESI can be found in the veritable *bétisier/howler of the “one-way securitythink” published by the Socialist leader and former Minister of the Interior Daniel Vaillant, *La Sécurité, priorité à gauche* (Paris: Omnibus, 2003).

⁴¹ See Laurent Mucchielli, *Violences et insécurités. Fantômes et réalités dans le débat français* (Paris: La Découverte, 2001), 34-37, and the file “Christian de Bongain, alias Xavier Raufer,” collected by Réseau Voltaire (www.reseauvoltaire.net).

⁴² From the department’s introductory brochure, available online at www.drmcc.org (dated January 2004).

⁴³ Franck Poupeau, *Contestations scolaires et ordre social. Les enseignants de Seine-Saint-Denis en grève* (Paris: Syllepse, 2003).

⁴⁴ On this topic, one can turn to Austin Sarat, *The Killing State: Capital Punishment in Law, Politics, and Culture* (New York: Oxford University Press, 1998), and Franklin E. Zimring, *The Contradictions of American Capital Punishment* (New York: Oxford University Press, 2003). For a stimulating critique of the thesis of “American exceptionalism” on this front, read David Garland, “Capital Punishment and American Culture,” *Punishment & Society* 7-4 (October 2005): 347-376.

⁴⁵ Antoine Garapon and Ioannis Papadopoulos, *Juger en Amérique et en France. Culture juridique française et common law* (Paris: Odile Jacob, 2004), 277.