

**The Prison Industrial Complex and Social Division in Market Societies: The Hyper-Security State, Crime and Expendable Populations\***

Claudio A. Colaguori

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*Abstract: This paper examines the macro-social forces behind the formation of the prison industrial complex. Market societies have experienced profound changes in the last ten years that have shifted the priorities of the state and have increased the power and the presence of the marketplace in social life. The shift from pursuing ‘civil society’ to ‘security society’ has influenced the functioning of penal institutions in a manner which intensifies social division and normalizes authoritarian public attitudes. Three general forces combine to frame the context for the intensification of punishment: 1) the new security mandate of the political state following 9/11 in addition to the implementation of harsher criminal justice sentencing policies, 2) the increasing liberalisation of corporate power and a new spirit of entrepreneurial opportunity within the marketplace and, 3) the increasing dominance of popular ideologies of law and order. The net effect of the intensification of punishment and mass incarceration is an increase in social division for members of society who live marginally and are therefore more likely to be processed as ‘expendable persons’. The problem of increased incarceration is seen not as a problem of increased criminality but as a symptom of liberal-market society’s inability to resolve long-standing historical contradictions which produce social inequality through the punishment of the weak in addition to the control of crime.*

### **Introduction**

In many respects the social and political reorganizations of the last decade have represented a de-civilising trend (Pratt 1998) in North American social and political life and indeed in many other parts of the globe as well. The widening of the gap between those who prosper in the economic arrangements of neo-liberalism and those who have had their life chances curtailed by the reconfiguration of economic and political power has transformed the cultural climate from one of civil justice to one of ‘security’. People are becoming accustomed to living in a state of alert and the security mandate of post 9/11 state policy has taken on even greater hegemonic proportions than is generally associated with the social controls of the ‘disciplinary society’ (Foucault 1979, O’Neill 1986). Gone and forgotten is the self-assured post-communist political climate of the early 1990’s and the corresponding triumphalist discourses which trumpeted the virtues of the emergent civil society and the expansion of a new prospects for global peace, democracy and justice. In stark contrast to this ideal the present time is marked by a rise in trends towards increased concern with conflict and defence, security and control. The new security scenario has given rise to particularly pernicious intensifications of state power: the fallout from the so-called ‘war on terror’ includes such concerns as numerous restrictions on civil freedoms and in the sphere of criminal justice phenomena such as mass incarceration have become the norm. The discourses of power which shape social policy and popular consciousness discursively define social life as being in an era of neo-

crisis – one with drastic consequences for social life and where drastic measures of social control are seen to be required. The two dominant mandates of security and control are systematically related in that they call upon the values of *agonism* and *liberalism* in their ideological and economic justification for punishment.

The new political climate with its rationalizations of the state's power to punish is qualitatively unique modality of power, one that has entered into a mode of *hyper-security*, which is a more open form of the hegemonic ordering of social life that takes its legitimacy and authority from the ongoing declaration of war – the war on crime, the war on drugs, the war on terror, economic-competitive warfare, all of which form part of the post 9/11 martial reality. A number of these occurrences along with the intensification of punishment as seen in the formation of the 'prison industrial complex' are part of the new trend in state sponsored order maintenance and its use of power in the name of security. The 'prison industrial complex', which is the primary object of analysis in this paper, is a response typical of the insecure order of the hyper-security state and its *spasm of power* during wartime. This response to problems of social order and legitimation is a reflection of the deep social contradiction contemporary society has inherited from early industrial capitalism which is tied to the historical problem of securing order against 'dangerous classes' in urban modernity – a problem which involved the hegemonic maintenance of the system of liberal market expansion and the interminable fact of class inequality in the face of this expansion.

What we have seen developing in penal practices is a pronounced and disturbing rise in mass incarceration and the subsequent formation of the prison industrial complex as described by many authors including Garland ed. (2001), Davis (2002), Wacquant (2001), Herivel and Wright (2003), Mauer & Chesney-Lind eds. (2002) and Schlosser (1998). Ian Taylor (1999) remarks that there has been an 'explosion of penalty in market societies.' The USA for example has upwards of two million people incarcerated at a time when the general crime rate is reported to be stable or falling. And, the stimulus behind the new frenzy of punishment is to be found in the present day cultural climate of fear – one which has intensified into the pursuit of security in the militarization of everyday life that has accompanied the 'war on terror' and within the realm of crime control. Barbara Hudson (2002) asks how it is that we can account for the dramatic increase in prisoners when by all indications criminologists had predicted – based on a strong economy and falling crime rates – that incarceration in the USA and Canada should have been in decline? Part of the answer is that there has been a change in American criminal justice policy towards determinate sentencing, especially instruments such as the Three-Strikes law, but the societal conditions which enable such a law also has to be enquired into. The concept of the Prison Industrial Complex provides a useful means of entering into an understanding of the social forces that make possible such things as mass incarceration, the corporatization of prisons, and the ethnocide of an urban underclass in North America and the continuing role of the state in the maintenance of social inequality.

This paper will enquire into the relationship between hyper-security and the institutionalization of punishment. It will also raise questions such as: How has the hyper-security mandate created new forms of economic opportunism within the functioning of the institutions that make up what Althusser (1971) refers to as the 'repressive state apparatuses' – the military, the legal system, prisons and policing? How has this mandate

contributed to a new era of social division resulting from systemic oppression? In particular this paper will focus on how punishment has become intensified in the context of hyper-security to such an extent that it has taken on new roles beyond the publicly stated aim of crime control. The regime of punishment now plays a role in the creation of *expendable populations* as a normal course of business and in the administration of social policy. Punishment has become reconfigured as a new type of institutional formation where administrative and bureaucratic spheres of social control have become normalized dimensions of contemporary social order and where individuals and corporations prosper at the expense of a growing underclass. Just as the ‘military industrial complex’ is tied to billions of dollars of revenue, so the prison industrial complex is becoming increasingly a key sector of the financial infrastructure of market society. As the military industrial complex is tied hegemonically to the imperialism of the state, so the prison industrial complex is tied to the state program of the internal colonization of its own domestic populations. Clearly then, there are numerous forces that combine in the ‘overdetermined’ formation that is the modern prison industrial complex – a disturbing phenomenon clearly in need of explanation.

This analysis is informed by the critical theory of the state (Davis and Stasz 1990, Nagengast 1994), where organized punishment is seen as the pathological symptom of a social system that has not been able to resolve its deep systemic contradictions. The lived results of social contradictions are manifested in growing social strain, poverty, crime and the normalization of state power as an exercise of force on its own citizens. Also of concern is whether established critical theories of penal practices are adequate to the study of the prison industrial complex. Do they still hold merit in the context of the contemporary social, political and economic change? Is punishment to be understood as something beyond the logic of class conflict and capital versus labour? Further, this paper will address the way punishment fits into liberal market society based on how such a society mediates social relations of survival, social relations of power, of economic production, and of hierarchical relations and moral authority and entrepreneurial opportunity. This analysis examines the phenomenon of the prison industrial complex at the level of ‘system’ and ‘order’ and thus on the macro-social patterns which occur many levels above the participating actors in a given social configuration such as the criminal justice system.

It is proposed here that the prison industrial complex can be understood as an institutional formation which serves the interests of and/or is supported by a constellation of factors including:

- the carceral state and its right of punishment, the legalization of state violence and the general use of repressive force in the preservation of state sovereignty and security including the use of such forms of power over its own citizens
- the market and its pursuit of the profit motive including both the corporatization of penalty and the individual pursuit of economic self-interest in terms of prison industry jobs, security work etc, all of which correspond to shifting paradigms in business cycles and the increasing liberalization of the economic order of market society

- the popular cultural legitimation of punishment through ideologies of crime and crime control and the apparatus of the culture/entertainment industry which creates a public demand for authoritarian measures in response to the perceived threat of crime

The term ‘complex’ within the name – ‘prison industrial complex’ indicates the network of societal elements contained within this particular institutional formation. ‘Complex’ refers to being tied into macrosocial elements of society such as rulership, marketization and cultural signification. The prison industrial complex is also tied to the historical program of liberalism which links modern society with its political and economic precursor in the form of early industrial society.

According to the critical sociology of the carceral state punishment doesn’t control crime, fight terror or increase security, rather the enforcement of law systematically produces a punishment response (Visano 1992, 1998, Taylor 1999, Foucault 1979). In addition, punishment institutions do not have an ‘independent life’ that is detached from the order of liberal modernity in some autonomous way, instead punishment is tied to the system of market liberalism in a way that is economically functional as well as is culturally meaningful. The history of punishment is based on the dual function of the state’s inability to resolve deep social contradictions and then use the social fracture this creates as an opportunity for hegemonic repression. Punishment therefore is a symptom of internal decay which does not call attention to this contradiction as a prelude to its resolution but rather punishment becomes a means of dealing with marginalized members of society deemed ‘surplus populations’ and ‘dangerous classes’. The liberal humanist philosophies of incarceration that arise as forms of the discursive legitimation of punishment only serve to reinforce the ideology that certain classes and types are the objective problem rather than the unequal order of society which produces marginalization and subsequent punishment.

Punishment is seen to emerge from a historical trajectory in early urban industrial society where the problem of inequality and scarcity created the social fiction contained in the idea of ‘surplus populations’. The concept of ‘surplus populations’ refers not just to people but to a situation – one where certain groups of people who could not be accommodated (or enfranchised) into the new liberal market system and therefore became both symbolic and material representations of systemic inadequacies and were therefore designated as ‘dangerous classes’ precisely because of the contradiction their social presence raised. These groups were categorized into non-existence by being named ‘surplus’ – a euphemism for unnecessary. The legacy of this hostile categorization of vast groups of citizens lives on in today’s liberalism in the concept of ‘expendable populations’ which is that mass of incarcerated peoples from the ranks of the jobless, the psychologically disfigured and other subjectivities of social strain and social repression caught in the web of law and punishment and whose presence continues to signify the systemic contradictions of advanced liberalism. These are institutionally incorporated into the mode of economic and cultural production as criminal commodities.

Present-day market society liberalism developed around the features of early industrial society and its problem of surplus populations and so retained and continued these primal contradictions in a way that was functional to the order of liberalism in the most rationalized manner, as an industry (Christie, 1993). A social system which was

unable to meet the basic social needs of members of society was a system with deep internal contradictions and economic incompatibilities – a problem which did not go unrecognized by classical economics. It therefore becomes necessary to define liberalism not only in its positive connotation as ‘freeing’ – to liberate, but also the liberalization of, or the enfreeing of both the progressive and regressive tendencies particular to the early order of urban industrial society including its repressions. Liberalism therefore is substantially defined by *punishment* just as liberalism must include the punishment values of justice as revenge in its set of social ideals. It must be argued therefore that punishment is a fundamental structural aspect of liberalism and not an aberration or a symptom of an ‘incomplete project of modernity’ (Habermas 1980) or even an element of corruption but a normal aspect of social functioning.

A number of the tendencies in the societal use of punishment mentioned here are identified in the work of Foucault (1979), Rusche and Kirchheimer (1968), and Garland (1990, 2001) – what is new about the prison industrial complex is the neo-liberal intensification of punishment, which is part of the intensified dialectic of social growth associated with the globalization of market society, the widening of class division and the corresponding extremes of wealth and poverty that exist within the culture of liberalism. Two main supra-forces of the historical dialectic are: production/progress and destruction/punishment. The program of punishment and security is part of the dialectic of liberalism and the growth of market society. The dialectic of liberalism repeats the original social dynamic and societal problematic of the early industrial capitalist state which involves the “explosive development of market society and the problem of social order itself” (Taylor 1999:7), and it is to the state and its liberalization of punishment to which we shall now turn.

### **The State and its Liberalism: The forces of social contradiction and the place of crime and punishment in Taylor’s ‘critical criminology of market societies’**

How is it that with advances in so many areas of human endeavour as for example in the areas of culture and knowledge, including science, medicine, communications, technology and the explosion of critical scholarship in the human sciences we also have the simultaneous regression of the human condition across cultures and populations from socially constructed scarcity and inequality, to the rise of infectious diseases and the intensification of global conflict and war? How is it that progress and production seems always to be inextricably bound with repression, punishment and the degradation of life? What singular characteristic of the state accounts for this self-defining dialectic of production and destruction? An answer to this heightened antagonism can be seen in the practices of the political state and its liberalization of the forces and values which stimulate the pursuit of certain types of advancement and which simultaneously create corresponding forms of regress or social injustice. Historically this is seen to emerge from the liberalization of Enlightenment ideals organized around rational individualism and economico-political sovereignty but which get realized culturally as the competitive, aggressive, predatory social relations permeating the instrumentality between individuals in a hyper-competitive society. These social relations, Taylor argues are, “in significant

measure, a product of the competitive individualism that has been widely identified... as an essential feature of market society itself” (Taylor 1999:5). Taylor, following Currie (1990) argues that the advance of free-market society has been accompanied by ‘a culture of Darwinian competition for status and resources in both the sphere of consumption and the struggle for position within the established order’ (quoted in Taylor 1999:53), an order which is exemplified in the laissez-faire liberal state promotion of free (unbridled) competition and the emergence of corresponding forms of instrumental social interaction and social conflict. The promotion of ideologies of liberalism pertaining to economic self-interest are realized in their most aggressive manifestations as types of *agonistic* behaviour, which is what the market state encourages in its liberality. Liberalism and agonism are therefore dialectically related. Liberalism is characterized by its mandate to allow for ‘free competition’ in all aspects of political, economic and social life. In this way liberalism is seen as thriving on competition and conflict to generate societal growth. The values of agonism form the ideological foundations of the dialectic of production and destruction as the supra-systemic model of social order in advanced industrial society. In the culture of agonism, conflict is seen as the generator of social results, where competition and adversarialism are believed to be the highest virtues of liberal freedom (Colaguori 2002). Agonism defines the rationality that informs legal order and legal process from courtroom procedure all the way to the instrumentality of final punishment.

We can see how the prison industrial complex emerges as the logical extension of agonistic social forces of market liberalism. The prison industrial complex is not simply a reflection of dominant class repression but rather it is a form of *economically functional social division* based on social relations of predation or what Adorno and Horkheimer (1969) refer to as the “economic mechanism of selection.” Therefore the social relations in market society come to mimic the Darwinistic relations of predator-prey relations – the survival of one depends on the destruction of the other. Surplus populations (which can be seen through the Darwinian metaphor as ‘endangered peoples’) result from being socially expelled by the pressure of competition for resources and a ‘way of life’ in a society of scarcity. Agonistic liberalism therefore mimics the laws of social Darwinism in its model of society except that natural selection is replaced by the aforementioned ‘economic mechanism of selection’ modeled after the predatorial natural order of beasts. This is the most anti-social aspect of liberalism’s social dynamics: its naturalistic ideology of productive conflict. Thus we have in market societies types of class segregation without open class conflict. There is no class conflict as such – there are only institutionalized relationships of simultaneous domination and the pursuit of economic self-interest. These occur across all social groups and cannot be confined solely to the subject positions of dominant and subordinate classes, but include race, legitimate access to money, abilities, skills and education level all of which are significant forms of social status that create privilege and subsequent market opportunity along the lines of social capital. This form of status as market capital gives enfranchised people more power than others to pursue economic self-interest thus leaving other people out of the flows of capital (both legitimate and illegitimate capital opportunities).

The conflict model which theorizes domination as a function of class struggle or a conscious type of conflict between opposing social classes differs from the conception of ‘economically functional class division’ in significant ways. The difference is that the former implies a type of concerted consciousness along the lines of the dialectical model

of social uprising theorized by Marx's conception of class-revolution based social change. Economically functional class division speaks of a continuation of the repressive mode of social inequality but one which is not based on the bifurcation of the population on the basis of their relation to the mode of production but rather on the basis of a survivalist individualism. Social division is maintained in part through a carceral bureaucracy that operates more along the lines of the competitive, opportunistic social ethics of classical liberalism rather than the class conflict Marxist model.

Taylor's analysis is useful in its broad consideration of the overdetermining factors that give rise to the problem of crime and punishment in market societies because it conceives of social domination as a multi-factorial dimension of the social system rather than giving primacy to capitalist relations. Taylor's (1999) critique of the state in relation to crime in 'market societies' involves the identification of the systemic social crises that give rise to various forms of social deprivation that contextualize criminal behaviour. The state in its ultimate duty to uphold the forces of the free-market ends up engaging in its own politics of self-interest and promotes this ethic as a type of social norm realized in the cultural ideologies of individualism. Social relations in this context cannot be separated from sociological understandings of social deviance and the state's reinforcement of social control. The loss of a welfarist social policy structure and other forms of the negation of social responsibility that have occurred with the rise of neoliberal economic order intensify a series of crisis axes long associated with liberal market society and through which many social problems emerge, such as:

- the crime crisis, which is a reflection of the central structural problem of social inequality and the danger it poses have increased to new heights of intensification in the globalization of market society to create a 'new poverty'
- a system of law that is driven by mandates other than justice bolstered by mass cultural appeals for reifying and extremist criminal justice policies such as determinate sentencing which produce a mass population of prison inmates as fodder for the punishment industry
- the war on drugs and the repression this unleashes both in terms of crime control and in terms of how the drug problem multiplies a whole series of other problems stemming from it such as gun violence and individual impairment, the breakdown of families and the seizing of children by the state
- The state itself is complicit in criminal fraud through its participation in the legalized and financially rationalized rule breaking of the corporate sector which occurs at great cost to the fiscal wealth of the taxpaying citizenry. Related to this axis, but not developed by Taylor, is the underground economy created by overtaxation, the legal restrictions on trade and the ongoing incentive to 'break rules in order to get ahead'
- the firearm and weapons economy which the state participates in at both an international and a domestic level
- the development of urban spaces that conform to consumerism and the architecture of inequality as zones of competing self-interest rather than as a space of social commons or community



- the crisis of labour and the continual capitalist pressure to create a pool of exploitable labour forces both domestically and in the globalization of manufacturing and production abroad
- childhood poverty and the general problem of youth anomie, and the tampering with advancement opportunities in such proportions of magnitude that it can be seen as the despoliation of a generation

Social life within such a culture of crisis has “a profound effect of the life-chances and possibilities of individuals located in these specific positions” (Taylor 1999:12). The extent to which the state actually produces these social realities through policies that construct the hierarchical nature of social reality is what connects state order to the bulk of what is legally processed as criminality. The above list thus constitutes the axes of social marginalization from which the expendable populations may be drawn into the prison industrial complex.

Taylor’s broad context for an understanding of ‘crime in market societies’ presupposes a number of insights pertaining to the nature of the state as an institution which has historically engaged in various forms of social control as a means of establishing itself. These range from covert political hegemony (soft control) to overt tyranny (hard control) and have been elaborated by Althusser through a Marxist model of societal reproduction (Althusser 1971). The critical theory of punishment has traditionally been seen as an element of the state’s attempt to preserve the power to punish in a strategy of social regulation that involves a more widespread and generalized system of control mechanisms that are seen as necessary to affirm the primacy of the state form itself as the highest priority of society (Foucault 1980). In this sense punishment serves to reinforce the antagonistic nature of social relations in a society based on inequality. This is why Foucault argues that prisons are not a failure as institutions – they serve to reproduce the basic power dynamics of the disciplinary society. We misunderstand the variegated role of the prison if it is looked upon solely as something used to control crime. For Foucault it is more historically valid to see the prison system as a ‘punishment machine’, one that is used to exact punishment in the name of whatever dominating discourse or philosophy of incarceration prevails at a given time in history. When a system of punishment is firmly institutionalized in place it gets used to make punishment happen whether for its stated purpose or otherwise to suit various power interests, so to institutionalize punishment entails leaving it in place for potential abuse, and this happens as a matter of course in the administration of ‘justice’. The mechanization of punishment arising from its institutionalization is also why Foucault talks about systems and forces as ‘social technologies’.

Foucault’s critical theory demonstrates that one of the State’s characteristic features is the right it maintains to punish its own citizens and that this measure absolutely diminishes the value of individual human life and places the preservation of the dominant state apparatus alone as the highest of all official priorities. Foucault knows the self-preserving nature of the state to be a threat to its citizenry by its very definition of its own sovereignty:

the sovereign exercised his right to kill, or by refraining from killing: he evidenced his power of life only through the death he was capable of requiring... the principle underlying the tactics of battle – that one has to

be capable of killing in order to go on living – has become the principle that defines the strategy of states (1980: 136-137).

And further,

We must consequently see things not in terms of the substitution for a society of sovereignty by a disciplinary society and the subsequent replacement of a disciplinary society by a governmental one; in reality we have a triangle; sovereignty-discipline-government, which has as its primary target the population and its essential mechanism apparatuses of security (1979b: 18-19).

The ‘security’ ideal contained in Foucault’s insight is certainly relevant to the rise of the hyper-security state and the intensification of discipline and punishment but it can also be translated into a related economic ideal within liberalism – which is securing the survival and support of the corporate marketplace takes precedence in the list of societal maintenance priorities of the state. If the institutional network that administers punishment can not be rationalized on the basis of controlling crime then it must be rationalized in other ways. Presently these ways are located in the constellation of forces that give rise to the prison industrial complex and its admixture of punishment and profit/opportunity and oppression.

The right to punish is therefore a significant dimension of state rule within liberal democracies and part of the state’s normalization of violence. The prison is one of the social foundations that emerged from that original experiment in social control (through the construction of surplus populations) – prisons exist in the present order by filling other social functions, but their effect of segregation and the specific role of incarceration is but one function in an overdetermined system of what Foucault sees as generalized systems of control. This is partly why Foucault dispenses with class analysis in the Marxist sense but still recognizes the hierarchies that create social division stemming from the effects of social power. The prison industrial complex as I have argued here is misunderstood if seen as a mere product of instrumental class domination, but rather makes more sense as the result of new market shifting of economic hierarchies that invites entrepreneurial opportunities in the prison industry and crime control industry. In the midst of economic scarcity this creates predation of the weakest and most easily criminalized segments of the population. The disenfranchised, the ghettoized, and the insane all become the fodder of the punishment industry thereby confirming Rothman’s (1971) view of it as an “enduring institution”.

Prisons came to be seen as a problem of liberal legitimation not because they were evidence of massive social inequality, injustice and inhumanity (the social divide) but because they ‘didn’t work’ at things like reducing crime and recidivism, rehabilitate or correct offenders. It was up to economic rationality to render punishment functional within the productive logic of agonistic society – one which translates the ‘economic mechanism of selection’ into a social order where interpersonal relations becomes relations of instrumental predation. The disfunctionality of prisons did not render them obsolete, they dialectically transformed into something new – *the solution of the prison was not its abolition but how to rationalize it both culturally and economically in a new historical and discursive context – which became the present-day marketization of crime and crime control.*

## **The Marketization of Crime: The Entwinement of Economic Opportunity and Over-Criminalization**

Typically, analyses of the economic division of populations within market societies have been theorized on the basis of class power along the lines of the Marxian conflict model. Shortcomings of that approach call upon us to reconstruct the sociology of class based power in different societal and historical contexts. Marx wrote at a time when class consciousness was at its peak, and at a time prior to the rise of the hegemonic effects of mass communications on the reification of class consciousness. Today we have a public consciousness fully absorbed by the ideology of upward mobility that is more interested in joining the ranks of the 'well to do' rather than overthrowing the economic order. And clearly the Marxist model of class conflict does not comply with the reality of the numerous manifestations of capitalism that operate in various nations worldwide. China for example does not name itself a capitalist society but it most certainly is a market society and economic opportunity is a highly pronounced social force in the Chinese rise to global consumerism. This is why it is proposed throughout this paper that the classical Marxian model of class conflict is inadequate to a critical theory of the prison industrial complex, and that the Weberian approach with its emphasis on status opportunities and pluralistic conflict, although requiring critical modification, is better suited. In the Weberian conception of pluralist conflict theory groups with differential status who have access to power-relevant resources compete for opportunities within an economic playing field afforded by the open liberal marketplace so that the opportunistic actions of individuals are realized as strikes against others unable to compete for legitimate forms of prosperity.

Institutionalization, rationalization and bureaucratic administration transform class based domination from one of open class conflict to a Weberian model which argues that power relations are realized in a pyramidal hierarchy of social status and the differential opportunities status provides. 'Status' thus denotes the unevenness of individuals' positions vis-à-vis different markets of 'opportunity' and 'threat' in 'market society' (Taylor 1999: 225). As Taylor indicates, the rise of market society has been accompanied by an intensification of self-interest activities and also, by a quite startling decline in the level of voluntary activity (and, indeed of any kind of shared public activities other than sport) in 'the community' (Taylor 1999:64). The very low number of social worker professionals who exist versus the large number of punishment professionals is an indication of the social ethics of agonistic liberalism and the labour opportunities it demands.

In the most macrosocial sense the punishment of disadvantaged and marginalized peoples is a reflection of overall class privilege, however the class conflict model doesn't ring true when we approach the problem of the prison industrial complex from the standpoint of how it is generated by the persons, groups and corporations involved with it. *It is proposed here that both 'economic opportunity' and 'over-criminalization' operate as incentives for the participation in crime control industries.* When people work within the staff of the prison industrial complex they do not necessarily do so as moral activists of law and order but as workers who gain status and economic sustenance from doing so. In the advanced capitalism of market society the entrepreneurial consciousness replaces class consciousness as the mode of individual salvation. Social control is

nevertheless maintained (in terms of one's benefit is another's pain) but not as a type of direct conflict but rather as one which is mediated by institutional-bureaucratic forms of social regimentation. As Edwards states,

What distinguishes bureaucratic control from other control systems is that it contains incentives aimed at evoking the behaviour necessary to make bureaucratic control succeed. It is this *indirect* path to the intensification of work, through the mechanism of rewarding behaviour relevant to the control system, rather than simply to the work itself, that imposes the new behaviour requirements on workers (Edwards 1979: 148-9).

Entrepreneurial opportunity and criminal opportunity are the dialectical relations of social action that allow bureaucratic forms of control to succeed. It should not be surprising that we can develop a critical sociology of punishment on the basis of entrepreneurial opportunities (individual incentives) afforded by institutional structures of various sorts since such opportunities are available even in the context of criminal sanction. Illegal drug smuggling and sales, human trafficking and the sex trade are examples of entrepreneurial opportunity (albeit illegitimate forms) that are opened up precisely by attempts at their restriction under criminal law. So it stands to reason therefore that entrepreneurial opportunity is more easily facilitated when the pursuit of economic self-interest is not hampered by criminal sanction but is indeed entwined with it. Both events occur across varied strata of economically disempowered persons who must survive economically in the margins of society opened up by criminal opportunity. And thus both the grey economy and that which is considered to be the legitimate economy are intertwined.

Job seekers in the field of justice and security work, court workers, prison workers, police officers, private security officers, judges, lawyers and prosecutors are social actors mostly unaware of the larger power dynamic within which they work and which gives them status and pay while at the same time feeds off of institutionalized social repression and to some extent demands that the reality of crime be produced and reproduced to satisfy the organizational demands of crime control and its punishment. To understand the life-world roles of the punishment personnel listed above on the basis of 'class domination' along the lines of the typical Marxist model would be misleading. Participation in relations of domination begins first and foremost as an aspect of the pursuit of self-interest. Self interest in the context of the penal apparatus gets mediated into institutionalized repression. This is partly why the structure of bureaucracy and the administration of penalty is so important in understanding the ways in which institutions serve various roles of empowerment, employment alongside relations of domination, social exclusion and punishment.

As Garland (1990) indicates, penalty gets coordinated with other practices that may or may not be part of the institutional framework of repression – but are related or stem from the policies, administration and implementation of a 'crime control industry' (Christie 1993). Punishment therefore does not continue only as the societal response to crime, or as a form of crime control but rather the institutionalization of punishment needs crime to propel its bureaucratic and administrative growth and it actively secures criminals to fulfill the needs of a system that is held in place by the vested interests of

secondary *material realizers* such as: private security companies, private prisons, prison building contractors and their numerous suppliers, the small town unemployed who are all too pleased to find themselves a new career in “corrections”, the myriad of “colleges” that have sprung up to offer courses on security work, prison guardsmanship and police studies, and the politician careerists who have rallied around the cause of crime-fighting in the name of law and order. These are among the economic benefactors in the opportunistic order of punishment. When this many interest groups have an investment in the production of a new type of reality then this reality comes to be, sociologically speaking this is the process of *institutionalization*.

The function of punishment has been analyzed by Rusche and Kirchheimer (1968 [1939]) in terms of how it fits into ‘productive forces and relations’ thereby indicating that punishment cannot be understood simply on the basis of crime control techniques or even as responses to historically changing philosophies of incarceration. This is not to say that in early industrial capitalism the punishment machine was not used as a mechanism of class control. Clearly the state criminalized those ‘dangerous classes’ who were deemed a threat to bourgeois order and the punishment of marginalized populations existed in relation to the availability of the human pool of labour. When industry needed workers incarceration was less likely, thus the performance of the economy, then as today, has a relationship to the rate of crime and punishment. However the functioning of the punishment apparatus changes according to the dynamic needs for system maintenance, and include:

- the ideological legitimation of the need for punishment
- shifts in employment and unemployment
- shifts in the offset of state-run institutions to private industry

The privatization of formerly state-run institutions created the shift that gave rise to the re-birthing of the criminal justice system as a profit system. The more the liberal state downloads social responsibility to the private sector the more marketization of social welfare programs will occur. This only corporatizes those forces of the state that are involved in the repressive state apparatuses and intensifies them because of profit motives that exist for those who stand to benefit economically thus practically replaces a ‘justice’ model with a ‘market’ model. Therefore the prison industrial complex can be seen to emerge in response to changes in the ‘political business cycle’ (Melossi 1985) in addition to the larger societal paradigm shifts in the regime of punishment.

The new cultural climate of security, alert and “culture of suspicion” (Visano 1998) has given renewed meaning to the pursuit of individualism where self preservation is not only tied to economic benefit (entrepreneurial interest) but also, social repression has to be understood as a dialectical transformation in the relation between the persecution of an underclass and the interests of dominant class opportunities

## **Popular Cultural Ideologies of Crime and Crime Control and the Public Demand for Punishment**

In order for mass punishment to become a normalized part of the institutional structure of society public consent is required. In many respects mass incarceration is a direct expression of the public vengeance directed against what is believed to be “criminal evil.” It seems as if the public sphere is most vehemently determined in matters involving crime and punishment and in this respect the public has a voice in policy matters in the criminal justice domain more than in virtually any other area. The public zeal for matters involving crime in the present era cannot be understood separately from the mass mediatization of crime narratives. The role played by the portrayal of crime in the popular media is significant in reproducing and disseminating ideas concerning threat and danger as well as security and control. Crime control is one of the very few areas of social life in which the public feels compelled to act and empowered to have a voice. So it should not be surprising that the popular values about law and order correspond directly to the policies that give rise to the prison industrial complex.

Elements of public fear about crime become primary social concerns above most all other social problems since the fear of individual victimization is more captivating than fears about environmental degradation or economic downfalls and other social crises. Public fear is therefore easily mobilized by crime panics. However the crime crisis is more televisual fiction than real-life fact. James Carlson writes that ‘prime time crime’ is experiencing a ‘crime wave’ (Carlson 1985). Indeed the crime show genre, in its numerous manifestations from crime dramas like *Law and Order* to reality television shows such as *Cops* is arguably the largest genre on television. The ideological biases of prime time crime programming are supportive of a social system that sees fit to industrialize punishment on a mass scale. Punishment in this sense is the agonistic strike against crime in the so-called ‘war on crime’. Carlson (1985) remarks on how ‘prime time criminal justice’ viewing fosters attitudes among viewers that favour authoritarian attitudes. This follows from observation that popular crime shows overwhelmingly support a ‘crime control’ or ‘law and order’ ideology rather than a ‘due process’ orientation. Authoritarianism is thus a basic ideology of prime time crime programming, however it would be misleading to understand this phenomenon as an expression of ruling class ideological dominance over a docile audience. Authoritarianism was a popular public sentiment long before mass media depictions of crime (as evidenced in the mass popularity of fascism in 20<sup>th</sup> Century Europe). Producers of crime shows in producing programs with authoritarian content are responding to an attitude which is already present in those who take pleasure in consuming shows that reinforce revenge, authoritarianism and agonistic conflict. Authoritarianism makes its presence known not only in the graphic depiction of the use of violent force in the “war against crime” but also in the ideological content of shows. Prime time crime shows create pleasure for the viewer on the basis of affirming the viewer’s disappointment with the due process restrictions placed on police and courts having to follow proper legal procedures. In this way the show can create anger at ‘the system’ for being too weak on crime. However the more active dimension of viewers’ pleasure is the pleasure of revenge – where the criminal is convicted and punished or shot dead. Prime time crime shows therefore function ideologically in promoting a tough justice, law and order mentality which becomes the basis for a *popular criminology* that is pro-punishment.

Ian Taylor also speaks of a ‘common sense criminology’ that seems to pervade the formation of public opinion about matters involving crime, justice and law. This

common sense criminology is part of the popular pseudo-science of crime disseminated by the entertainment media and supported by positivist criminology (Taylor 1999: 2). The perception of common sense criminology is one which stridently promotes the idea that criminality is a social fact and that criminals are a subspecies of pathological humans – this is an idea supported by positivist studies. Common sense criminology is supported academically by the discourse of biological and psychological positivism and popularized in the non-academic magazines that routinely publish the ‘findings’ of such scholars on social behaviour including crime to the almost total exclusion of input by real sociologists who are popularly replaced by the presumably more ‘scientific’ sociobiologists. Common sense criminology thus supports the ideal of a true criminal type that fits in well with the *animalization of the human* that corresponds ideologically to the value set of agonistic liberalism and its adherence to social Darwinistic principles.

The primary ideological dimension of common sense criminology is the public demand to get tough on crime. The demand for revenge against what is popularly seen as criminal injustice is formulated as a right of the public to exercise the power of penal sanctions against criminals. Popular crime programs, and most of the coverage of crime in the media, form part of the ideological justification of the *right to punish* as the cultural dimension that allows intensifications like the prison industrial complex to take place. Public vengeance against a visible enemy fits in well with the relentless and strident fetishization of repressive power that is a mainstay ideological system of thought in the consciousness of popular culture. Popular vengeance is part of what Stuart Hall et al (1978) refer to as an ‘authoritarian consensus’ which forms in response to crime-panic reporting.

One way of understanding the dominant influence that the valorization of repressive power is manifest in advanced-industrial-consumer societies is its relation to secondary (ideological subsystems) discourses of power: such as the discourse of competition, the discourse of predation, of imperialism, of championship, of history as victory – discourses that combine to form a culture that defines itself in relation to the values of agonism – all of which are tied ideologically and materially to the perpetuation of domination, punishment and the virtues of continuing a war on crime (Colaguori 2002). Public passions about crime and revenge therefore have serious implications beyond the realm of criminal justice and actually create an agonistic/authoritarian consensus that metes out its judgment in other areas of social life. The manner in which the public sees issues of crime and punishment serves to reinforce the formation of strong opinions of the public on other issues in society. Thus, the *cultural response to crime* (Visano 1998) forms the basis for public judgment in matters involving: welfare of the needy, the treatment of the other, the celebration of difference – all of which are compromised by the dominance of a zero-tolerance public attitude. Public passions and media presentations of prime time crime create strong convictions, and *people with convictions like to convict*. It is not surprising then that there is virtually no public outcry or concern for the forms of injustice taking place in the name of extreme crime control. Matters dealing with criminality and concerns for inmate “rights” are among the lowest of public concerns and command virtually no sympathy despite the fact that what takes place in prisons in terms of aids, mental illness, captive labour and drug abuse has a direct effect on the larger society outside of the prison walls. Conscientious members of the public are not out lobbying and protesting against the minor atrocities of the prison

industrial complex, when it comes to matters of crime they are on the couch having private fantasies of moral condemnation and sadistic indulgences while gripped by the agonistic dramas of *Law and Order*. Most people do not raise serious questions about the role and practices of the criminal justice system – the issues of prisoner’s rights is not a fashionable choice of social concerns even among the socially conscientious, in fact people who raise questions about the injustices of the justice system are themselves looked upon with suspicion. The vengeful pleasures experienced by the prime time crime enthusiast in the course of being entertained by law and order programming can be understood as part of the rituals of everyday violence and thus serve to extend the realities of authoritarianism into the private lives of individual viewers.

Popular culture and its dominant production and reproduction of power as a moral system of good and evil is also part of the popular legitimization of revenge. Good and evil is the basic formula at the foundation of crime drama and forms the basis for a mass appeal. Thousands of years of religious indoctrination have seen to it that people will come to judge the world through these simple categories for casting judgment, and being able to clearly decipher who is good from who is evil forms one of the participatory pleasures of crime viewing for many crime show fans. The measuring rod of good and evil is just imprecise enough to have a widespread usage for many people of different persuasions. Even non-religious types believe in the reality of good and evil. Evil functions as the supreme metaphor of the authoritarian power to label. It seems that for many good and evil is written into the very fabric of life. The public demand for criminal judgment and its punishment is thus historically rooted in traditional religious ideals. The rise of ideologies about good and evil constitute a neo-Manicheanism where the religious worldview of an everlasting soul and the morality of rewards and punishments is based on the correctness of one’s behaviour. As a religious ideal it is maintained in the secular order as law and punishment. Religious sanctity [measurement by acts and deeds in life are rewarded in the afterlife on Judgment Day], gets replaced by secular rationalism [individual free will, risk/benefit rationality].

The ‘authoritarian consensus’ that forms part of popular public perception in this context bears a significant relation to the ideology of crime and criminal justice and the psycho-politics of revenge that ‘prime time crime programming’ fosters in the public consciousness. Clearly not all of the public sees justice and crime issues this way – I am referring to the mass public whose social perception has been constructed by the dominance of the televisual image and the aesthetics of domination stridently portrayed in prime time crime: This is an aesthetics characterized by the celebration of militarism and warriorism, by hyper-masculinity and by extreme forms of competitive vengeance – these are all informed by a set of values that are justified on the basis of the need for security and which contribute to the societal formation of authoritarian mass consciousness, one that is eager to support programs which seek to engage in the mass incarceration of those deemed to be a criminal threat.

### **Conclusion: Hyper-Security, Punishment and the Prison Industrial Complex**

What do the conditions discussed in this paper say about the changing nature of the state and its incapacity within a liberal market model to overcome its original systemic



contradictions conceived of as a 'problem of populations' rather than a problem of political economy? How is it that the hyper-security mandate of the state has come to pose a threat for domestic populations? And, more specifically, what does the intensification of various forms of security and the focus on 'life at risk', say about the changing character or market society? It is becoming clear that the problems formerly associated with politics at a distance have spread directly into the life-world of market societies. The globalization of markets has created the localization of deep troubles.

The features of the hyper-security state include new intensifications of the political and legal technologies of control and have given rise to things such as the renewed use of torture as a tactic of penalty, the unprecedented mass incarceration of prisoners, many of whom are used as a racialized, captive labour force, and an insidious complementarity between penal practices of the state in partnership with the corporate sector. The prison industrial complex is possible because of the continuation of historical trends involving contradictions of inequality and social forces that affect life-chances within liberalism. These combine with market forces which turn criminality into corporate opportunity. The role of the state, its law and policy also forms part of the constellation of forces that have created intensifications of mass punishment.

Determinate sentencing policies create fiscal irresponsibility on the part of the state which becomes economically untenable in the long run and is therefore downloaded onto the private/corporate sector thereby cementing the punishment institution into a new type of efficient industry which continually depends on the production of criminal subjects. Thus market liberalism is involved in turning bad social policy into a good business opportunity. The huge fiscal cost of mass incarceration affects the state's ability to fund other social services that are essential to the well-being of the population such as education, health, child care and welfare. Ironically "cost cutting" in these areas actually creates the social conditions that stimulate further criminal deviance. In addition, mass incarceration creates a sub-class of inmates, the majority of whom are not guilty of violent offences and whose lengthy incarceration deems them 'expendable' members of the population.

In this age of hyper-security punishment has taken on new meanings and new utility beyond mere deterrence. Punishment now extends beyond the traditional institutions of the military and corrections and into areas of social life formerly excluded from the overt use of repressive force. In the Canadian context of hyper-security the intensification and the open display of repression is seen in examples such as the treatment of journalists who investigate wrongdoings by the state who have met with police repression, lawyers who choose to defend those accused as terrorism have been targeted for threats, and the state has engaged in the deportation of persons deemed suspicious on the basis of hearsay. The suspension of due process and the selective expression of legal authority akin to martial law are the characteristics of a proto-fascist social order that is a significant dimension of the hyper-security mandate many states are following in the lead of the United States of America. Such extreme forms of social regulation have come along with ideological justifications so that the public has come to accept necessary suspensions of liberty as a trade-off for overall security. This cultural value shift has created a situation where similar attitudes of authoritarian necessity combine with moral fortitude to create a consensus where inhumane punishment and questionable incarceration practices are accepted in the sphere of the criminal justice

system. There is a significant qualitative difference between how power is manifested in military practices and within the criminal justice system nevertheless the two institutional spheres are related insofar as they have both been pursuing a more openly laissez-faire set of repressive policies due to the legitimacy afforded them through the authority sanctioned by the US sponsored war on terror.

The prison industrial complex and the expendable populations it consumes is thus part of a general trend towards catastrophic intensification and extremism we are seeing in many areas of social life and across nations – dialectical pressures are mounting as the deep contradictions of liberalism go unresolved.

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