

Capitalist Logics of the U.S. Prison System

By

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"I guess that that's the privilege of policing for some profit
But thanks to Reaganomics, prisons turned to profits
Cause free labor is the cornerstone of US economics
Cause slavery was abolished, unless you are in prison
You think I am bullshitting, then read the 13th Amendment
Involuntary servitude and slavery it prohibits
That's why they giving drug offenders time in double digits
Ronald Reagan was an actor, not at all a factor
Just an employee of the country's real masters
...They only love the rich, and how they loathe the poor
If I say any more they might be at my door
...I leave you with four words: I'm glad Reagan dead."

-Killer Mike, Reagan

Sometimes it seems like we've reached the end of the road
We've seen cops and judges sleep together wearing long white robes
And they put their white hoods up Try to take the black hoods down
And they don't plan on stopping til we're all in the ground
Til we're dead in the ground or we're incarcerated
'Cause prison's a big business form of enslavement
Plantations that profit on black folks in cages
They'll break our backs and keep the wages
It's outrageous that there's no place we can feel safe in this nation
Not in our cars Not at the park Not in subway stations
Not at church The pool The store Not asking for help
Not walking down the street So we've gotta scream and yell

-Kimya Dawson, At the Seams

Intro:

The history of the United States of America is a history of class struggle. As it developed, battle-lines have been drawn which put people of different races and genders on different sides, almost always against their own interests. These conflicts have been made apparent in the institutional setting, as typically rich, white males have orchestrated the system itself to maintain power and wealth. Through the vehicles of federal and local governmental policy, these elites have vehemently made law their racist, sexist, and classist ideals. These derogatory values have been perpetuated and reinforced despite changing political climates. The prison system in the United States is a perfect example of this kind of systemic and institutionalized racism, sexism, and classism in effect. The system maintains itself in large part through extremely one-sided laws that substantiate the continuing success in operation of not only prisons, as they are written by private corporate interests (rich, white males), but also every other aspect of society. The government legalizes and essentially justifies the profit gained via a racialized and

gendered system of incarceration. All of this results in the removal of a large quantity of people from society, stowed away to work without pay for the same corporate interests that ensure their captivity.

The prison sector acts dialectically both as a Band-Aid for the economic crises that capitalism naturally generates, as well as a means of reproducing racialized subjectivities in the working class. The dynamic of its development is characterized as fits and spurts of growing recognition of its utility to discipline and contain surplus populations, making profit hand over fist along the way. This paper provides an in-depth Marxist analysis of the prison system in America by providing a theoretical structure of the role and function of prisons in the United States, a historical analysis of the California prison system, and an outline of the formation of a Gramscian 'historical bloc'¹ intimately connected with the bid for hegemony of neoliberal ideology in the country.

Theoretical Basis:

Marxism: We take as our starting point, as an assumption, that Marxism is correct. In the first analysis, human society is organized to collectively produce social means of subsistence (food, shelter, cultural products, etcetera). From this basic fact, the division of labor develops as well as its technical means, organizational (class) and objective (tools). The development of the organizational and technical means of production are conditioned by and condition the functioning of society in general, but in no case can society exist without material production. People need to eat so they can socialize, but they also must socialize in order to eat. Tools, productive and reproductive organizations are then directly products of their historical "epoch," of the real human events, the continuity of human production over time, which lead to their use/implementation (Marx 1932). Tools are then, literally, an objectification of productive

¹ Widely understood as the notion of "common sense"

relationships and, going one step further, class struggle. Class struggle, very briefly, is the persistent struggle over surplus-product, that amount of production above what is necessary for the direct producers to reproduce their ability to labor from day to day. Class struggle too is a product of historical developments and inseparable from technical (objective and subjective) means of production². The form of class struggle, i.e. fight over control of surplus product and the process of production, is the main distinguishing principle between different historical periods and geographic relationships: the mode of production. In the modern day, we live under (late?) capitalism, exemplified by the bifurcation of social production into owners of means of production and owners of “labor-power,” the ability to labor. Bourgeois and proletarians; the capitalists and the workers. Between the two warring classes, stands the state, mediating the terms of class struggle, always to the benefit of the capitalists as a whole (some individual capitalists may be martyred for the class’ benefit).

Prison/Social Reproduction: Lenin (1918) described the modern state as the bureaucratic/administrative and repressive/armed apparatus of class rule. From this analysis, we may say the prison system in capitalist countries is an institution which straddles the line of both functions. The United States’ prison exists within the context of a historically specific interplay of processes of racialization and gender construction utilized by the American bourgeois to maintain social ordering within a severe and dominating national system of production. As such, the “prison system,” which we will use to refer to the entire apparatus of incarceration, confinement, and control insofar as it is explicitly connected to the state (i.e. the self-discipline of a corporation would not be included), in theory and in practice, has a multifaceted and highly dynamic role within American capitalism. I also tend to use “prison” and “jail” interchangeably.

² Everything Marx and Engels ever wrote.

Notably, prison functions as a “warehousing” of labor *par excellence*. Capitalism perpetually displaces and dislocates workers, creating what Marx called a “reserve army of labor.” In the United States, this reserve army of labor, unemployed or especially precariously employed workers, has been a motive force in larger processes of racialization. Similarly, domestic and emotional work, the work of “social reproduction” (see Lewis 2016, Bhattacharya 2015) more generally, has been placed as the nearly exclusive domain of women, non-binary, and queer individuals, much of which occurs outside of the sphere of production proper. In either case, the labor, or lack thereof, is often “unproductive” in the sense that social reproduction does not always, although increasingly now *does*, lend itself to profitability. At the same time, being unemployed, while benefitting the capitalist by driving wages down, is subjectively (ethically) “bad” in the sense that, again, no surplus-value is being produced.

Both of these designations, racialization of (un)employment and the gendering/individualization of social reproduction place people of color and women in subordinate positions within capitalism. Such subordination allows the capitalists to not only pay less for their labor, but cheapens the value of labor-power as a whole. Prison, then, becomes a means for the capitalists to house these people with “non-productive” (i.e. not immediately profitable) social positions³. Prison’s aspect of “housing,” however, is only of secondary importance; the prison itself takes over the role of social reproduction for its inhabitants (Lewis 2016). With this said, it must be recognized that the prison is not an independent institution separate from society. *How* incarcerated people’s labor-power is reproduced is decided, in a cynical fashion, by the capitalists and their state. In this way, prisons become the “Ideal Workhouse/House of Terror” which Marx shows bourgeois ideologues describing as early as 1770 (Marx 1990, 388)⁴. Incarcerated workers are made to

³ There is an obvious contradiction here, because by taking away the people who are responsible for reproducing the working class, the working class becomes more pathologized in the eyes of capitalism, spiralling (socially) with an expansion of the prison system.

⁴ The fact that prison was being formulated for bringing wage-workers’ conditions of labor

labor for free, without any legal rights as citizens, under supreme surveillance, and subject to physical punishment. The state (re)enforces these conditions, and *by their very existence* the working conditions of *all workers* in the state are made more precarious and the *value of all labor* is reduced.

Noticeably absent from this discussion, is an account of “illegal” behaviors, the juridical basis for criminality. From our Marxist standpoint, the law develops *out of* the objective conditions which create the populations which will be put behind bars⁵. Of course, prison is a longstanding institution, so the subjective justifications for it at a particular point will have historical roots and continuity with earlier periods in capitalism. Still, it is a mistake to view discourse around prison separate from capitalist hegemony in general.

Surplus: We use the categories of Ruth Gillmore’s⁶ (1999; 2007) disaggregation of “surplus”⁷ into surplus land, labor, capital, and state capacity to explain the objective conditions which gave rise to prison expansion in California. Surplus is generated by the shifting needs and capacities of life under capitalism. As new forms of industry and domesticity replace previous ones, the former physical structures, i.e. land taken out of use, productive capacity, and formerly employed workers, fall into disuse. They become unused surplus productive formations, “waiting” for investment which may never come. Gillmore (2007) traces how shifts in California’s economy, driven by movements within capitalism such as “globalization” (imperialism), agricultural consolidation, and automation, left California with large expanses of unusable land, restless surplus populations in need (in the eyes of capital) of discipline, and a severely falling rate of profit. Taken together, and utilizing existent racial imagery, private capital and the state

⁵ These conditions include: a falling rate of profit necessitating the utilization of a virtually free labor pool, high unemployment, etc. All of these, incidentally, are related to, if not caused by, a higher organic composition of capital.

⁶ Heavily influenced by Neil Smith

⁷ It is unclear to me (Evan) how closely this concept relates to Sweezy and Baran’s original idea of surplus, I think the concept can be a little tendentious, in any case, although of course still analytically useful.

converged to begin a period of “carceral Keynesianism” to put these various surpluses to work *for capital*, that is, for valorization. The actual historical workings of this process will be put in much greater detail in the section “Historical Lead-Up”

Historical Lead-Up:

The global trend that is the modern prison-industrial complex can be analyzed on a smaller, state-sized scale, where its general characteristics are thrown into sharp relief. The state of California is a prime example of the mode of development of a modern prison sector and how it wreaks havoc on workers’ livelihoods and rights. From the year 1982 to 2000, California’s prison population increased by about 500 percent despite falling crime rates. Those who were imprisoned consisted mostly of people of color (African Americans and Latinos), women, and undocumented immigrants. Altogether, the state had nearly 160,000 prisoners at the end of the 18-year period. Additionally, around 80% of those incarcerated were represented by state-appointed lawyers, as they could not afford to pay for one themselves. Finally, a vast majority of prisoners lived in very urban cities in California prior to being arrested. It is obvious through viewing these statistics that this particular case in California touches upon the core aspects of the prison system. Those who were being targeted as the ‘ideal’ population to imprison were people of color, women, and noncitizens from low socioeconomic situations that lived in large cities. These are the general lines of a process of racialized class structure being reproduced by policies that create new spaces of confinement for these marginalized groups of people (Gilmore 2007, 7-9).

In the 1800s, California went through a dramatic change in demographics and the structure of land ownership. After the United States claimed victory in the Mexican War, white Americans gained the ability to use their newfound economic power to construct and develop the state to their liking (Gilmore 2007, 31). They utilized this power to their advantage, and created labor and property classes that instilled and made systemic the racist and classist social

and economic hierarchy through the use of legislation (Gilmore 2007, 32). The goal of this was to depict themselves as the ruling category of people in society, and give everyone else a spot underneath them, thus subjecting people who were not rich and White males to the rule of the elite (Gilmore 2007, 32). Race and labor were “counter-posed” against each other in a ruling-class gambit to reify and reconstruct race divisions in the wake of slavery (DuBois 1940).

These new laws continued the process of a racialized process proletarianization in California (Gilmore 2007, 32). Labor was affected heavily as a result of this, and exploitation of workers began to be apparent, as opting for cheap labor became the norm (Gilmore 2007, 33). Additionally, substantial power blocs emerged as a result of increased and urbanized industry in transportation, which began to develop more tools and legislature in order to restrict economic movement and accumulation by anyone other than the bourgeois White men (Gilmore 2007, 34).

The Great Depression temporarily limited the state’s white supremacist agenda due to major economic and political strife (Gilmore 2007, 34). The post-World War II era of “creative destruction” allowed California industrial leaders to resurrect itself from this temporary moment of class struggle. The military industry boomed, and millions of dollars were invested in California’s construction of war machines. Millions (mostly African American) of people accompanied these dollars, migrating from all over the United States to take part in this new period of abundance. As a result, the racial composition of California changed drastically (Gilmore 2007, 35). White supremacy carried on during and following this period, as a sort of defense mechanism for White Californians after the landmark decision of desegregation in 1946. For example, a law was passed, created by the realtor’s association, making it lawful for homeowners to refuse to sell their house to another person for any reason whatsoever (Gilmore 2007, 36). This demonstrates the continuation of the White supremacist agenda, and the ability for this agenda to be institutionalized even after federal laws that attempted to diffuse it.

In order for California to maintain their economic profusion in the midst of the war

coming to an end, elites sought Department of Defense contracts in order to bolster federal investment into the state (Gilmore 2007, 36). They did this by pairing development of aerospace and electronics research, which ended up concentrating in an area we know today as “Silicon Valley”. In order to come up with a sudden and qualified workforce to foster these new industries, the state decided to finance higher education opportunities. (Gilmore 2007, 37)

As a result of these new innovations, funding, and still flourishing economy, the population of California increased and doubled to about 20 million people from 1950 to 1970 (Gilmore 2007, 38). White people continued to dominate this population politically, and African Americans faced profound economic struggle. Having moved to California to join the war manufacturing industry, African Americans were forced out of their jobs in droves at the end of the war. They found new work often in the lowest paying positions in other industries. This essentially catalyzed the concentration of Black, impoverished populations in cities such as Los Angeles and in Alameda County, where they settled after migration to the state (Gilmore 2007, 39).

At the outbreak of the 1969-70 recession, California was unequivocally affected as a result of major blows to the military industry. Thousands of people lost their jobs, and the state economy fell into crisis. A massive amount of people, mostly people of color, were now excluded from the labor market, and the new narrative of utilizing “law and order” in order to crackdown on these populations (an obviously racist method) began federally (then President Richard Nixon) and at the state level (California Governor Ronald Reagan). (Gilmore 2007, 39-40)

The next blow to state came in the form of a recession from 1973-75. California experienced intensification in urban unemployment and in rural communities still reliant on agriculture. Thus, uneven development becomes extremely evident. Following this period, immigration swelled immensely, and most of the immigrants were people of color. This caused a major demographic shift in California’s overall population, and made White people no longer the

majority (Gilmore 2007, 41-42). Proposition 13 and the insertion of regressive taxes into society reinstated and perpetuated White dominance, as it ensured that poor people received less services and more costs than the rich (White) people. (Gilmore 2007, 43)

California continued on as a manufacturing state, and the polarity of rich Whites and everyone else being poor ensued as well. This extremely high amount of unemployed and impoverished people (of color) became the economic crisis that capitalism created, a surplus population without work and in need of money (Gilmore 2007, 54). The state, in this case, and in many cases globally, failed to reinstate this population back into the workforce, and thus the prison-industrial complex was born. This ensured that the surplus population (who happened to be mostly African American) would be removed from the state general population, and thus the issue of implementing Black people into the workforce was 'solved'. (Gilmore 2007, 70)

The investment of millions of dollars into this industry created (White) legislators eager to get involved, and to make money off of imprisoning people of color in low socioeconomic situations. So, laws were made to conserve this behavior, and this behavior conserved the prison population. This cyclical and systemic industry has grown exceedingly, and produced what we have today, where millions of people of color are locked up for a large portion of their lives for crimes equivalent to what White people commit yet aren't sentenced for nearly as harshly if at all. California is a great example to really see into the inner mechanisms and origins of this prison-industrial complex, and this information can be extrapolated as a representation for the rest of the world's very similar structures.

Implementation and Living Conditions:

Policing the Mind: Prison expansion in California implied a conscious change in policing free populations. Police adopted the (neoliberal) language of "efficiency" as a subjective means of "speeding up" the accumulation of people behind the concrete walls of California's rapidly

expanding carceral-complex (Gillmore 2007, 114-115). The increased “demand” for prisoners not only reshaped and expanded policing as an institution, but also was part of a larger movement of integrating surveillance and control into daily life. All cultural institutions, and especially education, have become implicated in the conditioning of the labor force, and, again, especially the future labor force, to regimes of surveillance. As constituent and interrelated parts of the total process of social reproduction, schools and prisons are intimately connected with the dynamics of the other’s perpetuation. There has, in fact, been a convergence of the conditions of primary and secondary education and those of carceral confinement, most explicitly for students of color. Since the 1980s, public schools across the country, and California is no exception, have increasingly become spaces of overt police and social control *exactly mirroring* the atmospheric and aesthetic experiences of being incarcerated. Students, like prisoners, are subjected to “drug-sniffing dogs and metal detectors, [and]...

minor infractions (e.g., lateness and dress code violations) [are met] with suspensions, expulsions, and arrests, instead of the customary trip to the principal’s office” (Dancy 2014, 476-477; c.f. Nelson et al 2016). Through regimes of stratified testing, harsh discipline, and precarious conditions of education (charterization, high teacher turnover, etc.), poor students of color are conditioned for their ascribed position of surplus labor (Dancy 2014). In the modern context, this means incarcerated workers.

Alternatively, California community colleges are directly implicated in creating a different kind of “school-to-prison” pipeline: training prison guards and personnel (Gillmore 2007, 118ff). The bifurcation of the state education system into guards and guarded via designations based in race and class is just one aspect, although highly illustrative, of the larger divisions engendered

by neoliberalism (see for example Newfield 2010, 618-624). At its heart, what is this other than the turning of the working class against itself?⁸

Both institutions, education and incarceration, implement strict quantifications for social categorization. In schools, standardized tests are used to segregate and legitimate students from different socio-economic backgrounds via a modern form of the hundred-year old practice called “tracking.” The state uses similar mechanisms of standardized evaluation to decide the security “Level” (I-IV) to place incarcerated workers (Gillmore 2007, 115n27). Of course in both cases this benefits the capitalist class by further delineating what it can expect from this particular piece of abstract labor.

Ideology and the Movement of the Class: The American people have not always acquiesced in the face of insidious elements within the capitalist system. Throughout the 1960s, citizens, as well as a large supply of college students attached themselves to a wide range of causes that work against the forces of unchecked capital accumulation. Movements like feminism, black power, and environmentalism gained newfound vigor among the population and coalesced to form the “New Left”, a term coined in 1960 by sociologist C. Wright Mills. People’s attitudes were changing, and the engines of democracy were poised to directly oppose capitalist allegiance. However, this swing in ideology would not go unchallenged.

In 1971, then corporate lawyer Lewis Powell wrote a confidential memorandum to the director of what has become the largest lobbying organization in America, the United States Chamber of Commerce.⁹ The memo, titled “Attack of American Free Enterprise System”, begins with the striking assertion that “no thoughtful person can question that the American economic system is under broad attack.” According to Powell, “The sources are varied and diffused. They

⁸ In my (Evan’s) opinion, prison guards are, unfortunately, on the side of capital like cops or, as one friend put it, Pinkertons. I don’t think there’s working with them for prison abolition or socialism (dictatorship of the proletariat). I could always be wrong, though.

⁹ C.f. Powell 1971.

include, not unexpectedly, the Communists, New Leftists and other revolutionaries who would destroy the entire system, both political and economic.” Efforts by citizens to change the course of the prevailing version of U.S. capitalism were seen as an assault upon the system itself. Powell called on business leaders to become more active in politics and wage an ideological war that would take place across the entire spectrum of American discourse. Until then, corporations were not simply losing, they weren’t even playing the game.

Powell succeeded in galvanizing business leaders to spend their fortunes on political lobbying. In the decades following, charitable organizations and think tanks such as the John M. Olin Foundation, The Lynde and Harry Bradley Foundation, and The Heritage Foundation began to receive a wealthy supply of funding to promote conservative, business-friendly policies at all levels of government.

The conservative activist Paul Weyrich co-founded The Heritage Foundation in 1973, the stated goal of which is to “formulate and promote conservative public policies based on the principles of free enterprise, limited government, individual freedom, traditional American values, and a strong national defense” (‘Impact’ nd). That same year, Weyrich also co-founded the American Legislative Exchange Council. Often shortened to ALEC, this organization brought business leaders and politicians together to draft policies on a wide range of issues (‘About ALEC’ n.d.; Greeley et al 2011). Today, in their own words, “ALEC members represent more than 60 million Americans and provide jobs to more than 30 million people in the United States” (‘About ALEC’, 10).

Of particular importance here is their work on criminal justice reform. ALEC has strong ties to the Correction Corporation of America, or CCA (now CoreCivic), a company that owns and manages private prisons. In total, during the period from 2002-2016, CCA has spent over \$22 million on political lobbying efforts (‘Core Civic’ 2017). Though it has since been disbanded, as of July 2011, CCA was also a member of ALEC’s “Public Safety and Elections Task Force” (Fischer 2012).

The Support Our Law Enforcement and Safe Neighborhoods Act, or SB 1070, passed the Arizona State Legislature in 2010. This bill included a provision that compels law enforcement officers to determine an individual's immigration status during any lawful stop where “reasonable suspicion” exists. Arizona State Senator Russell Pearce, the primary sponsor of SB 1070, was a member of ALEC and formally introduced the bill to ALEC in early December 2009, before it was eventually signed into law by Governor Jan Brewer.

A bill that directly increases the amount of immigrant detentions, through compulsory status-checking, was workshopped by private prison stakeholders. These same people stood to benefit financially from the expansion of their private enterprise, which is argued for based on the need to address issues—such as inmate overcrowding—that are exacerbated by their own proposed policy.

Further, by sequestering surplus racial minorities and the poor into these institutions, Weyrich and his allies were able to gain even more democratic power to change policy. During a Religious Right gathering in 1980, he famously, or perhaps infamously, proclaimed:

“I don't want everybody to vote. Elections are not won by a majority of people. They never have been from the beginning of our country and they are not now. As a matter of fact our leverage in the elections quite candidly goes up as the voting populace goes down.”

This all amounts to a political mobilization of capital, aimed at furthering the interests of its owners, personified by business-leaders, activists, and legislators. These actors formulated policy that fuelled mass incarceration as a means of growing profits and dealing with unwanted surplus labor. A contradictory mechanism of our system is revealed. Free-market oriented organizations introduce policy which exacerbate public concerns, e.g. the need for immigrant detention centers. Private companies then step in to offer free-market solutions to the problems they helped create, thus absorbing more and more aspects of public life into the private domain.

The Powell memo was a manifestation of what historian Philip Mirowski (2014) labels the “Neoliberal Thought Collective” prevalent throughout the post-war period. This intellectual

current has its origins in 1947 with the establishment of the Mont Pelerin Society. The group, comprised primarily of renowned economists and intellectuals such as Friedrich Hayek and Milton Friedman, sought “to contribute to the preservation and improvement of the free society.” While it may be difficult to articulate concisely what the neoliberal thought collective actually believes, Mirowski posits that their goal is to essentially restructure the state to facilitate the proliferation of market society throughout all levels of humankind.

However, as any reader of Marx will say, capitalism and market-society are not without their contradictions. Irony helps us to point out these contradictions, and, in doing so, helps us recognize and understand how life functions within our global capitalist system. Free-market ideology cannot be both the source of problems and their solution, although that is how it functions in the example of SB1070, immigration enforcement, and prison privatization. Capital privatizes and absorbs public life through neoliberal hegemonic thought and the Gramscian ‘historical bloc’ it creates within the capitalist class. The people involved—neoliberal thinkers, activists, politicians, and business-leaders—and their organizations, funded largely through charitable donations, effectively mediate the transition.

Conclusion:

In sum, we have shown, through a Marxist analysis of the U.S. prison system, specifically the development of the system in California, that these institutions perform a basic function in current society. They form the dark underbelly of capitalism. A system which creates surplus—land, labor, capital, and state capacity—channels that surplus into institutions that control the lives of human beings and condition their social reproduction. However, as Marcuse concludes:

“underneath the conservative popular base is the substratum of the outcasts and outsiders, the exploited and persecuted of other races and colors, the unemployed and unemployable. They exist outside the democratic process; their life is the most immediate and the most real need for ending intolerable conditions and institutions. Thus their opposition is revolutionary even if their consciousness is not. Their opposition hits the system from without and is therefore not deflected by the system; it is an elementary force which violates the rules of the game and, in doing so, reveals it as a rigged game.”

Borrowing from the Gramscian idea of 'historical bloc', we outline how the thrust for neoliberal hegemony creates its own problems to solve as means to further entrench the control that capital has over human lives and their futures.

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