Theorizing Punishment: Reflections on Wacquant’s Punishing the Poor

Mona Lynch
University of California, Irvine, USA

Abstract
In this essay, I consider how Loic Wacquant’s *Punishing the Poor* adds to the diverse and growing body of scholarship about contemporary penal change. I begin with an overview of Wacquant’s major arguments and elucidations, then I focus in on how this work fits specifically within theorizations about, and empirical examinations of, late modern punishment. In so doing, I describe the ways in which this work seems to contribute to an ongoing conversation about penality, and then conclude with a discussion of how the arguments in *Punishing the Poor* might be complicated by attending to recent scholarship that looks at micro-level jurisdictional penal change, and the differences across place.

Keywords
poverty, punishment, neoliberalism, state, welfare

Theorizing Punishment: Reflections on Wacquant’s *Punishing the Poor*

It did not take long after the infamous ascent in incarceration rates and penal punitiveness in the USA – beginning in earnest by the close of the 1970s – for scholars to take notice. A number of important works have since grappled with the causes and scope of this transformation. In the 1980s, work began to be published that addressed what then appeared to be unexpectedly rapid growth in the use of imprisonment (e.g. Blumstein 1988; Blumstein et al. 1983; Jacobs 1983). By the 1990s, what had been mainly characterized as rapid growth was now widely acknowledged as a penal surge or ‘explosion’ that seemed to have no bounds (Caplow and Simon 1999; Haney 1998; Langan 1991; Zimring and Hawkins 1991). The turn of the 21st century brought with it a metaphorical melancholy: the emergence of ‘mass incarceration’ (and ‘mass imprisonment’) as the dominant characterization of the penal state implies both its oversized nature and its intractability (see, for just a few examples, Clear 2007; Garland 2001; Gottschalk 2006; Mauer and Chesney-Lind 2002; Useem and Piehl 2008).

While this ‘mass’ incarceration scholarship has continued to try to explain what happened to prompt the huge penal expansion in the USA, it has also been concerned with measuring its harm to individuals, families, and communities, as well as its contribution to social and economic inequality (e.g. Clear 2007; Western 2006). Loic Wacquant’s *Punishing the Poor* (2009) works right at this intersection by aiming to both understand the rise of mass incarceration in the USA and its spread to...
other jurisdictions, while simultaneously illustrating, through its theoretical delineation, the impact of transforming social and penal policies on the poor. While the book is not strictly about the changing nature of punishment, it is well situated within the body of work that explores the causes, consequences, and functions of contemporary punitiveness, which will be the primary focus of this essay.

The broader theoretical question driving Wacquant’s account is concerned with the nature of the state, and the ‘transnational transformations of the field of power in the age of ascending neoliberalism’ (2009: xviii). This concern is accomplished through a narrative that explores the increasingly punitive management of the poor through the dual processes of social welfare reform and retraction, and penal expansion and control. For Wacquant, these two systems of regulation are the engines and core constituents of a political project, namely neoliberal governance, and must be viewed as two parts of a whole. At the heart of this conception is a notion of a kind of bifurcated state that is small and libertarian in nature in relation to the upper classes, but both large and intrusive by design when it comes to the poor.

In fleshing out his arguments, Wacquant takes the reader on a whirlwind tour across time, place, and institutional settings, first of the most egregious examples of the state’s management of poverty in the post-welfare ‘free’ society of the USA, then into the criminal justice machinery both here and, to a lesser degree, in France, including behind post-rehabilitative prison bars, to demonstrate the state’s contemporary definition and management of penal populations. Included in this is an analysis of cultural representations of crime and punishment, referred to by Wacquant as ‘law-and-order pornography’ (2009: 243). The book ultimately aims to illustrate how the ‘penal’ has become hegemonic, particularly in the masculine, ‘right hand’ of the state, and in so becoming, has reshaped formerly soft, more maternal state functions like social welfare.

The goal of the book, as I read it, is to elucidate several manifestations and processes related to this broader theoretical argument. One such manifestation of neoliberal governance that is explored throughout the book concerns the material and symbolic convergence of the two state functions of interest: social welfare and the prison. This process is illustrated in several overlapping ways. First, the book details the population that is subject to state intervention (or targeted for neglect, as the case may be) in each sphere, described as a gendered two-sided coin of minority groups and the poor, in which women are more subject to the welfare side, and men are especially targeted by the penal state. Second, it explores how the logic and rhetoric justifying the contemporary, increasingly punitive policies in both venues echo similar themes. Third, the book explores how spending on each effort is intimately tied to the other, in that cutbacks in welfare spending seem to find their way into penal budgets. Finally, although to a lesser extent, it examines how both sets of management have themselves been infused with a market logic – from the privatization of ‘workfare’ case management to the rise of private prisons and corollary incarcerative services.

The book also aims to illustrate how the deployment of these twin state functions combine to represent a singular form of governance of the increasingly insecure lowest rung of the labor market. Thus, pushing beyond the asserted correlation between ‘workfare’ and ‘prisonfare’, Wacquant argues that these fields are products of, and engines for, globalized capitalism that is dependent upon a flexible, transient, and insecure workforce that otherwise needs to be managed by a more and more intrusive state (when it comes to these populations). In doing so, the book grapples with the movement of these developments, as they cross from the USA to Europe (with a particular focus on their articulation and implementation in France). Implicit here is centering the USA as both globally hegemonic and as the innovator of neoliberalism, or at least neoliberal penalty.

In addition, the book sets out to illustrate the fundamental flaws in contemporary criminal justice practices, if their goal really is to effectively deal with either ‘security’ or ‘crime’. It does this in a sustained fashion in Chapter 8, by critiquing the theories underlying the crime control policies that
rose to prominence in the 1990s, such as the ‘broken windows’ hypothesis (which links social disorder to crime, thus spawning zero-tolerance policing on all manner of offenses, no matter how small). Flowing from this, the book argues explicitly that contemporary criminal justice strategies should not be understood or analyzed through a narrow policy effectiveness lens, but rather asserts that their functionality lies within the broader neoliberal political project.

In the final chapter of the book, Wacquant reconfigures social theory in an effort to capture and explain the multiple strands of action as delineated within the text. In so doing, he aims to both challenge mainstream criminology’s take on contemporary penalty, and to fill in the holes that he perceives to exist in several major theorists’ treatment of the sociology of punishment (e.g. Michel Foucault and David Garland), welfare (Frances Fox Piven and Richard Cloward), neoliberalism (David Harvey and Anthony Giddens), and the state (Bourdieu).

Propelling the narrative is an array of oppositional dichotomies, which Wacquant works either to merge or braid into an integrated whole, or which he seems to further dichotomize. Thus he seeks to integrate the theoretical traditions in the sociology of punishment and of the state (functionalist/materialist approaches vs symbolic/cultural ones); the institutional policy devices that are his subject of interest (workfare vs ‘prisonfare’); macro-level place (USA vs Europe and other Western democracies as this dichotomy is at the heart of many analyses which interrogate ‘American exceptionalism’); spheres of power and authority (public vs private); and the gendered (maternalistic vs paternalistic), ambidextrous (left arm vs right arm) state. In these dichotomous relations, Wacquant argues quite strenuously for their integration by highlighting how apparent differences are, in some cases, ‘two sides of the same coin’ (as in the prisonfare-workfare dichotomy) or are complementary parts of a more comprehensive whole (as in the merging of theoretical traditions).

On the other hand, Wacquant relies upon a number of dichotomies that seem to be even further distinguished and polarized in this work. These include: material position (the flexible deskill ed laborer vs the elite class capital accumulator); micro-locale (within the USA, he seems to set up the inner-city as the contrast to everywhere else); demographic status (minority poor vs others), and the traditional trajectories of state intervention (social vs penal). As such, the dichotomies both push and pull – creating and relieving tensions between the two sides of the same coin, or polar ends of the various pairings. It is in the integration efforts that the book especially succeeds, and this is where the innovation of Wacquant’s arguments resides. Yet those efforts sometimes get hindered by the (perhaps unintended) over-adherence to some of the stark distinctions that he draws in these dichotomies.

One area in particular stands out in this regard: that is, the explicit supposition (asserted especially forcefully in the final chapter) of a clear historical distinction between the ‘social’ arm of state policymaking and the ‘penal’ arm. This is at the crux of his argument about fundamental neoliberal transformation – that today’s ‘wedding of social and penal policy at the bottom of the polarized class structure is a major structural innovation’ (2009: 304, emphasis in original). Yet, here is where a longer view, at least of US policy-making, would seem to indicate a tradition of inter-mingling. One need not look much further than the management of ‘delinquent’ youth, beginning in the mid-19th century and expanding by the turn of the 20th century, to see the close relationship of these two strands, including a heavy infusion of maternalistic and moralistic behavior management mixed with punitive treatment (Liazos 1974; Platt 1969). Such policies traditionally were aimed at lower class youth for intervention – as are our contemporary practices – and they often used extremely intrusive and even brutal tactics in practice (despite a softer accompanying rhetoric) that were quite difficult to distinguish from standard state punishment.

Similarly, a now nearly defunct, but relatively repressive system of non-penal ‘social’ institutions was developed in the 19th century and flourished through the first half of the 20th century in
Critical Sociology 37(2)

many Western jurisdictions, institutions which managed poor and troubled populations in ways not too unlike penal institutions (Wright 1997). State mental hospitals, in particular, were places—especially before the psychotropic chemical revolution of the 1960s and 1970s—that used long-term confinement (and some brutal management techniques within) to control and contain problem populations in quite large numbers until mass de-institutionalization in the 1970s (Goffman 1961; Harcourt 2007; Scull 1977, 1979; Wright 1997).

In both these cases, where the rhetoric may have sounded more like the maternalistic left arm protecting the vulnerable, the lived reality for those targeted for institutional intervention often felt much more like the ‘right arm’ punching. More fundamentally, as several scholars have explored in detail (Garland 1987; Rothman 1971, 1980; Simon 1993), there is a deeply intertwined history of the development of social welfarism and its corollary institutions, and penal intervention and control in Western democracies that complicates this asserted distinction. Wacquant is also perhaps too generous in his interpretation of the pre-1990s American social welfare state and the pre-1980s penal state, and even in his interpretation of the pre-Reagan economic state, which has seemed historically to be less well regulated and less protective of labor than that of our European peers. So while the book, in several places, acknowledges the overlapping, messy, and complicated development and trajectory of both venues, there is also a recurrent attempt to make clean and clear distinctions between the pre-neoliberal social welfare and penal policies that seem to overstate the case.

Although its stated goals are broader than this, *Punishing the Poor* fits well within a growing set of scholarship that is grappling specifically with contemporary penal change in the USA and other Western democracies. Thus, I read the book as being engaged in conversations, and sometimes heated debates, with a number of scholars, some named in the body of the text and others not, including Bruce Western (2006) on American imprisonment’s relation to the racialized poor; Katherine Beckett (1999) and Michael Tonry (2004) on the political manipulation of crime control; Western and Beckett (1999) on the welfare-prison fare relationship (see also Beckett and Western 2001); Alessandro de Giorgi (2006) on materialist approaches to insecure labor, globally capitalized capital, and punishment; Jonathan Simon (2007) on changing modes of governance (specifically, the rise of ‘governing through crime’); Feeley and Simon (1992) and Bernard Harcourt (2007) on risk, crime and punishment; and David Garland (2001) on punishment, social control and late modernity.

Among other things, the book very comprehensively builds upon, and often challenges some of the insights derived from this set of scholars. Wacquant links the theoretical approaches of functionalists, culturalists, and more mainstream criminologists in a way that is masterful, and then applies this comprehensive framework to a wide swath of social, penological, and economic transformations. A consequence of this effort, however, seems to be a privileging of macro-level, relatively monolithic analyses of these phenomena. And while Wacquant offers a very useful integration across fields and theoretical approaches, in the process, attention to both cross-jurisdictional differences, and the diversity among the mechanisms of transformation is limited. Indeed, there is another lively, sustained conversation among scholars interested in punishment that attends to more micro- and meso-level differences between locales and sub-populations and that empirically explores the actual processes of, and catalysts to, penal change.

For instance, I wondered how the insights of Marie Gottschalk (2006) about the ways in which particularized historical trajectories of state development in the USA and Europe (and the consequentially distinct and different political structures) impact criminal justice policy and practice might challenge Wacquant’s take on the dominance of neoliberalism as a mode of contemporary governance. Her well documented thesis highlights the interplay of culture, history, and political structure as a catalyst to major differences in penal policies and practices across national borders,
and between domains within jurisdictions. This way of ‘seeing’ penal transformation – through explorations of unique developmental trajectories – is a distinct contrast from Wacquant’s approach, which primarily looks for similarities across disparate sites. Thus, while *Punishing the Poor* suggests a hegemonic status of the USA in its criminal justice innovations and subsequent exportation, it has less to say about how that transportation process overcame those structural differences pointed out by Gottschalk, and others (e.g. Savelsberg 2004; Whitman 2003).

There is also a rapidly growing body of work that looks at the extreme sub-national variation across the US states (and geographic regions) that might complicate Wacquant’s broader theoretical arguments. As Zimring and Hawkins (1991: 137) pointed out nearly two decades ago, among the biggest puzzles in American penal transformation is teasing out the degree to which the ‘51 different countries’ that make up the American criminal justice system are ‘a single organism having diverse organs … or a group of autonomous units functioning independently but marching together’. Some of the more recent empirical explorations of the sub-national story in the USA have provided important insights into the roles played by political culture, the economy, race and class relations, and historical precedent in the way in which penal policy and practices have evolved.

Wacquant does discuss the structural fragmentation and complexity of the US criminal justice system(s), and he uses a number of state-level examples to illustrate his points, such as highlighting work by Western and Beckett (1999; Beckett and Western 2001) that indicates a relationship between these penal variations and state-level welfare spending (as also influenced by racial demography of the states). Nonetheless, there is little attention given to the central role that state governance (as opposed to federal) is responsible for the rise of mass incarceration. Also missing is a sense of how fractured the American case is on both of the vectors of interest – and what that means both theoretically and, more concretely, if we want to take up the challenges of policy change.

For instance, there is a growing body of work that sheds considerable doubt on the hegemony of rehabilitation in many of the places that now stand as hallmark cases of post-rehabilitative penality (characterized by high rates of incarceration, low investment in programming, reliance on explicitly punitive policies, and innovative use of such practices as charging offenders for medical care, and room and board). These jurisdictions generally lie along the southern ‘sunbelt’ rim of the USA, and typically were late coming to, and very indifferent to, rehabilitation. These also tend to be places with historically stingy and especially inadequate welfare arms. Thus, recent empirical examinations of penal change in Texas (Perkinson 2008), Arizona (Lynch 2009a, 2009b), Florida (Schoenfeld 2009), and California (Barker 2006, 2009; Gilmore 2007) have challenged longstanding assumptions about the precursors to and mechanics of American penal expansion.

In particular, Ruth Gilmore’s (2007) *Golden Gulag* speaks directly to the specific mechanisms by which California moved to mass incarceration, and how that process was a product of and response to state, federal and global economic forces. Her exposition adds vital empirical meat to the ‘political economy’ theoretical bones that are at the core of many mass incarceration explanations (including, in part, *Punishing the Poor*), while also directly documenting its consequences for poor communities, predominantly of color. As such, her work is key to filling in some of the spaces in Wacquant’s analysis, especially related to how exactly ‘capital’ in its various forms was reshaped into the prison boom, in this case, in California.

Indeed, many parts of the western, southwestern, and southern regions of the USA tell a story about the history and trajectory of American penal and social welfare policy-making and implementation that is much more complicated and intertwined, and less maternalistic than the national policy story is, and that stands in deep contrast to state-level policy trajectories in the northeast, mid-Atlantic, and industrial Midwest. These state and regional variations, it seems, suggest that micro-level place and its norms, culture, traditions, structures, and institutions provide important
clues to the American puzzle. They also center the inception and initial rise of the ‘new punitiveness’ (Pratt et al. 2005) in a distinct geographic region and highlight the literal mechanics of penal change: how new laws and policies that opened the way for mass incarceration arose, were framed for different audiences, were put into practice, and migrated across state and national borders (Lynch 2009a).

Because provocative and theoretically rich books like *Punishing the Poor* not only serve to disentangle the complexities of the phenomena under study, but also work as catalysts that drive more questions and new trajectories of inquiry, I will end with a set of questions as a way to continue the conversation about punishment, change and the state.²

Wacquant (as do others) argues that a major transformation or ‘break’ from a distinct past mode of governance is at work here – that the neoliberal state is indeed ‘neo’ rather than just an old power with some new tricks up its sleeve. Yet some of the manifestations of neoliberal rule, as asserted by Wacquant, can arguably be dated to earlier eras. In regard to the governance of the poor, can we fully distinguish past versions of penal cruelty and neglect of the poor from the contemporary versions? Might even the albeit fractured and stingy US version of [penal] welfarism of the early to mid-20th century be the historical anomaly, and neglect and/or punitive intervention be the cultural norm to which we have returned?

In regard to my earlier point about historical trajectories and specificities of place, writ small: To what extent can contemporary practices be explained in part by historical roots of jurisdiction? And where does the past get completely erased and made obsolete by the powerful flow of globalized markets? Emerging from that, what can those sub-national variations in penalty tell us? A particularly important omission in this regard is found in the examples used in the book to illustrate the contemporary phenomena. The whirlwind tour brings us to the overcrowded human processing jail/factories of large urban areas like Los Angeles, New York, and Phoenix, but not to rural local facilities or under-crowded ones in places that are less heavily invested in the criminal justice machinery. Likewise, the national prison tour takes to the new icons of post-rehabilitative penality such as California, Arizona, and Texas, but not to Maine, which has an incarceration rate (151/100,000) that looks more like the UK and even Spain, and that does not invest in the warehouse-style of incarceration that is highlighted in this account.³ Similarly, the picture could have been complicated by looking to Minnesota, which paradoxically has one of the most rigid state-level determinate sentencing laws in the country, but also has one of the lowest incarceration rates and the highest per capital investment in rehabilitation behind bars.

Finally, on this larger question: is it a matter of the more things change the more they stay the same? Has it not been that the same populations get targeted with social control and heavy-handed intervention (both maternalistic and paternalistic) over history, but the techniques and institutional apparatuses change? Gone are specialized asylums of the 19th century, state mental institutions that peaked in the mid-20th century, conscripted military participation (and even volunteer participation is down over the last 60 years), and legally enforced subjugation and segregation (as Wacquant himself has written about very eloquently). Thus the huge rise in incarceration does seem to be a matter of shifting modes of control, but not necessarily shifting goals or targets of control. So the big question is: how do we distinguish what is new in all of this and what is age-old oppression and exploitation of those at the bottom of the heap?

**Note**

1 By this, the authors are referring to the autonomous state political and legal systems, which make and enforce law relatively independently from each other, plus the federal system, which is actually just a small player in American criminal justice.
2 I recognize that any single piece of work cannot incorporate everything, and indeed this piece is much more comprehensive than most.

3 In Maine, for instance, prisoners are not only allowed to vote in public elections while inside, they are supplied with absentee ballots and provided paperwork to register. Convicted felons are also allowed to sit on juries, unlike in the other 49 States.

References


