

crime, punishment and migration

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introduction

In the fifth edition of his famous work *Criminal Man*, Cesare Lombroso wrote, “Recent statistics for the United States [...] document high rates of crime in states with large number of immigrants, especially from Italy and Ireland. Out of 49,000 arrests in New York, 32,000 were immigrants” (Lombroso 1896–7: 316–17). As was often the case with Cesare Lombroso, his was a hotchpotch of insight and commonplace, where he succeeded in expressing the common fear and stereotypes of the public of his age under the pretence of giving them a rigorous “scientific” form. Actually, the view that associates mobility and danger is a view that goes back to the primordial period of civilization, when Greeks feared the “barbarians” who would inhabit the lands beyond their borders:

The slave, in antiquity, is the one who comes from outside, the stranger, the barbarian: the one who has different language and customs and is therefore inferior, in a condition of servitude. Greeks thought that everybody who was not part of their world, and therefore could not speak Greek, was unable to speak, emitting merely stuttering or harsh sounds. The syllabic repetition *bar-bar*, from which the word barbarian derives, is in fact the phonetic imitation of stuttering, if not the barking of an animal (Cavalli-Sforza and Padoan 2013: 233¹).

Much later, at the beginning of modernity, the idea of crime became associated with *vagrancy*, that “chrysalis of every species of criminal” as it would have been called at the end of the nineteenth century (Duncan 1996: 172). A veritable short circuit has always been established in people’s common sense, between social change, mobility and some kind of fear or danger. In one of the most famous statements about the concept of “the stranger”, by one of sociology’s pioneers, Georg Simmel, the stranger is the one whose “position within [the group] is fundamentally affected by the fact that he does not belong in it initially and that he brings qualities into it that are not, and cannot be, indigenous to it” (Simmel 1908: 143). In a sense, the stranger graphically represents the discomfort and the anxiety-ridden condition of

¹My translation.

social change, the danger that we more or less consciously associate with the very notion of change.

Such, however, is not the case, or is not the case to the same extent, in every period. We get accustomed in fact to what we perceive as long periods of no change, of “things as they are and should be”, of peace, order and tranquillity, untouched by the dangers of change. However, alas, these are usually periods that nourish change in their womb and, when the new creature finally comes to be born, we have to face the hard labour of a new order rising (of course, not all social classes and dispositions will consider the new order alike). The sociology of migration seems therefore to me to concern the two-way relationship between a changing social structure and the movements of human beings belonging in that structure. It is probably possible to devise patterns and regularities in social change that connect to human mobility. Were this to be the case, it would also be possible to establish connections between change in social structure and the rising representations of the dangers and anxieties elicited by the sudden emergence of human mobility.

If we follow Durkheim in defining “crime” as that behaviour that society actually punishes (1893, 1895), then a good place to start could be Georg Rusche and Otto Kirchheimer’s *Punishment and Social Structure* (1939), the pioneering work about relationships of social structure to punishment. Albeit criticizable on many counts, this work, developed some seventy-five years ago, represented a valiant effort to contribute to the study of the connections between changing social structure and changing punishment. Rusche’s main idea² was that punishment is somehow related to the situation of the labour market, a situation that is in turn connected with the overall socio-economic conditions in a given society. During periods of expansion, the demand for labour increases and so do wages and the quality of work conditions. In those periods, it is likely that the social conditions related to punishment (since the modern age, in particular, detention) will improve and that imprisonment rates will decline – as those working in the tradition of Rusche and Kirchheimer started to hypothesize in the 1970s (Jankovic 1977; Greenberg 1977; Box and Hale 1982; Melossi 1985). The opposite will happen under conditions of economic difficulties, recession or even depression, when imprisonment standards will deteriorate rapidly and the numbers of people under detention will increase.

Even from such a hastily sketched reconstruction, it is apparent that a consideration of migration movements is missing. After all, Rusche and Kirchheimer wrote at the end of a period that saw an increasing importance, in Europe, of national states. Theirs is not a global or anyway international perspective, in spite of the fact that migration

²Rusche was the main inspiration behind a work that Kirchheimer was essentially called to complete (Melossi 2003b).

movements have been extremely important in Europe between the nineteenth century and the early decades of the twentieth century. In fact, the only mention of the issue of migratory movements in Rusche and Kirchheimer's work refers to the strong pro-immigration policies that characterized the period of Central European mercantilism, between the seventeenth and eighteenth centuries (Rusche and Kirchheimer 1939: 31). In that period, the strong "populationist" policies of those governments, preoccupied with the rarefaction of labour, translated into severe restrictions on e-migration and all kinds of encouragement for im-migration, especially of skilled workers. At the same time, mercantilism was the period that also marked the "discovery" of the most important antecedents of modern penal institutions, the workhouse, especially in the Netherlands, England, and Northern Germany (Rusche and Kirchheimer 1939: 41–52; Melossi and Pavarini 1977: 11–62; see Chapter One below). As we shall see, the workhouse was a type of institution geared toward preserving and reintegrating a very precious workforce that should not have been dissipated in laziness and vices but that should instead be harnessed. Contrary to what is often surmised, especially in modern times, the prison institution was at first conceived as deeply inclusive and integrating.³

What does it mean, however, to look for connections among the social structure, migrations, crime and imprisonment rates? According to Karl Marx, one of the first to see such connections, the vagaries of capitalist economy, crime, migration and imprisonment all relate to the historical importance of mobility for the development of modern penality. These connections have remained to a large extent unacknowledged in criminology's historical perspective, with the exception of a famous, trail-blazing, article by William Chambliss (1964), our own *The Prison and the Factory* more than a decade later (Melossi and Pavarini 1977), and Leanne Weber and Ben Bowling's 2008 essay on "valiant beggars and global vagabonds". However, the integration and inclusion of a working class that is in the process of being constructed, a working class *in fieri*, so to speak, always needs careful and attentive work. It is not that in one case, economic expansion, there is no imprisonment and in the other, economic contraction, there is. Rather, imprisonment seems to be a constant for the marginal sectors and layers of society, the outsiders, the newcomers. What seems to be changing instead is the social rationale for imprisonment: to control and discipline a workforce that has become too arrogant in periods of economic expansion, to control and corral, so to speak, a mass of destitute poor who do not have any other recourse, during depressions.

³It would be too rushed to think that emigration is simply connected to recessionary periods and depression, also because where there is e-migration there is also, in another country, im-migration. So the issue would perhaps be one of world-wide economic cycles, of the kind explored by such authors as Wallerstein (1974) and Arrighi (1994).

From this particular perspective, it is not of paramount importance what kind of migrants we are talking about. In some situations, migrants are “internal” migrants, who have the same nationality as other workers (but, as we will see, their entitlements may vary a great deal!) whereas, at other times, migrants are “external” migrants, people who do not have the same nationality as other workers. Whereas today we are accustomed to thinking that these different situations may be related to different rights entitlements – greater in the case of citizenship than when this is lacking – this is not the whole story at all, because there may be situations when such is not the case. For instance, workers from member-states of the European Union (EU) today probably enjoy fuller rights than Southern Italians moving to Northern Italy forty years ago, and certainly much greater rights than workers moving around Europe in the seventeenth-century or Chinese workers without the right of residence (*hukou*) in contemporary China. As we shall see, the question of citizenship criss-crosses with the general level of labour rights, as well as other ascriptive features such as gender, age and ethnicity. As Calavita (2005) pointed out a few years ago in one of the best analyses of these matters, based on her study of the contemporary Southern European situation, the issue of criminalization is strictly related to those of “inferiorization” and “racialization”.

