

For and against the political economy of punishment: Thoughts on Bourdieu and punishment

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This chapter offers up proposals in the hope of overcoming some of the limitations of the political economy of punishment. To that end, some of the main contributions this trend makes will be highlighted; their value acknowledged and recovered for future works. Next, the most recent criticisms will be reviewed. The third part will be devoted to proposing some solutions departing from the work of sociologist Pierre Bourdieu, who considered overcoming some of the limitations of Marxist approaches in his own work. This chapter, therefore, is propositional.

1. The political economy of punishment

The political economy of punishment is a branch of the study of punitive forms, of their articulation, functioning and functionality, which has a long and intermittent tradition. It is mainly based on: Karl Marx's analysis of capitalism and of the relations and dynamics it generates, Pashukanis' analysis of Law and settled in social sciences with Rusche's (and Kirchheimer) work. After its revival in critical criminology in the 60s and 70s, over the last decades specific contributions have been made, some proposing theoretical renewal (Melossi 1985; De Giorgi, 2006), and others the accumulation and refinement of empirical support (for

instance, Chiricos and Delone 1992; Jacobs and Carmichael 2001; Sutton 2004). Throughout, it has become one of the main perspectives for the study of punishment (see Garland 1990).

Probably, its major contribution was initiating *the empirical study of punishments*, against classical abstract studies on ‘punishment’. In this respect, Rusche and Kirchheimer ([1939: 3]) pointed out that ‘Punishment as such does not exist; only concrete systems of punishment and specific criminal practices exist’. That is, the necessity of studying concrete forms of punishment in their historical specificity (Garland 1990: 90), making a materialistic and historical approach possible: studying punishment, at specific times and places – and even acknowledging, within this same tradition, that categories of ‘time’ and ‘space’ are contingent (Spitzer 1995: 13).

Furthermore, its more characteristic contribution has to do with the importance given to – economic- *modes of production* in the form and intensity punishments take (Rusche and Kirchheimer [1939]: 3, 5, 7; Melossi and Pavarini [1977]: 7), and with how class struggles contribute to their transformation (Humphries and Greenberg 1981: 213). Given that this approach advocates for a historically and geographically situated study, and that its interest has been coupled with modern forms of punishment, when ‘modes of production’ is called upon, reference to capitalism is usually being made. *The relationship between productive and penal systems* has been noted as indirect, fundamentally mediated by correspondences between time, value and penalties, and by regulations of social relations with similar contractual matrices (Melossi and Pavarini [1977]: 3, 185; Spitzer 1981: 215). In turn, the intensity of punishments, especially that of prison, is related to the principle of less eligibility, while its extension has more to do with the needs of labour and both aspects are not independent from each other (Melossi and Pavarini [1977]: 51; Rusche and Kirchheimer [1939]). In other words, what determines the extension and conditions of punishment is

outside of punishment itself (the demand for labour, and the social conditions to which the lower working class can have access to).

In addition, this approach contains interesting clues for *understanding penal institutions as disciplinary mechanisms destined to make subjects willing and ready to work under capitalist conditions* – that is, ready for exploitation (Foucault [1975]: 135-69; Melossi and Pavarini [1977]: 11, 21). By this logic, confinement institutions influence labour's economic value, not just by temporarily kidnapping the labour force (and thus manipulating supply²), but also by removing people freedom of movement and, after being disciplined, reinserting them in the 'free' market (De Giorgi 2006: 13).

The condition of deprivation of liberty under which the body is disciplined is a result of the application of Law – 'bourgeois' law, for this tradition. This is generally individual: creating juridical subjects who have rights (Garland 1990: 112). Nevertheless it also allows for the deprivation of some of those rights when laws are not observed. In this approach, on the one hand Law gathers and defends a set of rules which represent the interests of the ruling class - linked to conditions for being able to grow richer and to preserve the *status quo*. On the other hand, some necessary fictions are created so that people consent to living under the capitalist system; these include the existence of general interests, submission to exploitation as an act of free will between equal individuals, and so on (Garland 1990: 92). Thus, another important contribution relates to *understanding juridical forms as representations destined to conceal the reality of the conditions of exploitation* and, by these means, achieving consent and consolidating these social conditions.

As a consequence of the imperative of studying specific forms of punishment, the political economy of punishment has produced *a considerable amount of empirical evidence* (notwithstanding, see the considerations made in Lynch 1987). A good number of studies

have provided, in this sense, strong correlations between the evolution of labour market and that of penalty. Specifically, the most fruitful empirical contribution seems to have been those which study the relations between imprisonment rates and unemployment rates (see a good compilation in De Giorgi 2006: 20-32). Comparatively, there seems to be a more intense and stable relationship between these two indicators than that which exists between imprisonment and crime rates, questioning what Melossi (1989: 311) calls 'legal syllogism'.

To sum up, it is a very fruitful branch of study that contributes a good deal of conceptual tools and empirical evidence for understanding the dynamics of punishment, and that not all the theoretical traditions are able to match. Notwithstanding, its reception has been rather ambivalent and is still marked by extra scientific features, such as: the association of Marxist analysis with left-wing political positioning and the traditional American structural censorship of the use of Marx in social sciences. In fact, still nowadays, it is possible to find uses of the label 'Marxist' as a criticism itself, substituting an argued criticism. By comparison, it is difficult to find the same treatment with labels such as Durkheimian or Weberian, which are usually used in a more descriptive fashion.

Sharing the idea of punishment as a complex social institution (Garland 1990: 281-3), I think that the existence of influences running between penalty and capitalism cannot be ignored, and that it is fair to characterize most of contemporary societies as capitalist, necessarily acknowledging the multiple varieties existing (Hall and Soskice 2001) -without this meaning reducing them only to capitalist societies. It is not hard to see that we are part of many concrete capitalist relations, which generate, and are carried out within, markedly capitalist institutions, and that those relationships are maintained and changed thanks to these institutions. Thus I see no theoretical or empirical reasons to carry out studies on punishment without paying attention to the relation it has with the productive system³ – unless it is

thought that when the words ‘capitalism’ or ‘productive system’ are mentioned research stops being ‘rigorous’.

I do not mean to suggest that the analytical proposals of the political economy of punishment are not problematic. The most recurrent criticism will be briefly reviewed to the purpose of elaborating a theoretical proposal that enables the remarkable contributions of this approach to be retained, while hoping to advance through some of its limitations.

2. Criticisms of the political economy of punishment

Before dealing with criticisms, some issues must be specified. First, Marxist literature is measureless: it consists of more than 100 years of writing in all imaginable areas of knowledge (this is of very varied quality and means that it is easy to find references for whatever idea needs support, and dangerously easy to exclude thinkers who disagree with whatever portrayal of Marxism is being put forward). For this reason, it may well be that some of the criticism of the political economy of punishment might have been solved in other areas where the political economy is applied, and that the division of disciplines have us trying to solve issues which have already been overcome in other areas. Therefore, this work is limited to authors who specifically work on punishment and it will mostly include criticisms that have already been made.

Second, it is characteristic of this school of thought that a good deal of criticism comes from authors whose work is influenced by Marxist thought. It is, in fact, a perspective which tends to be very critical with itself (due perhaps to the epistemological question of the approach itself, or the idiosyncratic competition among Marxists over who seems most critical). That is, criticisms *of* the political economy of punishment are to a great extent criticisms *from* the political economy of punishment. As a matter of fact, precisely due to much having been written and to this logic of internal differentiation, most criticisms are collected by the authors criticized. This poses the fundamental question of what criticisms are legitimate. In this work, criticism focused on the

advantages of using other concepts in research has been opted for, rather than criticism relating to whether the authors are aware of the existence of a problem, or whether they say they overcome the problem, but they do not show how (for instance, the addition of a symbolic analysis of punishment to the material one).

Lastly, almost every criticism directed towards an approach in general runs a high risk of being unfair to specific authors or works. Even though specific pieces of work will be referenced, that risk is not avoided – notwithstanding that in concrete moments, like for the reorientation of perspective intended with this book, general criticisms may have some value.

The main criticism relates to the main bid of this approach: that priority is given to the productive system over the other variables. This has been repeatedly qualified as ‘economic determinism’ (De Giorgi 2013: 47). Part of the discussion revolves around whether this influence fully determines, or conditions punishment (Greenberg 1981: 241). Another part of the discussion centres on the omission of other important factors conditioning punishment (such as social policies or cultural values). It has also been pointed out this approach does not pay enough attention to existing reciprocal conditioning between the productive system, the penal system, the political system and the cultural system, etc. (see Garland 1990: 280).

Related to this criticism, there is the issue of these analyses prioritizing the material over the symbolic (Wacquant 2009: xvii). This point is abridged in the simplified metaphor, defended more by Marxists than by Marx, of an -economic- infrastructure which determines an – ideological- superstructure (for instance, Althusser [1970]; De Giorgi 2006: 4). In this account, furthermore, the material is real and the ideological is illusory (Garland 1990: 108). In its use for punishment, this formulation is to be clearly found in Pashukanis and was openly criticized by Poulantzas, amongst others. Sometimes it is acknowledged that the issue of ideology is more complex, but this is seldom further developed. In any case, analytical primacy is given to the material over the symbolic (or ‘ideological’, more in keeping with this

tradition [for instance, De Giorgi, 2006: 18]) coinciding with the directionality criticized in the previous point⁴.

In this perspective the social seems to revolve around the economic, and to be at its service: thus, there is a tendency to employ a functionalist reading of the non-economic⁵. For reasons more or less evident, the analysis of the state, of its functioning and of its functions has attracted another part of the criticisms. Even though it is a particularly complicated issue, the usual view of the state in this approach tends to portray it as a supplementary entity of, if not submitted to, the market. The state is not usually an object of interest in itself, but because of the functions it fulfils; these are reduced to the regulation of the relations of economic exchange through the Law and its application by police and prisons, so as to ensure the workers are under conditions of exploitation for capitalists (see, for instance, Rusche and Kirchheimer, [1939]: 36-38⁶). In this sense, the state is understood as a body that secures: through punishment, capitalism can continue to operate.

Lastly, its emphasis on quantitative correlations using aggregate data has roused different critical comments. It has been noticed that ‘the conditions of the system of production’ of which Rusche and Kirchheimer speak should not be reduced to the conditions of the labour market, and that these cannot be reduced to unemployment rates - or even temporariness when analysing a post-fordist economy (De Giorgi 2006: 23, 33, 62). Besides, these correlations are much more complicated when political, cultural or demographic variables are included, and the theoretical propositions have been operationalized in a more direct and simple fashion than they entail (Sutton 2004: 172; Jacobs and Helms 1996; Lappi-Seppälä 2008). Furthermore, confinement is not regulated by social class solely, but the influence of nationality and race, alien to classic versions of this approach, must be taken into account (Melossi 1989: 317; Western 2006). That is, it is necessary to nuance the empirical evidence provided by the political economy of punishment at a quantitative level, and to further

develop the qualitative part, usually disregarded by an approach which has a tendency to macrostructural views. Thus, beyond the theoretical framework's axioms, a better understanding of the links which seem to exist between economy and punishment, and in the interpretation agents make, could be developed (Box and Hale 1985: 210; Garland 1990: 109). In fact, the development of case studies which can account for specific political-institutional arrangements is being called for, with the purpose of improving the comprehension of causal mechanisms (De Giorgi 2013: 51-2; Lacey 2008: 56).

This brief presentation of criticisms will be further developed through the exploration of proposals in the positive; stressing the practical aspects of research that can present solutions to some of the problems signalled. By using Bourdieu's logic and concepts it is not claimed that it is better to avoid other authors. Notwithstanding, I do advocate a wider and more systematic use of his work in the study of punishment⁷. Its pertinence or validity should be settled through empirical research, since every approach emphasizes specific aspects, or fails to see others, or only partially glimpses them⁸. For the interests of the political economy of punishment, Pierre Bourdieu's work is an advance, but it is important to remember that Bourdieu is not the solution for every problem—even if the nature of his enterprise results in an approach that can be applied to different areas (building on their peculiarities through empirical research).

3. Beyond Marxism: Pierre Bourdieu and the theory of practices

Bourdieu's work is testimony to a constant struggle to overcome limitations found in Marx, Weber, and Durkheim when applied to empirical research (Bourdieu [1987]: 34). As a result of these agreements and disagreements, he forged a broad conceptual apparatus, about which only some general observations can be made here (see further in Bourdieu [1980]; [1997];

Bourdieu and Wacquant 1992)⁹. Typical of this French thinker is the integrative blend of features from authors who were traditionally considered exclusive where the analytical advantages of some are articulated to correct the omissions of the others (for instance, Bourdieu and Passeron [1970]: 44-5). Thus, and to bring back a good expression, Bourdieu worked with Marx against Marx, with Durkheim against Durkheim, and with Weber against Weber (Bourdieu [1987]: 49).

It has been pointed out that applying Marx's concepts to the study of punishment is problematic. This is largely due to the fact that his concepts were designed to analyse productive and economic relations, and not penal issues (Hirst 1975: 204). Similar issues are involved with invoking Bourdieusian concepts –since they have their origins in the analysis of colonialist relations in Algeria, in studies on the education system, arts, or the transmission of social positions, among other things. What is presented here, therefore, is an invitation to think about punishment alongside Bourdieu. It ought to be read as a starting point, rather than a closed proposal or a point of arrival.

Bringing together the materialist and symbolic analysis of punishment: symbolic power

To the aforementioned critique - that the political economy of punishment gives considerably greater importance to the material than to the symbolic- another could be added: above all in the more macro approaches, a proper symbolic analysis of punishment is not usually carried out, but most of the time the analysis is located outside of it –in the media or in political discourse¹⁰. It is true that others, such as the labelling approach, have paid attention to this (mainly in relation to the transformation of identities), and that there have been some explicit efforts to reconcile these approaches with a materialistic approach (see Melossi 1985).

However, a concept which would join both realities together and which would allow for grasping their functioning is missing.

Societies work through symbolic systems. These systems, following Durkheim, are forms of classification which fulfil a function in social order integration. These forms of classification are social and historical, so to say, they are variable, become dated, and have their origin in relations. They tend to produce agreement on what the world is, and how it works, since there is a tendency towards structural homology between social conditions and their symbolic representation -that usually results in a tendency towards the preservation of those social conditions. In this sense, mental structures can be understood as incarnations of social structures (Bourdieu and Wacquant 1992: 12-14; Durkheim [1912])

The importance of symbolic systems lies in that they shape and impose shared principles of vision and division, thus symbolic power acts on the level of (practical) knowledge (Bourdieu [1993]: 7-8; [1977]: 79). The importance of paying attention to punishment as a system of signs and meanings, and to its symbolic and unifying strength –bigger than other social phenomena-, has already been stressed (Garland 1983: 59). An approach such as the one presented here – that takes into account the forms-of-classification-Durkheim, as well as the collective-conscience-Durkheim - enables relating these processes to those of domination between groups.

The question the Durkheimian approach usually neglects, however, is the political implications of symbolic systems, especially affecting the legitimation of differences and hierarchies which are established between groups, as well as between their practices (Fernández 2005: 11-12). The triple functionality of symbolic systems –knowledge, communication, and social differentiation- makes them instruments which communicate a determinate knowledge about the social. Through the consent they generate (due to the

adjustment between mental and social structures), they naturalise (arbitrary and historically contingent) social relations, concealing the class struggles which underlie existing social order, and who benefits from them. This is where Bourdieu brings Marx in for understanding the reproduction of relations of domination (Bourdieu [1977]: 79-80).

For a better understanding of the genesis and dynamics of these struggles, the bureaucratic field and the orientation of actor's situated actions will be explained below, employing Weber. This author is useful for questions of legitimacy, too. The misrecognition which facilitates the recognition¹¹ of the relations of domination legitimates them, and allows for analysing the contribution made by the dominated to their own domination beyond an issue of mere ignorance (Bourdieu [1977]: 80). This strengthens relations of domination like the ones the political economy of punishment analyse in capitalist societies.

The fundamental notion here is that of *symbolic power*: power exerted based on the naturalization that relations of domination undergo because of the homology between symbolic schemas and social structures. That is, the power of imposing categories as legitimate, without this imposition being perceived. Symbolic power is productive.

Consequently, despite sharing similarities with the concept of ideology, symbolic power enables capitalist relations of domination to not only conceal the nature of those relations, but also produce them. The symbolic system which makes them possible is not a mere addition to these relations: it is part of them. Using this conceptual framework, the effect of misrecognition is not elaborated by the ruling classes to deceive the dominated people, but the effect of people applying mental categories, which are the product of social structures, to the perception of those very same structures, that thus appear evident. This consistency generates a doxic relation with the world (concept of Husserl's phenomenology), which is precisely where its strength comes from (Bourdieu and Wacquant 1992: 167-9).

Despite this, this domination is not the mechanical effect of objective conditions, but involves an active interpretation of the situation by actors. As explained below, this interpretation is based on habitus and in specific social spaces (fields). Besides, Bourdieu defends that there are conflicts and struggles around symbolic processes of nomination and social categorization, since different social groups make efforts to define the world in a way that better fits their interests. Class struggle is also classification struggle (Bourdieu [1982]: 105; [1977]: 80; Bourdieu and Wacquant 1992: 14). Even if the homology between mental and social structures may make it seem impossible for the existence of discrepancies or social change, it is necessary to remember that symbolic frameworks are ‘matrices’ or ‘schemas’, in which not everything is determined, even though it is conditioned. Precisely habitus, as a practice generator schema, allows for the needed innovation when facing discrepancies between the different visions of the world that different positions in the field or the accumulation of capitals entail. It also helps facing differences between expectations and concrete situations. It also means results are not necessary or prearranged. They are contingent, meaning they could have been different.

Bourdieu speaks of symbolic violence to refer to the type of violence exerted in this way, consisting in naturalising matters which are the arbitrary result of relations of domination rooted in the unequal distributions of capitals throughout society. It is a form of violence not perceived as such, and this inability to account for its sources (a misrecognition) adds up to the relations of domination and constitutes a power in itself. It is the effect of symbolic power.

Nomination is important, especially the language employed, because ‘By structuring the perception which social agents have of the social world, the act of naming helps to establish the structure of this world (Bourdieu [1982]: 105).’ But the question coming next is: who does nominate? Specifically, who does nominate legitimately? Bourdieu states that one of the

conditions for locating the principle of a message's symbolic efficacy is "the relationship between the properties of discourses, the properties of the person who pronounces them and the properties of the institution which authorizes him to pronounce them" (Bourdieu [1982]:111; [2001]). If the message is sent with an appropriate discourse, by an authorized agent, and with sufficient symbolic backing, the message is considered legitimate, in a process in which delegation games are key. This does not mean it is automatically accepted, but its chances of acceptance increase. The answer he gives to the question, for our societies, is that it is 'the State' (the bureaucratic field) that has more chance to get effecting nominations to be perceived as legitimate (from being a 'criminal' or a 'doctor', whatever you are called) (Bourdieu [1993]: 9; [2012]: 165-9; Bourdieu and Wacquant 1993: 39).

Therefore, punishment forms an institution of first importance in producing and differentiating social categories. On the one hand, since it comes from the state, the differentiation it produces is imposed with greater legitimacy. On the other hand, the fact that this differentiation comes from a state institution linked with the fight against crime displaces the political character of domination to the more aseptic terrain of legality, consequently, concealing its arbitrary nature even more, making it less recognizable and, therefore, more effective.

Nevertheless, this differentiation is not only symbolic: 'the prison symbolizes material divisions and materializes relations of symbolic power' (Wacquant 2009: xvi). It is not about separating the material and the symbolic aspects, but about understanding that both operate together, intertwined, supporting each other, and are often processes which can only be separated in analytical terms. The challenge is, in each process, to identify material and symbolic components and effects operating at the same time. Consequently, domination cannot be reduced to legitimation or nomination (as the use of police and prison clearly

shows), but they are key for understanding how arbitrariness becomes naturalized (Vázquez García 2002: 91).

Police and police officers are specially pertinent objects for seeing how symbolic violence works in punishment. Loader (1997) points to the existence of dispositions orienting people to relate in a certain way with police, including the tendency to think of police as a good solution whenever there is a crime problem. The influence in the perception of people is also acknowledged, mainly through the use of symbols. Thus, a way of studying the symbolic effects of punishment is open, without needing to resort to non-punitive institutions. For example, and recognizing the important influence of media in the construction of migrants as dangerous subjects, the very effects of police action should be taken into account when they regularly conduct racist identity checks or stop-and-search practices (a material action not accompanied by discourse to the eyes of the beholder). For a better understanding on the effects this has in social categorization and in people's dispositions, it suffices to think what would be the effect of seeing uniformed police entering and searching Wall Street offices regularly.

Following this line of argument punishment should stop being seen as a dependent variable of the productive system and be restored in all its importance. Studying reciprocal relations between both is necessary (not to imply that they are always equally reciprocal), and it may also be pertinent to look at other institutional frameworks which condition both (Sutton 2004: 172; Greenberg 1981: 242). So, here, like in the next section, Bourdieu's work is shown to permit a fruitful approach to the role of the State.

Bringing some autonomy to the State: the bureaucratic field

The state has a central importance for punishment (even when taking into account Braithwaite 2004). It is important to see it as something other than a tool at the service of the ruling class. Besides being an over-simplification, this supposes taking (some of) the results of state action as its *raison d'être*, and disincentives analysing its inner dynamics, since it is

only important as far as it contributes to the accumulation of capital. Hence specific institutional conditionings (Lacey 2008; Barker 2009) and, at least equally important, the relations and struggles which determine the concrete influence of those institutional arrangements (Cavadino and Dignan 2011; Page 2013) are overlooked. Acknowledging that the state is fundamental for the unification and homogenization of a territory needed for the functioning of the market is important, it needs to be taken into account that different institutional arrangements mean that there are differences in forms and degrees, and in timescales and even that there are state actions that are not directly related to capitalist processes (and there may also be some aspects of penalty.)

Criminology, in general terms, has not developed a concept of state, and in critical criminology classic texts sometimes do not even mention it (Neocleous 2000: xi). This is odd because, due to the nature of penalty in contemporary societies, it is practically impossible to study any aspect of it and not find the state (in the definition of the illegal, in the police, prisons, courts, etc.). It may well be that this omission is a symbolic effect of State's own role¹². Notwithstanding, it seems this tendency can change (see Cavadino and Dignan 2006; Lacey 2008; Barker 2009; Garland 2013).

Talking of the state, and giving a central importance in the theory to it, does not mean saying that the State is the cause of everything, nor using it as an analytical shortcut instead of reconstructing causal chains, as some Marxist approaches tend to do (Melossi 1989: 319). In order to understand the role of the State better, it is convenient to substitute it for the concept of 'bureaucratic field'¹³, and to place it within the field of power, a metafield in which different dominant groups in their respective fields –due to their accumulation of the different capitals- struggle to increase the value of their capitals. It is a space in which hierarchies and relations of domination amongst the different fields are disputed (Bourdieu [2012]: 197, 311; Bourdieu and Wacquant 1993: 42). In those fights, the bureaucratic field is of particular

importance, since it has an enormous influence on the value of different types of capitals and on their conversion rates.

Using this notion has the advantage of avoiding a view of the state which interprets it as a power tool at the service of *the* ruling class, and understanding the state as a space of struggles in which different groups and logics try to impose themselves on each other to gain control of public capital and its associated power. In order to, in turn, influence state action and the distribution of public resources in accordance with their material and symbolic interests. It is important to understand that conflicts exist between dominants around imposing different forms of power (not all of them economic). They do not act as a block or in the same direction because they do not have the same specific interests, and therefore it is not appropriate to assume that these conflicts end up benefiting their class interest as a group¹⁴.

The bureaucratic field is a structured space defined by objective positions, which are defined by the different capitals people hold. It has been pointed out that two fundamental axis of struggle and alliance formation exist inside the bureaucratic field (Wacquant 2009: 289-290). There is a division amongst the members of this field between bureaucrats linked to the civil service and those more directly linked to elected political positions ('the high nobility of the state'). There is another division between the right hand and the left hand of the state, through a fundamental division of policies. At the same time, each of these blocks are crossed by inner struggles (for instance, between police officers).

To put it differently, relations of domination resulting from state action are usually the indirect effect of a whole network of actions of individuals which interact within the field. At the same time, the bureaucratic field, as a field, relates to other fields. This influences its functioning and its results. Fields are not impermeable to the influence of other spheres in

society, and they are not fully dependent on them either (they filter and transform them). They have a relative autonomy (which implies a relative dependency) that varies over time. This is dependent, to a great extent, on the capacity of the field for generating a specific type of capital (Bourdieu [1986]: 823; Lenoir 2004: 123).

Thus, it must be taken into account that the bureaucratic field is crossed by: group and individual struggles aiming to gain state power, those struggles of people who are in the field (lawyers and bureaucrats, for example), their interests, as well as by the field's own logic. For instance, in the bureaucratic field, the denial of particular interests in benefit of universal interests, even if that is itself a 'strategy' through which particular interests are carried out (Bourdieu [2012]: 342-3). This influences the materiality of the struggles, but also their justification, representation and, therefore, the form struggles take (i.e. debates between lawyers are not mere ideological discussions). Here, besides Marx's conflictual perspective, Bourdieu ([1977]: 81-2) brings in Weber's work on the sociology of religion, and the orientation of agent's actions according to the sense they make. Thus trying to move away from structural logic which reduces people to the reproduction of structures and Law to the reflection of ruling class' interests¹⁵.

The state, according to Bourdieu (1993: 41-2), ensues from a process of concentration of diverse capitals, resulting in the apparition of a juridical capital which allows the objectivation and codification of symbolic capital. Hence, turning back to Durkheim, a certain vision of the world can be imposed, as well as demarcations of social categories. To some extent, the State is a 'fiction', and exists only through the representation lawyers make of it through juridical regulation, and as a result of the constitution of a bureaucratic field around the juridical capital (Bourdieu [2012]: 25). Furthermore, and of special relevance for punishment, it allows the emergence of a system of justice administration which can employ

physical violence, as well as symbolic violence (Bourdieu [1993]: 3-5; 8-11). That is, this approach enables an understanding of state action using two completely intertwined facets: the material and the symbolic. Official nominations –typical of the running of the penal system (see Garfinkel 1956) - have the capacity to act over people’s cognitive order, exerting a symbolic effect to appear disconnected from struggles –*in* the State and *for* the State- which give rise to the legislations and functionings of the penal system. These nominations, and their effects, go beyond penalty (as the works on ‘dangerous classes’ clearly show), and have causal influences, for example, in the labour market.

In this way, attention can be paid to the internal complexity of the state and the different logics running through it. Methodologically, an inversion of the usual approach in the political economy of punishment is enabled: it goes from stressing its function and, later, discursively nuancing its complexity¹⁶ to departing from the complexity of relations using the concept of field and, only later, affirming its diverse functions, referring them to specific episodes, conflicts, and policies. In addition, this approach makes more pressing claims for the empirical and historically specified study of state processes since its importance is more acknowledged than its functions.

For instance, in *Prisons of poverty* (Wacquant [1999]), relations between different fields, and their autonomy, play a central role in the book’s mode of analysis. In general, it is shown how, under neoliberalism, the economic field notably influences the other fields taken into account (the bureaucratic, the journalistic, the academic) acting as a gravitational axis. Specifically, the way in which certain agents of the academic field resort to the accumulation of a capital which is not specific to their field (like scientific capital) as a means of improving their position within the field (obtaining, for instance, symbolic capital awarded by their participation in the journalistic field –*in* the media). How the resulting studies are used in the bureaucratic fields in order to legitimate certain policies is just one among many examples in the book.

Thus, a complex situation is presented in which the criminalization of poverty results, not only from multiple interactions within the academic field, but also from its interaction with other fields.

Furthermore, the concrete implementation of penal and social policies belongs to different agents with different interests (since they occupy different positions in the field –more related to bureaucracy, or more related to middle classes), who are able to carry out diversions from the measures planned.

It has been claimed that the State should be abandoned as an explicative variable in the study of social control, and that discursive chains of vocabularies of motives should be placed at the centre (Young 1983; Melossi 1985: 204; 1990: 231). Here the State is not understood to be the cause of anything –it is not a subject. The bureaucratic field is a space of struggles, and an object of struggles, and a tool by which those struggles are regulated¹⁷. The difference here relates to not placing so much emphasis on the effectiveness of the discursive (that would bring us back to the distinction between the material and the ideological). The emphasis moves to embodied dispositions, onto bodies and categories of perception and thought. We mostly think and feel through the state, naturalizing its ways of working and the need for it (through official language, its measures, numbers, calendars, etc.). (Bourdieu [1986]: 837-40; [2012]: 156-61; Bourdieu and Wacquant 1993: 40-1).

Lastly, the notion of ‘bureaucratic field’ is also useful for highlighting that decisions taken in the state (and in the field of power) are not the decision of a person. They are rather the result of thousands of decisions that are not guided by the rational calculus for maximizing capitals, but by practical choices (Bourdieu [1993]: 100; Bourdieu and Wacquant 1993: 31). These practical choices are guided by ‘habitus’.

Bringing people with dispositions to the analysis: habitus

Within the political economy of punishment, in a problem shared by social sciences in general, a theory binding structuralist approaches to those which focus on agency has been called for, so as to be able to understand the processes by which the social is constituted, works and changes (Humphries and Greenberg, 1981: 212-13). *Habitus* is an important concept in Bourdieu's persistent effort for overcoming scholarly oppositions between structuralism and subjectivism, and between macro and micro analyses. At the same time, or precisely as a way of doing it, it gives clues about how social conditionings operate through actors' actions, and not as external factors which are imposed on them. So, it encourages scholars to stop seeing the opposition between agency and structure, and commits them to seeing both as manifestations of the social (which is, the relational that is historically formed). This duality of the social, manifested in both objective positions (fields) and in subjective dispositions (habitus), allows the levels of analysis to be linked (see Bourdieu [1997], ch. 4).

Habitus is formed by conditionings associated with certain conditions of existence ('conditioning' implies that it both makes possible and impossible, positively and negatively, except if one was to depart from a free will anthropology, something naïve in social sciences). They are 'structured structures predisposed to function as structuring structures, that is, as principles which generate and organize practices and representations' (Bourdieu [1980]: 53). It is habitus from which we interpret and feel the world, and from which we develop corporal predispositions and lines of action, that we tend to see as reasonable (what 'makes sense' is conditioned by the social position occupied, not by a decontextualized reasoning). By intimately interlinking ways of acting, thinking and feeling (Durkheim) with social positions, also defined relationally and historically, actions are allowed to be made intelligible 'without explaining them from individual psychological motives nor deriving them from unconscious structural laws' (Vázquez García 2002: 63)¹⁸. The possibility of

conscious, reflexive practices is not excluded, however it is remembered that this deliberation is not made in a vacuum, but inserted in social situations. It is also taken into account, besides, that most of everyday doings are not explicitly reflective, and they work on a state previous to conscience, which is that of dispositions –generated in some specific social conditions.

Talking of habitus does not mean explaining all conducts according to social positions in what would be an automatic application of those schemes, as this would mean little more than pure social reproduction (Bourdieu [1997]: 149). As a matter of fact, the concept is developed in Bourdieu's empirical work precisely for explaining change (Wacquant 2014b: 5). In addition, the relational logic of fields, and the constant negotiation of positions, force habitus to work from previous states of the field which do not necessarily correspond with the current one, creating a lag, in what it is known as 'hysteresis' (Bourdieu [1997]: 160). This requires active interpretation, and constant invention of actions and interpretations. Now, of course, these do not come out of nowhere, or from actor's pure conscience. They tend to be made based on previous experiences in specific social situations, so that the role of habitus has more to do with making the perception of particular lines of action possible. Precisely because of this, habitus must be connected to fields –which determine social position through the distribution of capitals and their process of accumulation. Furthermore, habitus tend to get activated when they are appealed to by fields; they are stirred by existing interests in the fields' dynamics and rules, which is also where they get formed (Bourdieu [1997]: 135). Bourdieu establishes in this way something like a reciprocal causality between social structures and the actions of individuals.

Thus, habitus works differently in different fields, since it is not rigid, but adaptable, and it is modified through time. Besides, people usually have different habitus which overlap.

Bourdieu used to distinguish between primary habitus –related to family origins, with a

greater weight and a longer and more subtle formation over time- and secondary habitus – acquired later through specific and explicit training-, giving way to a progressive coupling between different acquired habitus (Wacquant 2014b: 7). For example, a habitus developed in the juridical field through training and practice does not work the same in people coming from different backgrounds. This recalls the need for studying trajectories and the set of relations in which actors are located in order to understand how their relations and attitudes towards the penal system are built.

Placing perceptions, problematizations, solutions and actions in a specific context, enables the peculiar nature of penalty to be taken into account: as functioning through its agents, alongside its specific norms of functioning as a field. This calls for nuancing approaches like those which see judges as little more than a prolongation of the ruling class, sanctioning and ideologically reinforcing the interests of other class fractions. Putting the aforementioned characteristics of habitus into play, the functioning of penal systems can be presented in its complexity.

For instance, it can be seen that judges' interests do not respond to a conscious class interest, by understanding their behaviours in relation to the dispositions acquired throughout their professional socialization (a determinate relation towards law, a perception strongly marked by the juridical frame) and in relation to their specific position within the juridical field (in relation to other positions in the field: judges belonging to opposite tendencies within the judiciary, judges willing prove that they deserve higher posts, judges with a strong belief in the principles of law, etc.).

In addition, habitus has a strong corporal dimension. It has to do with the way we sit down, walk, eat or wear a suit (the difference in how a suit suits an ex-prisoner and a lawyer cannot be reduced economics). Body expression of social conditionings is important, and existing

differentiations can be very upsetting for agents, and can be interpreted as personal, or even institutional, lacks of respect (i.e. the body behaviour while waiting in a trial, and the spontaneity with which some develop it, and the real challenge, with important consequences, that it is for others). Knowing how to nod, how to be in a corporal disposition of listening - summing up, knowing how to behave with police officers or judges, for instance- is important for the interactions within the penal system, and taking this into account, therefore, it is important for studying them.

This corporal dimension (sometimes taken as 'lack of respect' due to the effect of symbolic power) constitutes another difference regarding the concept of ideology, for which domination processes usually refer to processes of the conscience (Bourdieu [1997]: 142). Bringing in the concept of *doxa* is fundamental for exploring relations of domination far beyond conscience and representations, since they often arise from just 'being in the world'. Otherwise, knowing what sexism is would be enough to stop being sexist, or repudiating capitalism to stop being capitalist.

The enormous contribution that has been made by studies working on specifying disciplinary techniques of the body cannot be neglected. Especially, the inculcation of ways of acting and thinking they entail, producing 'working class', or bodies ready for exploitation (see Simon 2013). The difference here has to do with the concept of discipline presupposing an externality working over the body, the individual and producing **it as such** (despite the fact that, later, the subject develops it as a self-subjectivity). The concept of habitus, with its corporal dimension, puts the emphasis on the corporal dispositions arising from the individual's social position. The effect of 'auxiliary institutions' (Melossi 1990: 236) is not assumed, but a silent adaptation between positions and dispositions, more the fruit of symbolic violence rather than of physical violence, of that explicit 'training' (Bourdieu and Wacquant 1993: 34). Talking of symbolic domination makes resistances more difficult¹⁹.

This point, like others throughout the text, leaves the door open to the issue of theoretical preference for choosing concepts that, saying similar things, differ in nuances. Bourdieu's concepts were not created thinking of prisons, or the 'Big confinement', but in the education system and the cultural field, etc. Thus, the possibility that both processes of body formation can exist and that in concrete historical episodes –for instance, the process of primitive accumulation described by Thompson (1975), or by Melossi and Pavarini [1977] - disciplinary imposition from the outside can hardly be questioned. Where the focus is on wider social functionings, this is more problematic. Even, if one assumes with Durkheim ([1925]: 150) that punishment is more directed towards those not being punished than to those being so, and that, despite mass imprisonment, people directly targeted by punitive institutions are still a huge minority, other ways for enquiring into relations with the body in the studies of punishment are open.

Using the concept of habitus could be a strategy for developing qualitative studies within the political economy of punishment, since it avoids presenting subjects as beings choosing freely out of the structural conditions of capitalism, and alien to any relation of power or domination. At the same time, framing its development in a field of objective positions (that usually calls for a quantitative approach) can account for the capitalist dynamics showing up in actions (also for the non-capitalist dynamics and their articulation with them). It can also point to how these dynamics influence the transformation or maintenance of actions and institutions (for example, with the maladjustment of rural habitus in factories, estrangements, etc.). This can explain how exploited classes adapt to the dynamics of capitalism without recurring to the existence of constant external disciplining and ideologization of social relations. (There is no wish to deny that this does exist –above all in concrete episodes.)

Turning to symbolic power, homology between objective and subjective structures and their

activation in specific contexts can help to better understand why people do what they do -and why an explanation based on a group transmitting ideas to people can result insufficient – even in remarkably more sophisticated versions problematizing the existence of ‘democratic’ social (self) control exerted through images and vocabularies of motives which people identify as their own (see Melossi 1990: esp. 235-53). Habitus is also useful for quantitative approaches, since it advises against attributing reasons to individuals’ actions from correlations between variables.

Concluding remarks

This chapter is meant to be a positive proposal for thinking about and studying punishment. It has put the contributions and limitations of the political economy of punishment into dialogue with some of the analytical tools forged by Pierre Bourdieu, without intending a systematic catalogue of the complex debates running through them.

Bourdieu is not easy; neither is applying his theories directly to punishment. Still, the concepts presented here facilitate thinking about the political economy of punishment (as well as other approaches) and sketching new guides for research.

In concrete, the idea of the productive system as a determining causal factor has been questioned. On the one hand, because signalling an adaptation of people’s interests and actions and the ‘necessities’ of capitalism is insufficient and imprecise. On the other hand, the evident importance the economic field has over the rest of the fields is not a constant, but a variable which requires study (by looking at disputes existing in the metafield of power and placing them in specific times and places.) Besides, it does not seem to be a justified motive for prioritizing the material over the symbolic, fundamentally because the material is

symbolic, and the symbolic is material. If, in addition, a structuralist approach is to be abandoned, paying attention to dispositions and social categorizations –naturalized by power relations which are symbolic-, takes us to the issue of what to prioritize. This is particularly important if the aim is to conduct a social science in which people have some relevant role. Here, tools for not having to prioritize essentialistically have been provided –even though analytically the objectivistic moment precedes the subjectivist one (Bourdieu and Wacquant 1992: 11). The concept of habitus allows for capturing, and studying, the incorporation and setting in motion of social processes. Lastly, given the huge importance of the state in the material execution of punishment, but also in the symbolic construction of social relations (and not as a mere epiphenomenon), the pertinence of studying the bureaucratic field, in all its complexity, has been introduced. Thus, existing unequal social positions, struggles generated around the distribution and valorisation of capitals and fields, and their functioning through actions guided by habitus, can be taken into account.

Another positive element of Bourdieu's work is its integrative character, through some aspects of Marx, Durkheim, and Weber (some other notable influences have not been brought in). Methodologically, Bourdieu adopts a structuralist approach from Marx, in its relational sense (which is, things are defined by a process of differentiation with others). At the same time, from Weber he adopts the imperative to consider the subjective meaning and the orientation of actions –which are defined, precisely, through relations and differentiations. In order to explain these actions, he adopts Durkheim's emphasis on their dispositional character, and incorporates the fact that dispositions are shaped within relations of domination (Marx), and he can thus study the processes of legitimation of these relationships (Weber). Due to these legitimations, these relations of domination become part of the moral order (Durkheim), they stop being perceived as violent and people develop them with a naturalness that makes them feel personal.

Coming back to punishment, this approach allows for realizing how certain expressions of moral indignation present in punitive processes are not dissociated from relations of domination. Also, how these relations of domination (more varied than the purely economic) come to be perceived as something natural and legitimate, since they concur with dispositions shaped in a social space. At the same time, orienting actions according to moral beliefs considered legitimate regarding what needs to be punished, and how, has an impact on those relations of domination. Since actions are always grounded in ever changing contexts, and conflict is at the base of differentiations, values, as well as their legitimations, are always in dispute. Neither relations of domination, nor legitimations, nor moral orders are eternal or complete. Neither dispositions, nor actions, nor inequalities are static or closed. All are social processes always open to relations and history, and so is punishment.

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² A contemporary example, with direct repercussions also in the political arena, can be seen in Western and Beckett 1999. This use of exogenous mechanisms to modify supply in the labour market and, thus, its cost, can also be applied to social policies. See Piven and Cloward 1971.

³ At least in studies aiming to account for broad aspects of punishment. This is different from some aspects of penalty in which it may not be relevant to pay attention to their relation with the productive system, since the degree of dependency is variable. In the same fashion, that this relationship exists does not mean that it has a centrality in the process studied, something which has to be determined in each single study according to the specificities of it.

⁴ As an example of some of the points mentioned above, Humphries and Greenberg (1981: 242) say that 'Capitalism provides the class experience from which ideologies of control are developed', even if in the same page they acknowledge these distinctions are complicated and that we should advocate for 'joint or reciprocal determination, rather than unidirectional causality' (it is not said how). Another example is Reiman's 'pyrrhic theory' ([1979]), where he claims that he incorporates the ideological function of punishment through the works of Durkheim and Erikson. Nevertheless, he makes a rather functionalist reading of these authors (more than what they already are) and provides this functionality with a clear intentionality on the part of rich people, submitting again the symbolic to the material as a means to ensure its stability and reproduction.

⁵ The differentiation between 'the social' and 'the economic' is a problematic issue and it exceeds the purposes of this chapter. A study on the constitution of the economic as a separated sphere from the social can be found in Polanyi 1944.

⁶ Despite acknowledging more nuanced views which point out Law does not reflect the interests of the ruling classes solely (Greenberg 1981: 212).

⁷ Some remarkable examples of using Bourdieu for penal questions are Lenoir [1993], Loader 1997, Wacquant [1999]; 2009; and esp. 2014a; Page 2011; Hathazy 2016. The intention here is insisting on the idea and showing, by a direct dialogue with the political economy of punishment, what advantages can bring in adopting Bourdieusian concepts.

⁸ "Theories" are research programs that call not for "theoretical debate" but for a practical utilization that either refutes or generalizes them or, better, specifies and differentiates their claim to generality' (Bourdieu and Wacquant 1992: 77).

⁹ A fair criticism of Bourdieu can be found in Alonso et al. 2004; Calhoun et al. 1993; Corcuff [2007]: 52-60.

¹⁰ As it was explained it was done with the determinant of the penal system –by locating them outside of it, in the productive system. It is not denied here non-punitive institutions have influences on punishment –something fully logic in the conception of punishment as social institution- but that, in addition, it would be pertinent taking into account the properly symbolic effects punishment produces. Also, it is acknowledged that media or political discourse are part of penalty, or punishment in its broader sense, but here it is meant the act of punishing itself, or of institutions directly in charge of punishment.

¹¹ Bourdieu's writing is full of word games which are as useful and specific as hard to translate, especially into non-Romance languages. See the translator's note for Bourdieu and Passeron [1970]: xxvi.

¹² It is interesting to note the peripheral role the state plays in the translation of the classics of sociology into the sociology of punishment. Many times it gets lost inside 'processes of rationalization', 'civilizing processes', 'representations of the collective conscience', or the 'rise of the disciplines', when it could be read as the historical rise of the modern state and of its influences in the punitive forms (see, for instance, Garland, 1990).

¹³ On of Bourdieu's attempts, always unfinished, of thinking the state without the very categories that the state produces passes, precisely, for trying not to use its vocabularies and representations, paying attention to Kelsen's warnings (Bourdieu [2012]: 108). The use of 'bureaucratic field' is a proposal for being able to define the state sociologically. With a similar preoccupation, but within the tradition of the political economy of punishment, see Melossi 1990: 16-20, 102-106.

¹⁴ This view helps to explain better what Garland (2001: 111-13) calls 'structured ambivalence of the State'. Without denying the existence of ambivalences, by dynamiting the concept of State and spotting different groups and logics, state action becomes more comprehensible (Wacquant 2009: 300).

¹⁵ Acknowledging the existence of struggles inside the State, or surrounding the State, is not alien to the Marxist tradition, with an important influence of Poulantzas' work (amongst others, Humphries and Greenberg, 1981). Nevertheless, the differences in the approach are some: Bourdieu acknowledges the existence of conflictual axes beyond the economic ones; he does not consider the objective existence of groups determined by their position in the productive system, but group making requires a symbolic dimension which is in itself a matter of struggles; it highlights the existence of autonomy within the bureaucratic field, with genuine interests by the bureaucrats; and it contributes with an explanation of social functioning which brings people back –through the habitus-, in opposition to more structuralist approaches.

In this line, even if not applied directly to punishment, Jessop's approach is especially interesting. It combines Luhmann's idea of system, Poulantzas' balances of political powers and Gramsci's concept of hegemony. See Jessop (2002) and Boyer (2004). A proposal for its use in the study of punishment, precisely as a way for reformulating the political economy of punishment, can be seen in De Giorgi 2013: 53.

¹⁶ This is, probably, the main methodological criticism which can be raised against Wacquant (2009) in his application of the Bourdieusian theoretical framework to the study of punishment, although it can be taken into

account that it belongs to a wider research project, and not that much of penalty itself (see Wacquant, 2014a). Hence its weaknesses, but also its strengths.

¹⁷ The bureaucratic field is explained here due to the peculiar relationships the political economy of punishment establishes between the economic and the penal fields. Notwithstanding, the penal fields (Page 2013) or the penitentiary (sub)field (Hathazy 2016) can be studied, depending on the approach and interests of the research.

¹⁸ Actions, by their insertion in the field –which is a space of struggles-, can be understood as strategies.

Strategies are actions carried out that, without being fully conscious, give actions a purpose, in keeping with perception schemas, that is not unconnected with social positions. Bourdieu here, again, tries to bring together the Weberian orientation and sense of actions with a Durkheimian dispositional model together with the Marxist teaching on the differentiated and unequal organization of societies.

¹⁹ It is interesting to discuss this idea with the production of pleasures that Foucault ([2004]) speaks of, and of its links with the pastoral power.