

‘Suitable enemies’

Foreigners and immigrants in the prisons of Europe

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In 1989, for the first time in history, the majority of the population consigned to prisons in the United States was black. As a result of the decade-long ‘War on Drugs’ waged by the federal government as part of a broad ‘law and order’ policy, the incarceration rate of African-Americans doubled in a short 10 years,¹ rising from 3544 inmates per 100,000 adults in 1985 to 6926 per 100,000 in 1995, which is nearly seven times the rate of their white compatriots (919 per 100,000) and over 20 times the rates posted by France, England, or Italy. If persons sentenced to probation or released on parole are taken into account, it turns out that more than one of every three young black men (and close to two in three in the big cities of the Rust Belt) find themselves under the supervision of the criminal justice system. This makes prison and its extensions the public service to which they have readiest access, well ahead of higher education or unemployment benefits. Based on the figures for 1991, the statisticians of the Department of Justice have computed that, over a lifetime, the cumulative probability that a black American has of being sent to prison (i.e. being sentenced to over a year of detention) exceeds 28 percent, compared to 16 percent for a Latino and 4.4 percent for a white man (Bonczar and Beck, 1997: 1).²

If blacks have become the foremost ‘clients’ of the penitentiary system of the United States, it is not on account of some special propensity that this community would have for crime and deviance. It is because it stands at the point of intersection of three systems of forces that, together, determine and feed the unprecedented regime of carceral hyperinflation that America has experienced for the past quarter century following the denunciation of the Fordist–Keynesian social compact and the contestation of the caste regime by the Civil Rights Movement. These three forces are:

- the dualization of the labor market and the generalization of precarious employment and un(der)employment at its lower end;
- the dismantling of public assistance programs for the most vulnerable members of society (itself necessitated by the onset of desocialized wage-labor); and
- the crisis of the ghetto as instrument of control and confinement of a stigmatized

population considered alien to the national body and supernumerary on both economic and political grounds (Wacquant, 1998a, 1998b).

This leads one to think that, *extreme* though it may be, the carceral trajectory of blacks in the United States could be less idiosyncratic than the catch-all theory of 'American exceptionalism' would have one believe. One can even hypothesize that, the same causes producing the same effects, there is every chance that the societies of Western Europe will generate *analogous*, albeit less pronounced, situations to the extent that they, too, embark on the path of the penal management of poverty and inequality, and ask their prison system not only to curb crime but also to regulate the lower segments of the labor market and to hold at bay populations judged to be disreputable, derelict, and unwanted. From this point of view, *foreigners and quasi-foreigners would be 'the blacks' of Europe*.

In point of fact, most of the countries of the European Union have witnessed a significant increase in their prison population, coinciding with the onset of the era of mass unemployment and the flexibilization of labor: between 1983 and 1995, the number of prisoners rose from 43,000 to 55,000 in England, from 39,000 to 53,000 in France, from 41,000 to 50,000 in Italy, from 14,000 to 40,000 in Spain, and from 4000 to nearly 10,000 in Holland and 7000 in Greece (Tournier, forthcoming).³ Despite periodic recourse to mass pardons (for example, in France on Bastille Day every year since 1991) and waves of early releases that have become commonplace (in Italy, Spain, Belgium, and Portugal), the continent's stock of prisoners has continued to swell and penitentiaries everywhere are overflowing with inmates. But, above all, throughout Europe, it is foreigners, so-called 'second-generation' immigrants – who precisely are not immigrants – of non-Western extraction and persons of color, who are known to figure among the most vulnerable categories both on the labor market and vis-a-vis the public assistance sector of the state, owing to their lower class distribution and to the multiple discriminations they suffer, who are massively over-represented within the imprisoned population, and this is to a degree comparable, nay in some places superior, to the 'racial disproportionality' that afflicts blacks in the United States (cf. Table 1).⁴

Thus it is that, in England, where the question of so-called 'street' crime tends to be confounded, in public perception as well as in the practices of the police, with the visible presence and demands of subjects of the Empire come from the Caribbean, blacks are seven times more likely to be incarcerated than their white or Asian counterparts (and West Indian women 10 times as likely). In 1993, persons of West Indian, Guyanese, and African ancestry made up 11 percent of all prisoners, while they represent a mere 1.8 percent of the country's population ages 18 to 39. This over-representation is especially flagrant among prisoners 'put away' for possession or distribution of drugs, of whom more than half are black, and among those in for burglary, where the proportion approaches two-thirds (Smith, 1997; also Cashmore and McLaughlin, 1991; Smith, 1993).

A similar phenomenon can be observed in Germany. In Northern Rhineland, for example, the 'Gypsies' originating from Romania sport incarceration rates more than 20 times greater than do native citizens; for Moroccans, the figure is eight times, and, for Turks, between three and four times. And the proportion of foreigners among those awaiting trial in detention has risen from one-third in 1989 to one-half five years later. Indeed, in the *Land* of Hessen, the number of foreign prisoners has grown each year

since 1987, whereas the number of nationals in detention fell each year. As for this swelling of the number of non-nationals behind bars, it is almost entirely because of infractions of the drug laws (Albrecht, 1995). In The Netherlands, whose prison population has tripled in 15 years and comprised 43 percent foreigners in 1993, the probability of being sanctioned with an unsuspended prison sentence is systematically higher for even the same first offense when the person convicted is of Surinamese or Moroccan origin (Junger-Tas, 1995).

• **Table 1. Foreigners in the prison population of the European Union in 1997**

COUNTRY	FOREIGN PRISONERS	PROPORTION OF TOTAL (%)
Germany	25,000	34
France	14,200	26
Italy	10,900	22
Spain	7700	18
England	4800	8*
Belgium	3200	38
Netherlands	3700	32
Greece	2200	39
Austria	1900	27*
Portugal	1600	11
Sweden	1100	26*
Denmark	450	14

Note: *Estimate.

Source: Pierre Tournier, *Statistique pénale annuelle du Conseil de l'Europe, Enquête 1997*, Strasbourg, 1999 (forthcoming).

In France, the share of foreigners in the prison population has gone from 18 percent in 1975 to 29 percent 20 years later (whereas foreigners make up only 6 percent of the country's population), a figure that does not take account of the pronounced 'carceral over-consumption' of nationals perceived and treated as foreigners by the police and judicial apparatus, such as the youth born to North African immigrants or come from France's predominantly black overseas dominions and territories. This is tantamount to saying that the cells of France have grown distinctly 'colored' these past years since two-thirds of the 15,000-odd foreign prisoners officially recorded in 1995 originated from North Africa (53 percent) and Sub-Saharan Africa (16 percent).

The 'ethnonational disproportionality' that afflicts residents from France's former colonies stems from the fact that, for the same offense, the courts more readily resort to imprisonment when the condemned does not possess French citizenship, suspended sentences and community sanctions being practically monopolized by nationals. The demographer Pierre Tournier has shown that, depending on the charges, the probability of being sentenced to prison is 1.8 to 2.4 times higher for a foreigner than for a Frenchman (all persons tried taken together, without regard to prior records). Next, the number of foreigners implicated in illegal immigration has rocketed from 7000 in 1976 to 44,000 in 1993. Now, three-quarters of those sanctioned for violating 'Article 19', relating to unlawful entry and residence, are thrown behind bars: of the 16

misdeemeanors most often tried before the courts, this is the one most frequently hit with an unsuspended prison sentence: it is, in effect, repressed as severely as a felony. Thus it turns out that, far from resulting from a hypothetical increase in their delinquency, as some xenophobic discourses would have it,⁵ the growing share of foreigners in the prison population of France is due *exclusively* to the tripling in 20 years of incarcerations for violations of immigration statutes. In point of fact, if prisoners sentenced for this administrative infringement are excluded from carceral statistics, the ratio of over-imprisonment of foreigners in relation to citizens in France drops from six to three. As in the case of blacks in the United States, aside from the fact – a qualification that cannot be overemphasized – that African-Americans have, on paper at any rate, been *citizens* of the Union for at least a century, the over-representation of foreigners in French prisons expresses not only their inferior class composition, but also, on the one hand, the greater severity of the penal institution towards them and, on the other, the ‘deliberate choice to repress illegal immigration by means of imprisonment’ (Tournier, 1996). We are indeed dealing here with what is first and foremost a *confinement of differentiation* or segregation, aiming to keep a group separate and to facilitate its subtraction from the societal body (it results more and more frequently in deportation and banishment from the national territory), as distinct from ‘confinement of authority’ or ‘confinement of safety’.⁶

To the foreigners and quasi-foreigners held in jails and prisons, often in tiers segregated according to ethnonational origin (as at La Santé in the heart of Paris, where inmates are distributed into four separate and hostile wards, ‘white’, ‘African’, ‘Arab’, and ‘rest of the world’), one must still add the thousands of immigrants without papers or awaiting deportation, especially by virtue of ‘double sentencing’,⁷ arbitrarily detained in those state-sponsored enclaves of non-existent rights, the ‘waiting areas’ and ‘retention centers’ that have proliferated in the past decade throughout the European Union. Like the camps for ‘undesirable foreigners’, ‘Spanish refugees’ and other ‘agitators’ created by Daladier in 1938, the 30-some centers presently in operation on French territory – there were less than a dozen 15 years ago – are so many prisons that do not speak their name. And for good reason: they do not belong to the prison administration, their inmates are held in violation of Article 66 of the French Constitution (which stipulates that ‘no one can be detained arbitrarily’), and conditions of confinement in them are typically in violation of both the law and basic standards of human dignity. This is the case, inter alia, at the infamous center of Arenq, near the Marseilles harbor station, where a dilapidated hangar built in 1917 and lacking in the minimum comfort necessary for human habitation serves to warehouse some 1500 foreigners deported each year to North Africa (Perrin-Martin, 1996).⁸

In Belgium, where the number of foreigners held in custody by the Office for foreigners increased ninefold between 1974 and 1994, persons consigned in the detention centers for foreigners ‘*en situation irrégulière*’ fall under the authority of the Ministry of the Interior (in charge of public order) and not of Justice. They are therefore omitted from the statistics on the penitentiary system (Brion, 1996). Five so-called closed centers, surrounded by a double row of barbed-wire fencing and under permanent video surveillance, serve as launching pads for the deportation of 15,000 foreigners each year. This is the official government target number given as express proof of the ‘realistic’ immigration policy currently being implemented with the supposed aim of cutting the ground out from under the far right which meanwhile prospers like never before

(Vanpaeschen, 1998). In Italy, deportation orders quintupled in only four years to peak at 57,000 in 1994, even though there is every indication that illegal immigration has subsided and that the great majority of foreigners who do not have proper papers entered the country legally to fill 'black market' jobs disdained by the native population (Palidda, 1996). This was implicitly recognized by the government of Massimo D'Alema when it increased by a factor of six the number of residence and work permits initially granted as part of the 'regularization' program launched in early winter 1998.

More generally, it is well documented that those judicial practices that are seemingly the most neutral and the most routine, beginning with preventative (remand) detention, tend systematically to disadvantage persons who are, or are perceived to be, of foreign origin. And '*la justice à quarante vitesses*', to borrow the revealing expression of the youth of the declining housing estates of Longwy,⁹ knows too well how to shift into high gear when it comes to arresting, prosecuting, and incarcerating the residents of stigmatized areas with a heavy concentration of the jobless and of families issued from the post-war labor migrations who settled into those neighborhoods now designated as 'sensitive' by official state jargon. Indeed, under the provisions of the Schengen and Maastricht treaties aiming to accelerate juridical integration so as to ensure the effective 'free circulation' of European citizens, immigration has been redefined by the signatory countries as a continental, and by implication, national matter of *security*, under the same heading as organized crime and terrorism, to which it has been grafted on the level of both discourse and administrative regulation.¹⁰ Thus it is that, throughout Europe, police, judicial, and penal practices converge at least in that they are applied with special diligence and severity to persons of non-European phenotype, who are easily spotted and made to bend to the police and juridical arbitrary, to the point that one may speak of a veritable process of *criminalization of immigrants* that tends, by its destructuring and criminogenic effects, to (co)produce the very phenomenon it is supposed to combat, in accord with the well-known mechanism of the 'self-fulfilling prophecy' (Merton, 1968). Its main impact is indeed to push its target populations deeper into clandestinity and illegality, and to encourage the durable structuring of specific networks of sociability and mutual help as well as of a parallel economy that escapes all state regulation, a result that is evidently well suited to justify in return the special attention given to these groups by the police services.¹¹

This process is powerfully reinforced and amplified by the media and by politicians of all stripes, eager to surf the xenophobic wave that has been sweeping across Europe since the neoliberal turn of the 1980s. Sincerely or cynically, directly or indirectly, but with ever more banality, they have succeeded in forging an amalgam of immigration, illegality, and criminality. Ceaselessly blacklisted, suspected in advance if not in principle, driven back to the margins of society and hounded by the authorities with unmatched zeal, the (non-European) foreigner mutates into a 'suitable enemy' – to use Nils Christie's (1986) expression – at once symbol of and target for all social anxieties, as are poor African-Americans in the major cities of the USA. Prison and the branding it effects thus actively participate in the fabrication of a European category of 'sub-whites'¹² tailor-made to legitimize a drift towards the penal management of poverty which, thanks to a halo effect, tends to apply to the ensemble of working-class strata undermined by mass joblessness and flexible labor, regardless of nationality.

On this account, imprisonment and the police and court treatment of foreigners,

immigrants, and assimilated categories (Arabs and ‘*beurs*’¹³ in France, West Indians in England, Turks and gypsies in Germany, Tunisians and Albanians in Italy, Africans in Belgium, Surinamese and Moroccans in Holland, etc.) constitute a veritable litmus test, a *shibboleth* for Europe (Bourdieu, 1998). Their evolution allows us to assess the degree to which the European Union resists or, on the contrary conforms to, the American policy of criminalization of poverty as a complement to the generalization of wage instability and social insecurity. Like the carceral fate of blacks in America, it gives a precious and prescient indication of the type of society and state that Europe is in the process of building.

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Notes

- 1 For a rigorous and in-depth analysis of the problem, cf. the two essential books by Michael Tonry (1995) and Jerome Miller (1997); for an analysis of the political determinants of the rise of ‘law and order’ during this period, see Katherine Beckett (1998).
- 2 More complete and updated data on this subject can be found in Marc Maurer (1997).
- 3 I thank Pierre Tournier for communicating these data to me in advance. For a more nuanced and in-depth analysis, see Kuhn (1998); Snacken et al. (1995); and the classic work of Nils Christie, *Crime Control as Industry: Towards Gulags, Western Style* (1994, 2nd expanded, edition, for which the author has revealingly dropped the question mark from the original title).
- 4 For an overview, Hans-Jorg Albrecht (1993). I link the rise in the imprisonment of foreigners to the ‘temptation’ of the penal management of poverty in Europe in *Les Prisons de la misère* (Paris: Editions Liber-Raisons d’agir, in press).
- 5 The most insidious of these are not the shrill and paranoid delusions of the representatives of the National Front during their electoral meetings, whose excessive and hate-filled tenor ‘republicans’ are unanimous in deploring, but the soft-spoken discourses that are held within the state apparatus, for example, in the National Assembly, courteously, between reasonable and respectable people, with all the juridical euphemisms and oratorical denegations that make for the charm and the force of official language (as shown by Charlotte Lessana, 1998).
- 6 According to the ideal–typical distinction introduced by Claude Faugeron (1995).
- 7 Translator’s note: the term, ‘*double peine*’, refers to the fact that foreigners can be and are frequently sanctioned twice by French law: first by imprisonment for the specific crime they committed and, second, by banishment from the national territory after they have served their prison sentence via administrative decree or judicial sanction (in violation of the European Convention on Human Rights).
- 8 For a comparison between France, the United Kingdom, and Germany, as well as

with the United States, see the issue of *Culture et conflits* (23, 1996), devoted to the theme: ‘Circuler, enfermer, éloigner: zones d’attente et centres de rétention des démocraties occidentales.’

- 9 Translator’s note: literally ‘justice with 40 gears,’ implying grossly unequal treatment at the hands of the criminal justice system for different social categories and infractions. Longwy is a formerly industrial town in the northeastern region of Lorraine plagued by high unemployment following the collapse of the steel industry in the 1970s.
- 10 Bigo (1992 and 1998), as well as the other articles in this issue of *Cultures et conflits* on the theme ‘Sécurité et immigration,’ notably Monica den Boer, ‘Crime et immigration dans l’Union européenne’ (pp. 101–24).
- 11 On this process of the criminalization of immigrants, see the comparative works assembled by Alessandro Dal Lago (1998); on the Dutch case, Engbersen (1997); and on the German case, Kubinke (1993).
- 12 The notion of ‘sub-white’ is borrowed from the sociologist Andrea Réa (who himself borrows it from the French rap band IAM), cf. Réa (1998).
- 13 Translator’s note: ‘*beur*’, a street slang (*verlan*) term for ‘*arabe*’, designates so-called second-generation North Africans, the French offspring of Algerian, Moroccan and Tunisian immigrants who came to France during the ‘30 glorious years’ of postwar economic growth.

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