POLITICS, POWER & RESISTANCE

WEEK 11: THE PUNISHING STATE
PROFESSOR ALANA LENTIN, CULTURE & SOCIETY

ACKNOWLEDGEMENT OF COUNTRY

Aboriginal and Torres Strait Islander people are advised that this lecture contains images and names of people who have died.

I am joining you today from the unceded lands of the Gadigal-Wangal people. I pay my respects to their elders past and present and extend respect to all Aboriginal and Torres Strait Islander peoples.

Today we are talking about the the multiple ways the state uses to punish and discipline people who are considered deviant in society. First and foremost in this continent, this affects the lives of Indigenous peoples - including children as young as 10 - who are imprisoned at a rate higher than any other peoples in the world. This has been ongoing since 1788.

Today, the numbers of people who are killed while in state custody continue to go up. We are hearing right now of the death in custody of Ms Veronica Nelson, the 37-year-old Yorta Yorta, Gunditjmara, Dja Dja Wurrung and Wiradjuri woman who died under horrific circumstances and due to neglect and lack of care from those charged with looking after her.

Rest in Peace and may her memory be a blessing.

OVERVIEW

- What is Prison Supposed to Do and Why?
- Discipline and Punish: the birth of the prison
- ‘Tough on Crime’
- Indigenous incarceration
- The Prison Industrial Complex
    - prison privatisation - a partial story
- Resistance: the campaign to ban spithoods

Today we are going to look at the role of state punishment - predominantly prisons - in society. We tend to accept that prisons are unfortunate perhaps, but necessary, because there are violent and disruptive people in society that need to be locked away for the greater good.

However, the stated purpose of prisons - reform - has not worked on the whole. Recidivism, or the likelihood of reoffending, increases after imprisonment, and the building of more and more prisons despite the reduction of violence in society, seems to imply that there is something else in play.

Prisons do not exist in isolation, but they affect whole networks of people. Not only this but, more and more, the prison is extended into society through a whole range of carceral methods that are used to discipline people in the home and in the community. What does this mean for the future of state punishment?

We will start with the question posed by scholar and activist from the US, Ruth Wilson Gilmore, in her famous book on the California prison system, the Golden Gulag, who asks What is Prison Supposed to Do and Why?

A key answer relates to the birth of industrialisation under capitalism, as we learned in Week 2. What is the link between the need of capitalism to create disciplined workers and the use of punishment to bring about that discipline? What is the link between the factory and the prison in the 18th and 19th centuries?

The French political thinker, Michel Foucault, who we encountered in Week 1, wrote influentially about the role of punishment in the modern state. We’ll look at his explanation of the birth of the prison.

How has the prison expanded? Why are we so concerned with crime and where does the feeling that we need prisons to keep us safe come from? We will trace this back to the ideology of ‘tough on crime’ which rely on the creation of moral panics about crime.

Zooming in on how prisons are a key mechanism of racism and ongoing colonialism, the next section will focus on the incarceration of Indigenous people, including an growing number of women and children. We looked briefly at the case of Ms Dhu in Week 9, but there are countless other cases. Of particular concern are the sheer numbers of deaths of Indigenous people in custody and the imprisonment of children as young as 10.

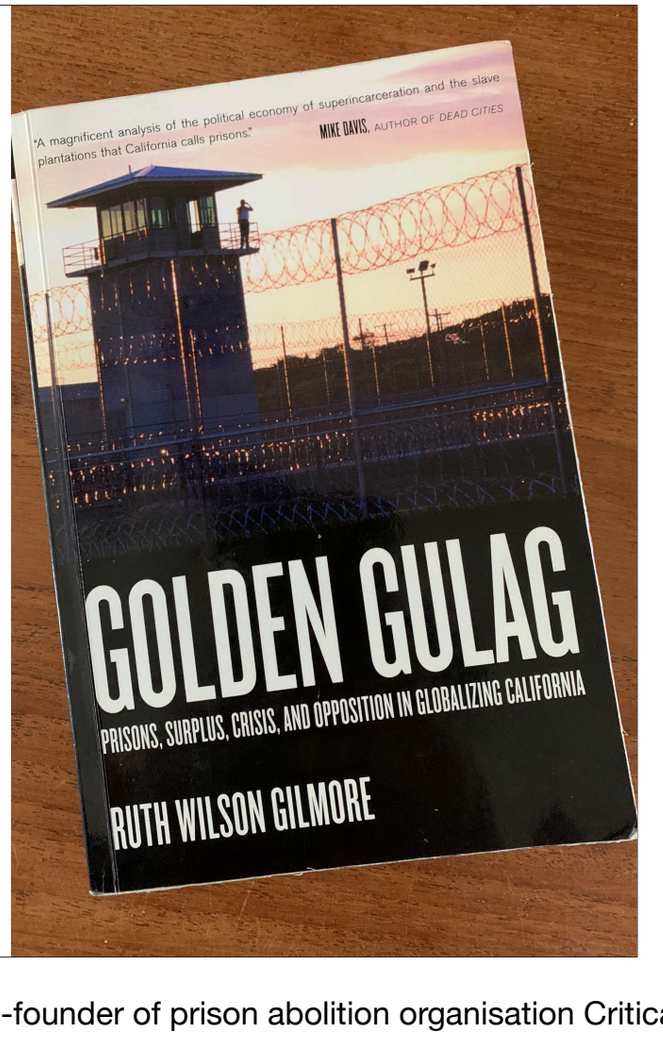
The modern prison sits within what activists and scholars have called an industrial complex, which refers to the economic utility of prisons under capitalism. We will highlight two aspects of this: the growth in private prisons and the extensive use of prison labour by many of the companies we shop at on a daily basis. There is a link here between this and the work for the dole schemes Kristin O'Connell spoke about in Week 7.

Lastly, we will look at a successful campaign led by the family of Wayne Fella Morris, who died after being restrained in a spit hood. His family campaigned successfully to have spithoods banned in South Australia. Next week we will hear more about prison abolition from abolitionist activist, Tabitha Lean.

It is important to note that prisons themselves are places of resistance. George Jackson was a Black revolutionary who was eventually assassinated by the US state for his activism among prisoners. In his letter he describes the circumstances under which he was jailed and the change that took place in him:

'Later, when I was accused of robbing a gas station of seventy dollars, I accepted a deal — I agreed to confess and spare the county court costs in return for a light county jail sentence. I confessed but when time came for sentencing, they tossed me into the penitentiary with one to life. That was in 1960. I was 18 years old. I've been here ever since. I met Marx, Lenin, Trotsky, Engels, and Mao when I entered prison and they redeemed me. For the first four years I studied nothing but economics and military ideas. I met black guerrillas… We attempted to transform the black criminal mentality into a black revolutionary mentality. As a result, each of us has been subjected to years of the most vicious reactionary violence by the state.'

I: WHAT IS PRISON SUPPOSED TO DO AND WHY?



In the introduction to her book The Golden Gulag, professor Ruth Wilson Gilmore, co-founder of prison abolition organisation Critical Resistance asks what is prison supposed to be for

References:

Gilmore, R. W. (2007). Golden Gulag: Prisons, Surplus, Crisis, and Opposition in Globalizing California (First ed.). University of California Press.

Isn’t prison necessary because of the existence of crime?
RWG answers, ‘yes and no.’

Crime means a violation of the law. But, the definitions of what constitutes a crime changes over time because laws are changed and added.

‘LAWS CHANGE DEPENDING ON WHAT, IN SOCIAL ORDER, COUNTS AS STABILITY AND WHO, IN A SOCIAL ORDER, NEEDS TO BE CONTROLLED.’

RUTH WILSON GILMORE, 2007: 12

RWG: ‘Laws change depending on what, in social order, counts as stability and who, in a social order, needs to be controlled.’

So, there is no fixed definition over time about what a crime is, and how it should or should not be punished. RWG gives a range of historical examples of how the definition of crime has changed.

But even today, ‘relatively similar societies’ have widely differing ideas about what criminal behaviour is and how it should be punished (or not). Some societies use prisons a lot more than others as a solution to crime. Australia is one of these. From 30 June 2020 to 30 June 2021, Australian prisoners increased by 5%. There are 214 prisoners per 100,000 people in the adult population. Later we will see that a disproportionate number of these are Indigenous.

RWG’s point is that ‘crime is not fixed’ and so whether prisons are used against crime is not because it is the only possible solution; there are a range of possible responses and we need to understand prisons within an understanding of the type of societies that create them.

‘HOW ARE PRISONS SUPPOSED TO PRODUCE STABILITY THROUGH CONTROLLING THAT COUNTS AS CRIME?’

RWG asks How are prisons supposed to produce stability through controlling that counts as crime?

‘HOW ARE PRISONS SUPPOSED TO PRODUCE STABILITY THROUGH CONTROLLING THAT COUNTS AS CRIME?’

RETRIBUTION

DETERRENCE

REHABILITATION

INCAPACITATION

Ruth Wilson Gilmore (2012: 14)

There are 4 main ways that prisons are supposed to work to control crime: Retribution, Deterrence, Rehabilitation and Incapacitation

RETRIBUTION

1. Retribution: the shock of losing one’s liberty is supposed to stop people from re-offending.

DETERRENCE

2. Retribution goes with deterrence - that by locking people up, people will be dissuaded from carrying out crime, the idea being that it sends a message that *you too* can end up in prison.

REHABILITATION

3. The idea of rehabilitation is that while in prison people can acquire skills and time away from society and its temptations (e.g. drugs) so that when they are released they won’t go back to crime.

INCAPACITATION

4, RWG calls incapacitation the least ambitious idea because it is simply based on the calculation that locking people up stops them from making trouble.

RETRIBUTION - DETERRENCE - REHABILITATION - INCAPACITATION

THESE ARE 'NOT STEPS AWAY FROM BRUTALITY OR INCONSISTENCY, BUT AS ATTEMPTS TO MAKE PRISONS PRODUCE SOCIAL STABILITY THROUGH APPLYING A MIX OF CARE, INDIFFERENCE, COMPULSORY TRAINING AND CRUELTY TO PEOPLE IN CAGES.'

RUTH WILSON GILMORE (2007: 14)

These 4 concepts are attempts to make prisons places where social stability can be created haphazardly through a mix of care, indifference, compulsory training and cruelty to people who are locked up against their will.

One way to test whether our not prisons work along these 4 theories is to look at whether crime has been reduced. However, RWG says that in fact where states have **not** built a lot of prisons, crime has decreased more than in places where many people are jailed.

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WHICH WAYS PRISONS PRODUCE STABILITY ACCORDING TO GILMORE

‘HIGH RECIDIVISM RATES, COMBINED WITH A LARGE PROPORTION OF PRISONERS ON REMAND OR SERVING SHORT SENTENCES, SUGGEST THAT MANY PRISONERS CYCLE IN AND OUT OF PRISON, FOLLOWING A “CHURN” PATHWAY THROUGH THE CRIMINAL JUSTICE SYSTEM.’

‘AUSTRALIA'S PRISON DILEMMA ‘, PRODUCTIVITY COMMISSION REPORT 2021

According to an Australian government report, in 2021, 53.1% of released prisoners had returned to either prison or community corrections within two years. This rose to 64.1% for Indigenous men.

For comparison, the rate in Norway is 20% and the US state of Oregon 36%. Both these places imprison significantly less people than Australia. Within Australia, NSW is much higher than SA.

The Productivity Commission report, ‘Australia’s Prison Dilemma,’ found that the lack of care for people after leaving prison was largely to blame for re-offending (recidivism) rates. For example, 50 per cent of people leaving prison are homeless. The report also talks about the ‘absence of access to drugs, alcohol services, absence of access to mental health services, absence of access to disability services.’

People also do not have paid work lined up after leaving prison.

In addition to the lack of services, Mindi Sotiri, executive director of the Justice Reform Initiative, pointed out that ‘prison itself is “criminogenic”. “The more times you go to prison, the more likely you are to keep going to prison.’

References:

Burton, T. (2022, January 27). Repeat offenders account for half of prison costs. Australian Financial Review. https://www.afr.com/politics/federal/repeat-offenders-account-for-half-of-prison-costs-20220127-p59rnj

Prisoners in Australia, 2021. (2021, December 9). Australian Bureau of Statistics. https://www.abs.gov.au/statistics/people/crime-and-justice/prisoners-australia/2021

IF PLACES THAT SPARE THE CAGE ARE CALMER THAN PLACES THAT USE IMPRISONMENT MORE AGGRESSIVELY WHY IS THIS SO?

RWG asks, ‘If places that spare the cage are calmer than places that use imprisonment more aggressively why is this so?’ (p. 16).

We are taught to believe that the more ‘dangerous criminals’ are locked away, the less violent and more safe our societies will be. Why does the evidence not bear this out?

RWG talks about a tipping point: the point at which an area (e.g. a neighbourhood in a city) experiences high rates of imprisonment of its residents.

The tipping point - ‘when things start to get really bad’ - does not require so much. Only a few things need to be taken away, for e.g. taking people who work or care for things in the community away by putting them in prison. Suddenly this people are gone and there are fewer people to look after their families and community.

This results in what RWB calls a ‘thinning of financial and emotional resources’

The use of ‘police and state interventions in everyday problems’ lead to informal relationships between people in the neighbourhood being eroded and people stop looking out for each other.

The lack of social investment means that people who come out of prison are locked out of education, employment and housing. We already saw how this is an issue here in Australia as much as in the US where RWG is writing from.

When these social bonds are destroyed and we are isolated from one another, we turn to the police when ‘something disruptive, confusing or undesirable happens’.

Social media has been used to draw attention to a whole range of incidents, such as this one, where a white woman in the US called the police on an 8 year old selling water in her neighbourhood.

The result is that ‘crimes goes up’ because the police get involved for a wider and wider range of incidents that people used to resolve between themselves, before neighbourhoods were eroded by over-policing and the threat of imprisonment.

What then happens according to RWG is that unhappiness goes up, ‘and those who are able to do so move away in search of a better environment.’

‘In sum,’ she writes, ‘prisons wear out places by wearing out people, irrespective of whether they have done time.’

Later we will look at how crime - or the perception of criminality in certain areas and among certain groups in the population - became so high on the public’s agenda. How did concern with crime become a bigger public issue than things like unemployment and health and so on even when these things affect ordinary people more in the everyday than crime does?

But, for now, let’s look at where the idea of the modern prison comes from…

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DO YOU THINK PRISONS CREATE COMMUNITY SAFETY?

II: DISCIPLINE AND PUNISH - THE BIRTH OF THE PRISON

‘Discipline and Punish: The Birth of the Prison’ is the title of a book by Michel Foucault which looks at how and why prisons developed in the modern era.

References:

Foucault, M., & Sheridan, A. (1995). Discipline & Punish: The Birth of the Prison. Vintage Books.

Taking a step back from how prisons themselves developed, we need to think about how it came to be that the state came to have the authority to discipline the population. This might appear obvious to us today - there are laws, and if you break them, you deserve to be punished.

Before the modern era - in medieval and feudal societies - the ruler (king) had to right to do away with anyone who disobeyed (usually) his rule. This was a form of arbitrary power where - according to Foucault - the sovereign (ruler) had the right to decide if someone would live or die.

In the 19th Century, Foucault argues that a new type of power comes into play. Rather than the ruler having the right to decide life or death, now he had the right to ‘make live or let die’.

What is the difference? The idea is that the life of certain groups in the population was more valuable than others - these are the people who should be made to live. Other people were seen as a threat to the survival of the whole population and thus could be ‘let die’.

This new understanding of power comes about because populations were thought of like organisms. To stay healthy the population had to be made up of people who were fit and strong and who conformed to the vision of a good, worthy society. Public health becomes important as, for the first time, the state is invested in the health of the population, in particular workers. We can see how under this vision of things, people who are mentally or physically disabled, the poor, and those in marginalised racial groups can be seen as expendable to society - as useless.

Foucault uses the term ‘biopolitics’ to describe this new political order - where politics is conceived of in biological terms.

References:

Foucault, M., & Sheridan, A. (1995). Discipline & Punish: The Birth of the Prison. Vintage Books.

INDUSTRIAL DISCIPLINE

‘WORKER DISCIPLINE WAS THE MAIN INGREDIENT AIMED AT IMPROVING THE MORAL HABITS OF THE LABOURING POOR, TO MAKE THEM ORDERLY, PUNCTUAL, RESPONSIBLE AND TEMPERATE.’

JOHN O’NEILL (1986: 47)

As John O’Neill explains, using Foucault’s work, there is a link between the growth of industry and the factory worker in Europe and the rise of prisons.

To ensure workers were as productive as possible, there was a need to instil discipline.

During the mid-to-late eighteenth century, with the growth and spread of the industrial revolution in Europe, the problem for the bosses was the lack of worker discipline.

Factories were therefore sites of cruelty: workers, who were thought of as lazy and immoral, worked in harsh conditions and were often beaten by factory masters.

Workers were also disciplined through fines, the use of bells, preachings and schoolings and the suppression of leisure activities.

As more and more machinery was invented, more and more workers came into the factory system, losing the autonomy they had when they could still work as spinners in their own homes.

Workers in England who had been used to a certain degree of autonomy over their own labour struggled against factory owners - for example against child labour (which was common) and the ten hour day. This was the beginning of trade unions and other worker organisations.

The struggle between workers and bosses continued to be a thorn in the side of the capitalist class. The fact that, despite the imposition of factory discipline, workers continued to pose a threat to the smooth running of production led capitalists to rationalise their activity in other ways.

References:

John O’Neill (1986) 'The Disciplinary Society: From Weber to Foucault’, The British Journal of Sociology 37(1): 42-60.

Clocking in

Haphazard discipline using punishments was replaced by systems of scientific management.

The so-called Taylorist system was based on a view of workers as lazy, working only under the threat of discipline, surveillance and strict supervision but, due to workers fighting back, it gradually began to accommodate trade union and worker struggles.

A more hands-off system of bookkeeping is developed to increase control over productivity and profitability. Bookkeeping factored in a certain degree of worker non-compliance (strikes, sick leave, unemployment, etc.).

The relationship between workers and bosses improves over time due to concessions made by the bosses. The state also mediates between labour and capital (e.g. about working conditions, minimum wage, pensions, etc.).

But the owners of capital know that workers can always return to protest if negotiations fail (e.g. current threat of strikes over enterprise bargaining at WSU). It is therefore in the interests of both the state and capital to ensure that repressive measures against workers are used as little as possible - because this ultimately reduces productivity.

A happy medium is generally achieved because, over time, worker discipline becomes something that is practiced by workers themselves rather than something that has to be constantly reinforced by factory bosses. Workers know that they have to comply in order to keep their jobs and so they discipline themselves rather than the factory owners having to use harsh punishments to keep them in check.

What is the link to prisons?

There is an historical link between the rise of industrialism in Europe - working in factories - and the growth of prisons which pose a threat to us if we step out of line.

John O'Neill explains that the origins of self-discipline can be found in the increasing interrelationship between the prison and the factory.

With the rise of capitalism and the increased need for labour, there was a need to discipline free labour (workers). The overall aim was to instil a respect for private property in people who did not any property themselves. As we saw in Week 2, all they had was the ability to sell their labour and their loyalty.

I googled the word discipline and these are some of the images that came up top (they are all to do with self-discipline!)

‘THE PRISON, THE FACTORY AND THE SCHOOL, LIKE THE ARMY, ARE PLACES WHERE THE SYSTEM CAN PROJECT ITS CONCEPTION OF THE DISCIPLINARY SOCIETY IN THE REFORMED CRIMINAL, THE GOOD WORKERS, STUDENT, LOYAL SOLDIER AND COMMITTED CITIZEN.’

JOHN O’NEILL (1986: 51)

O’Neill: Institutions such as “the prison, the factory and the school, like the army, are places where the system can project its conception of the disciplinary society in the reformed criminal, the good workers, student, loyal soldier and committed citizen.”

These sites, controlled by the state (in relationship with capital) were the places where citizens could be taught discipline as a means, not only of serving their country and contributing to the economy, but in order to better themselves and allow them to fit in with the order of things.

References:

John O’Neill (1986) 'The Disciplinary Society: From Weber to Foucault’, The British Journal of Sociology 37(1): 42-60.

School is the first and arguably the most important site of societal discipline because it takes children from a young age and instills in them the values of majority society. It is a force for the embedding of convention and order as much as education.

During the 18th century, the spread of the disciplinary society was seen by those responsible for it, not as repressive but as progressive.

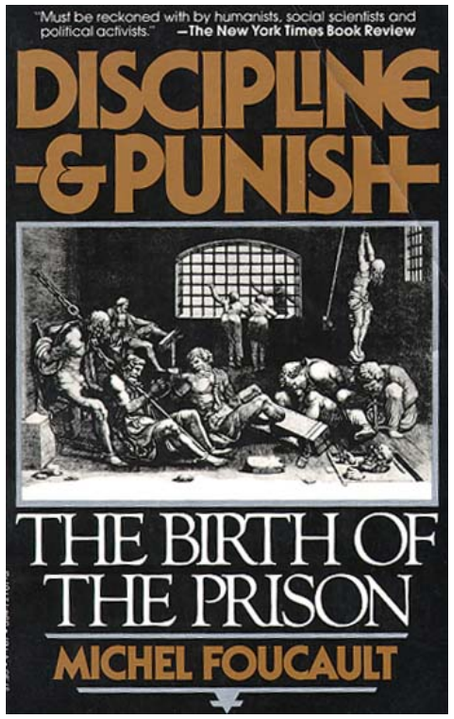
Indeed, all of these developments are a double-edged sword. Mandatory schooling, for example, extends education to the greatest number of people in society, allowing previously uneducated classes to be schooled. However, it is also the site in which bourgeois values and those of the majority of society are instilled, often at the expense of non-bourgeois/non-majority ways of life and practices (e.g. Indigenous children taken away from their families by force in Australia for ‘their own good’ or children of poor, single mothers sent to Australia from the UK until the 1960s).

The law also is two-sided. We fear the law as much as we respect it. Workers fought for the law to be used to have more rights. With this, the law was no longer only to protect those who had property but could be used to protect the working class.

Respect for and belief in the justice system is one of the ways through which the state achieves disciplinary control. The idea that the law is on the right side and that we are all innocent until proven guilty is truly progressive. But it is also a means of ensuring that individuals fear the consequences of the law and fail to see when the law may not always be on the side of justice.

How does Foucault make the connection between the growth of discipline and order in modern societies and the birth of the prison?

PRISONS AND SOCIETY



1. In Discipline and Punish (1975), Michel Foucault describes how the modern prison has provided a template for the disciplining of society.

Foucault describes modern prisons as institutions for the more ‘gentle’ treatment of prisoners that replaces the medieval practices of torture and killing of criminals.

New prisons use a more efficient means of punishment that is extended to factories, hospitals, schools, and so on. As we have seen, the role of the disciplinary society is to inculcate in the individual an understanding of his/her wrongdoing and a fear of the consequences of that wrongdoing with the aim being to ensure future compliance.

When prisoners themselves cannot be reformed, the function of prison is to set an example to the law-abiding of the consequences of ‘stepping out of line’.

HIERARCHICAL OBSERVATION

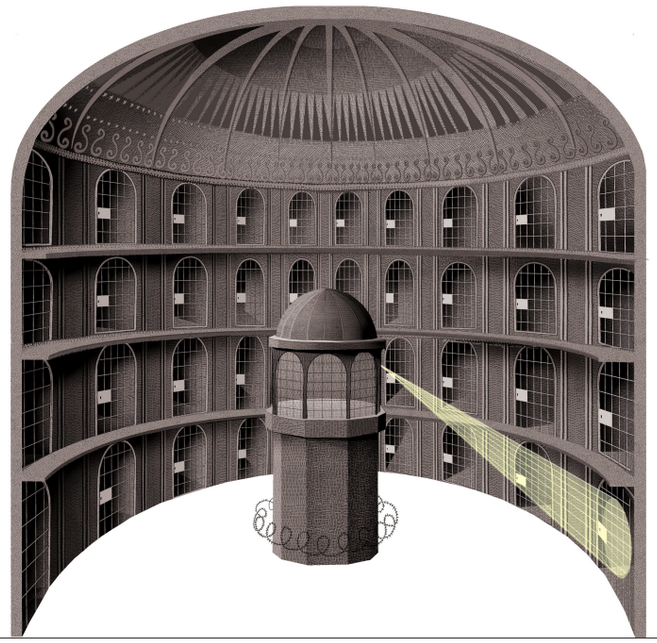
NORMALISING JUDGMENT

EXAMINATION

2. Foucault describes modern disciplinary society as functioning along three axes.

a) Hierarchical observation
b) Normalising judgment
c) Examination

HIERARCHICAL OBSERVATION



Hierarchical Observation

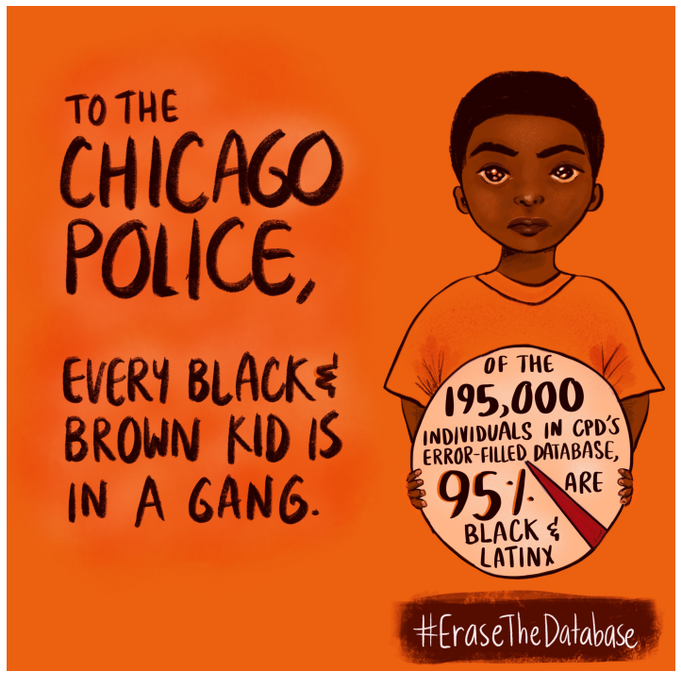
Foucault uses Jeremy Bentham’s blueprint for a prison - the Panopticon - as means of explaining how hierarchical observation functions.

Bentham’s Panopticon was designed so that prisoners could not see each other but that all could be observed by a monitor. However, one overseer cannot view all of the prisoners at once so there is a system of relays by which a hierarchy of guards passes information back from lower to higher levels.

What keeps prisoners in check is not the fact that they are constantly observed (because they may not be) but the threat of being observed. Inmates must therefore monitor their own behaviour; they must act as if they are constantly under observation.

A good contemporary example is CCTV. In Australia, the average citizen is likely to be captured on film about 15 times a day. CCTV acts as a preventative measure - we temper our behaviour for fear of being observed although most CCTV footage never gets watched. These panoptical powers work because they are both means of controlling and of protecting us.

NORMALISING JUDGMENT



b) Normalizing judgment -

Judging through the setting of norms and standards becomes fundamental in the modern age when the objective of prison is not just punishment but also reform.

Reform means internalising society's standards and norms. No longer are criminals judged according to whether the law says they have acted 'rightly' or 'wrongly'; now they are also judged to be normal or abnormal. Under this view, criminals are pathologised - seen as having a debility that makes them unable to act in accordance with the norms of society. The job of prison is to get them to accept that their behaviour has deviated from the norm and to accept to follow society's standards from now on.

Like observation, the idea of normalisation is pervasive in our societies. Standards are applied throughout our lives - for example, through the national educational curriculum which sets standards which children have to fulfil from a young age.

Today, some policy makers recommend flagging up children as being potential future criminals from as young as when they are toddlers based on their behaviour and on their family history of crime and deviance. The idea is that early state intervention into these children's lives will prevent them from posing a future problem for society.

For example, in many US cities there is a gang database. The example here is from the Chicago based Erase the Database campaign. Chicago police maintain two massive gang databases, collectively labelling more than 280,000 people as "gang members." 95% of those people listed are people of color, most being young men in their late teens and 20s.

According to the campaign: the police 'does not require any evidence to support a gang designation, they do not have to make an arrest, or even inform you that you've been placed in the database. Yet once your name has been added, you cannot be removed.' This association with gangs can be carried by individuals over a lifetime,

making to difficult to get education or employment and leading to constant stop and search by police.

Normalising judgment leads to ordinary behaviours being criminalised. In his later studies of sexuality, for example, Foucault shows how it led to the criminalisation of gay people many of whom were forced to undergo electric shock therapy to ‘cure’ them of their homosexuality.

References:

http://erasethedatabase.com

EXAMINATION

c) Examination

This combines hierarchical observation with normalising judgment.

Foucault places a lot of emphasis on what he calls power/knowledge - or the fact that the powerful establish what the ‘correct’ knowledge is. The exam is a fundamental part of power/knowledge because it establishes the truth while deploying force. It forces people to undergo an examination while controlling their behaviour. A student who studies for an exam is forced to do so (by the school, university, etc.); at the same time, the exam is a means of forming her knowledge because it will be marked according to a set standard.

From a societal point of view, exams (both educational and medical, etc. examinations) are important because knowledge gathered about an individual’s performance, health, etc. can be gathered and stored by the state. Having knowledge about an individual permits the state to control him/her better, as we can see in the case of the gang database and other similar databases that exist around the world, mainly targeting marginalised people such as asylum seekers and Black and Indigenous people.

As always with Foucauldian ideas, the systems he describes can be viewed as a double-edged sword. Data about individuals in modern societies are also kept in order to supposedly assist them. Therefore, ethnic monitoring is officially a means of ensuring that people marginalised due to their ethnicity do not face discrimination. However, it may also be a way of collecting national data about the numbers of ethnic minorities in order to better control the population. From Foucault’s perspective, we cannot separate the goals of power from the goals of knowledge - in knowing we control and in controlling we know.

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WHAT ARE THE 3 AXES OF MODERN DISCIPLINARY SOCIETY ACCORDING TO FOUCAULT?

III: TOUGH ON CRIME

So, following Foucault prisons and the threat of prisons are an important tool in the state’s arsenal to control and perfect the population. This also serves the interests of capital. But why do we have so many more prisons today than ever before, particularly - but far from exclusively - in societies such as the US, UK and Australia?

‘CRIME WENT UP; WE CRACKED DOWN; CRIME CAME DOWN.’

RWG: Why did prisons grow in number from the early 1980s on?

The dominant narrative in the US and in Australia was ‘Crime went up; we cracked down; crime came down.’ But is this true?

As mentioned earlier, the number 1 public concern at this time was public safety and criminality. But was there really a surge in criminality in the US or Australia?

In fact, RWG says, ‘by the time the great prison round-ups began, crime had started to go down.’ It was not necessary to have built on extra 1 million prison beds in the US to bring crime down because crime was already going down.

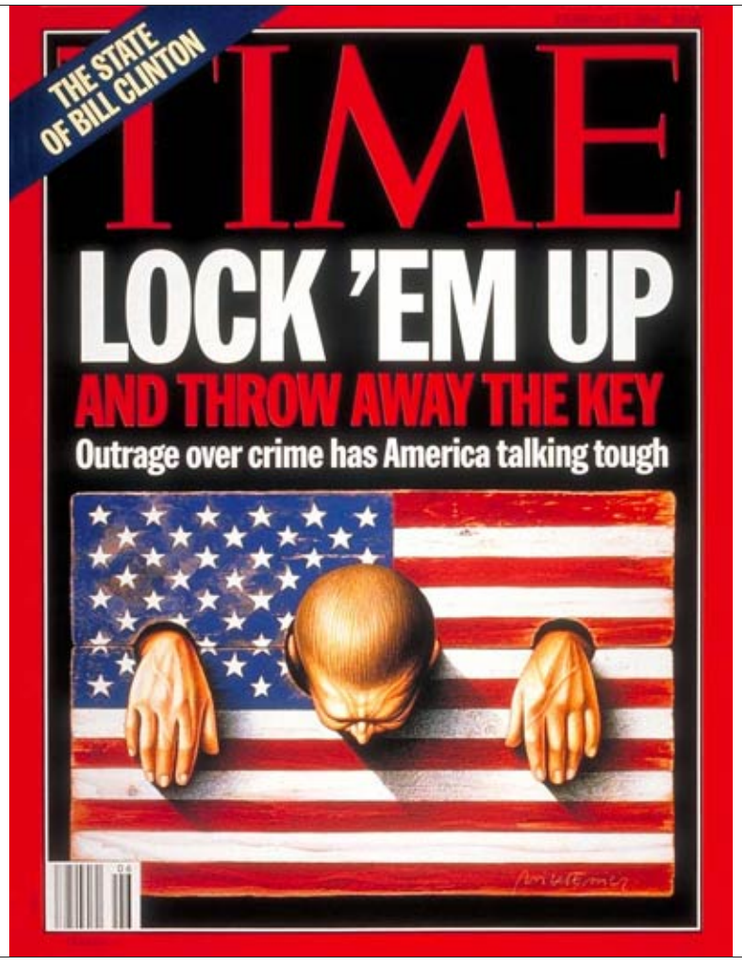
An explanation for the perceived rise in crime, however, was the idea that there was a drugs epidemic. But, in fact, by the mid-1970s in the US illegal drug used had come down drastically. The same is true for property crime. It peaked in the mid 1980s and started to go down, leading to a decrease in overall crime rates.

Nevertheless, policing and imprisonment goes up exponentially.

Certainly, consent for building more prisons is manufactured via the media using what the sociologist Stanley Cohen referred to as moral panics. A moral panic occurs when a folk devil is constructed by politicians and the media, for example the spectre of ‘African gangs’ or ‘illegal asylum seekers’ or Indigenous youth ‘out of control’. A moral panic ensues. The public seems to be demanding a tough solution to a problem generated by those in power.

References:

Folk Devils and Moral Panics (Routledge Classics) by Cohen, Stanley (2011) Paperback. (2022). Routledge.



The tough on crime movement of the 1980s and 90s mobilised these moral panics.

Katherine Beckett and Theodore Sasson describe the growth of this movement in the US.

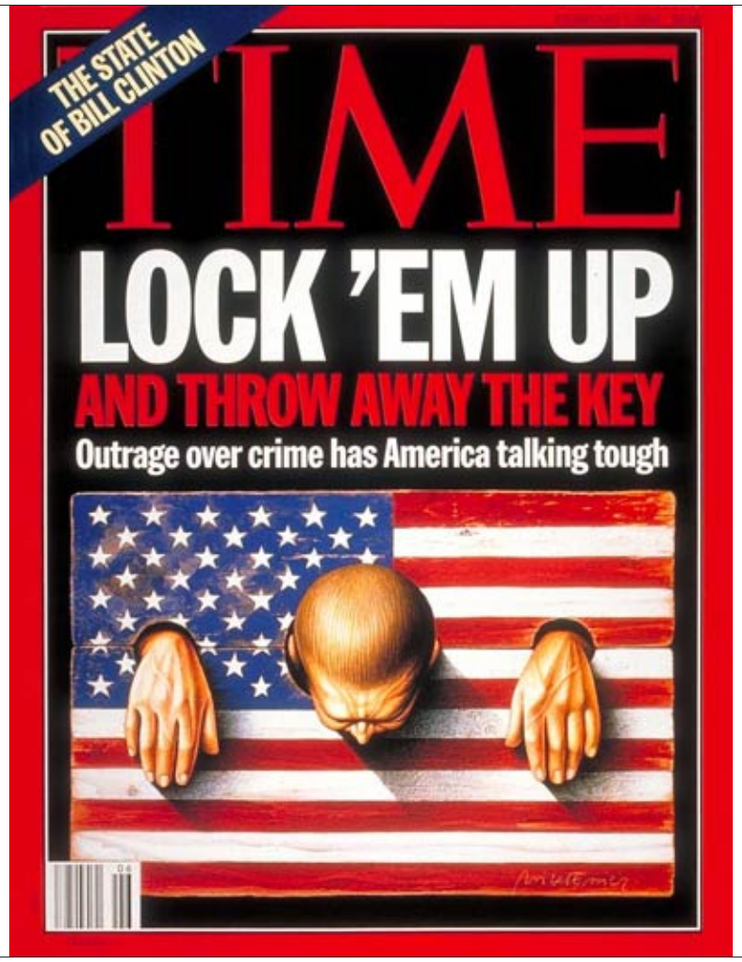
Tough on Crime replaced any emphasis on reforming criminals and has spawned the widespread belief that there are certain people who must be incarcerated or even put to death for the ‘greater good of society’.

References:

The Politics of Injustice: Crime and Punishment in America by Beckett, Katherine A., Sasson, Theodore (2003) Paperback. (2022). SAGE Publications, Inc.

Loïc Wacquant (2008) 'The Militarization of Urban Marginality: Lessons from the Brazilian Metropolis', International Political Sociology, Volume 2, Issue 1, Pages 56–74.

Despite the fact that there is no evidence that mass incarceration and ‘zero-tolerance’ approaches to deviant behaviour have any effect on reducing crime, to be seen to be tough on crime is important to politicians. This can be seen in Labor’s Home Affairs spokesperson Kristina Kenneally in the run-up to the general election where she implies asylum seekers are all criminals.



The tough on crime movement, which began as a conservative movement in the US in the late 1960s, was based on a rejection on the idea that there are social causes for criminal behaviour. It was much closer to the idea explained by Foucault that there are ‘normal’ people and ‘deviant’ people.

The proponents of tough on crime believe that ‘helping’ criminals, drug addicts, and the poor paradoxically only encourages them to continue their deviant behaviour. In contrast, a strong message should be sent to these populations that their behaviour will not be tolerated and that they will certainly not receive any ‘rewards’ (i.e. welfare, rehabilitation, etc.) for continuing it.

A major consequence of tough on crime is a widening of what comes under the label of crime.

For example, the so-called ‘broken windows’ theory is based on the belief that signs of public disorder such as unmended broken windows are evidence of underlying wrongdoing among the population. The aim is not to attempt to understand the root causes of such signs (e.g. lack of public investment, transient population, dislocation from civic engagement, etc.) but to criminalise them as such.

This has led to a zero tolerance approach to any behaviours which are seen as disorderly. An example may be sitting in groups in parks or on the street (homeless are often asked to move on) or the example given by Beckett of ‘squeegie men’ who clean car windshields being criminalised in New York.


Brazil's Central Prison

Over the last 40 years, since the beginning of the tough on crime movement, this approach has led to imprisonment for relatively minor charges and the massive growth in prison numbers. For example, the number of women in prison in Australia increased 64% between 2009 and 2019.

As French sociologist, Loic Wacquant shows his study of prisons in Brazil, punitive containment - or imprisonment - is increasingly seen as a solution for dealing with dispossessed populations, such as poor Black people from the Brazilian favelas.

Prisons in Brazil are sites of extreme violence, overcrowding, dilapidation, with little-no medical care for inmates as well as 'murderous brutality' by prison staff.

As Wacquant says, all of these elements combine to 'make imprisonment akin to the disposal of social trash.'

He describes the situation of inmates in Brazilian jails where overcrowding means that as many as 8 people occupy cells built for one for months or even years on end.

Basic healthcare is almost non-existent. According to Wacquant, one inmate with full-blown AIDS upon asking to be taken to the first-aid station was told "thieves deserve to die."

Prisons are also sites of extreme violence between inmates due to gross understaffing, insufficient training and low pay of prison guards who can be easily bribed. Often there is only one guard for 200 prisoners. Gangs are rife.

However, according to Wacquant, the violence of the authorities exceeds this with "everyday brutality, institutionalized torture, summary executions, and mass killings" a routine part of prison life in Brazil. For example, in 1992, 111 prisoners were massacred by guards at Carandiru prison in reaction to a rebellion against prison conditions.

The legal authorities in Brazil tend to meet this with indifference, reproducing the belief that prisoners are “unworthy of concern and protection.” The chief of Sao Paolo’s Third police precinct reiterated this when he told Human Rights Watch that “prisoners here have been thrown away like trash. The conditions are subhuman. Go ahead, write that down: subhuman.”

References:

Wahlquist, C. (2020, November 17). “A mass imprisonment crisis”: why more women are doing time. The Guardian. **https://www.theguardian.com/australia-news/2020/nov/17/a-mass-imprisonment-crisis-why-more-women-are-doing-time**

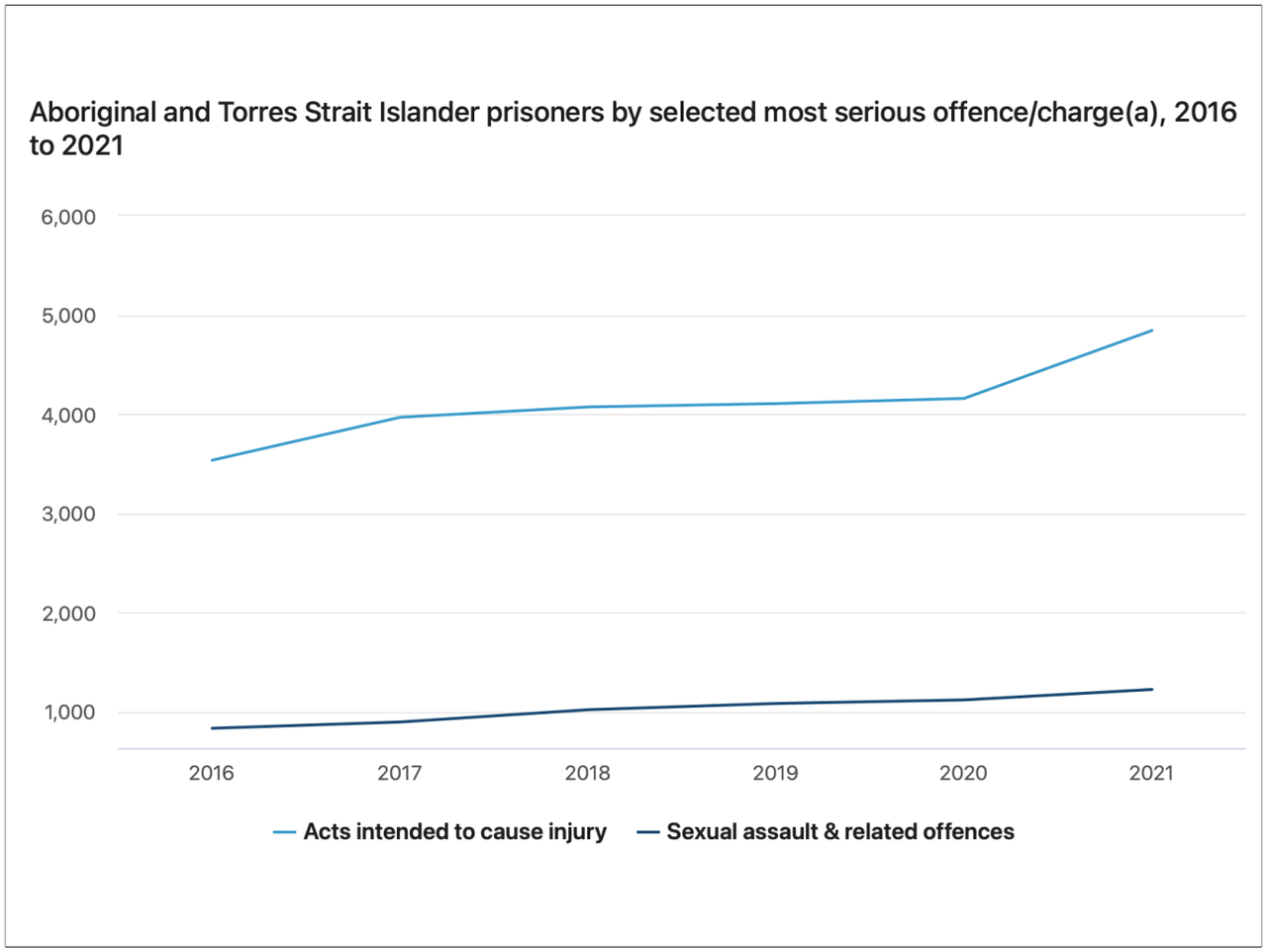
Loïc Wacquant (2008) 'The Militarization of Urban Marginality: Lessons from the Brazilian Metropolis', International Political Sociology, Volume 2, Issue 1, Pages 56–74.

IV: INDIGENOUS INCARCERATION

The attitude towards poor Black people in Brazil does not differ extensively to that faced by Indigenous people in Australia, the most incarcerated population per capita in the world.

We see here an extension of colonial management - Indigenous people have always been policed and imprisoned since invasion, moral panic (Indigenous people pose a threat to society) and tough on crime (only by imprisoning them will we be kept safe and they reformed).

Increasingly, alcoholism, sexual violence and domestic violence are used a justifications for imprisoning Indigenous people. But this obscures the degree to which these problems are rife in Australian society in general, and not exclusive to Indigenous people.



According to the Australian Bureau of Statistics, From 30 June 2020 to 30 June 2021, Aboriginal and Torres Strait Islander prisoners increased by 8% (947) to 13,039. They make up 30% of all prisoners despite only making up 3% of the national population.

References:

Australian Bureau of Statistics, ’Prisoners in Australia’ https://www.abs.gov.au/statistics/people/crime-and-justice/prisoners-australia/2021

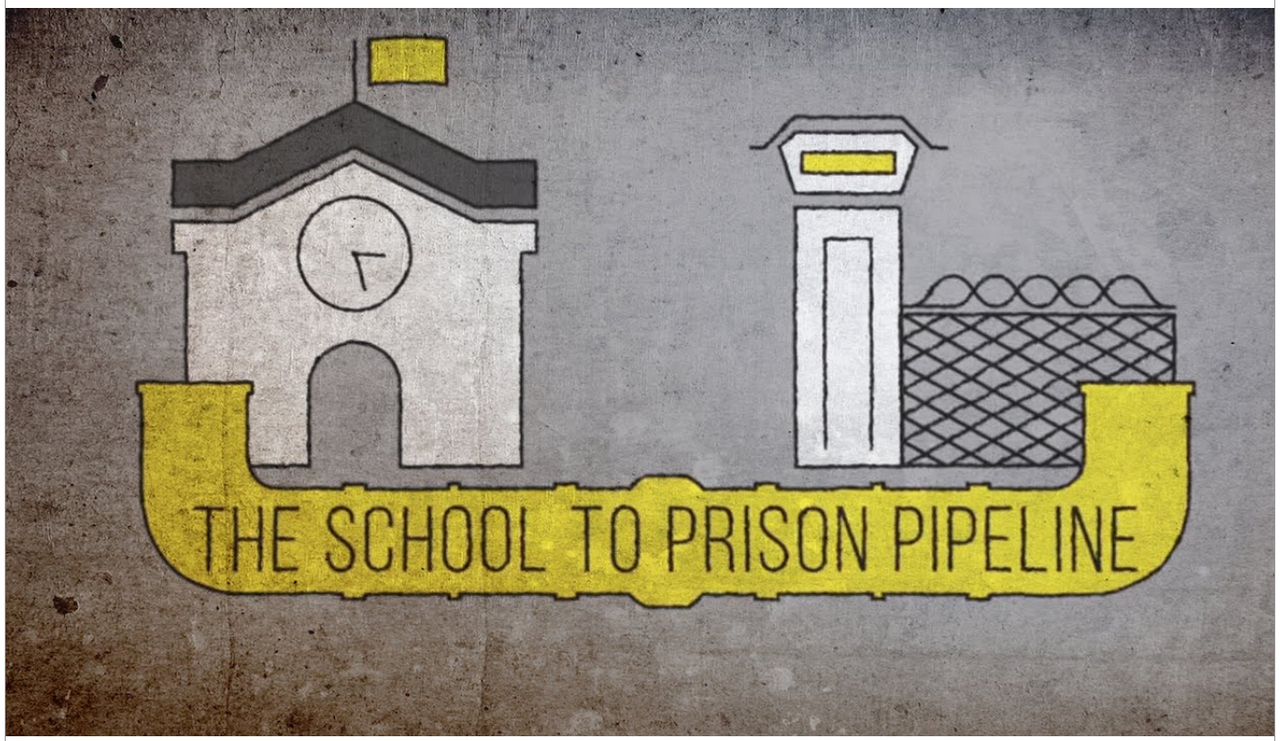
'TO DELIVER UP BODIES DESTINED FOR PROFITABLE PUNISHMENT, THE POLITICAL ECONOMY OF PRISONS RELIES ON RACIALIZED ASSUMPTIONS OF CRIMINALITY.'

ANGELA DAVIS (2003)

As Angela Davis points out, reaching such numbers of imprisonment of Indigenous people relies on racialised assumptions about their greater propensity towards crime. Because it is believed that Black people in general, and Indigenous people here in Australia in particular, are naturally more inclined to commit crime, locking them up is seen as the simplest solution - there is a belief that they cannot be reformed.

References:

Davis, A. Y. (2022[2003]). Are Prisons Obsolete? by Angela Y. Davis Uitgawe and Revised and Updated to Include New Develop and B edition (Textbook ONLY, Paperback). AK Press.



One of the issues affecting many Indigenous young people, just like many Black children in other countries, is what's become known as the school to prison pipeline. When we think about the connection Foucault draw between the school and the prison as two key sites of discipline, this raises concerns.

In Australia, children as young as 10 can be imprisoned. Most of these children are Indigenous. Especially in remote areas there is a link between poor educational opportunities, poor healthcare including mental health and the use of police and social services to intervene in what would have been family, school or community matters.

Indigenous children are often vulnerable. They may have learning and behavioural difficulties that go undiagnosed. This leads to 'bad behaviour' which leads to being suspended from school. Instead of protecting children within schools they are cast out leaving them vulnerable. These are the kids who often are taken into out of home care and from there it's a short hop into the criminal justice system.

The school-to-prison pipeline

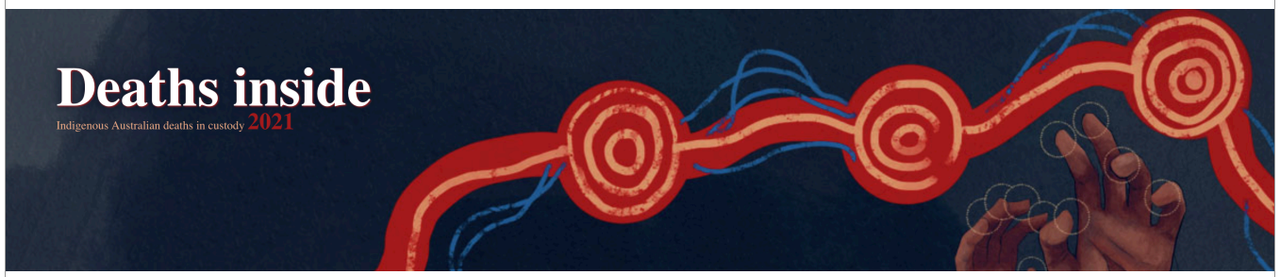
According to an article by Sarah Hopkins:

Reports and inquiries tell us is that 'Aboriginal and Torres Strait Islander children are almost 10 times more likely to end up in out-of-home care. What they tell us is that children in the child protection system commonly end up before the courts on trivial matters that could ordinarily be dealt with by a parent. What they tell us is that the vast majority of young people in prison have experienced trauma that leads to substance abuse and mental health issues but only a small minority receive adequate treatment and support. What they tell us, ultimately, is that the resources are in all the wrong places.'

References:

Hopkins, S. (2019, October 21). The school-to-prison pipeline: how the criminal justice system fails at-risk kids. The Guardian. https://www.theguardian.com/society/2019/jun/25/the-school-to-prison-pipeline-how-the-criminal-justice-system-fails-at-risk-kids

DEATHS IN CUSTODY



The result of the greater imprisonment of Indigenous people is the epidemic of deaths in custody.

In 1991 there was Royal Commission into the deaths of Aboriginal people in police custody. But since then, over 500 people have died.

In 2022 so far, 5 Aboriginal people have already died in custody.

The Guardian’s deaths inside database tracks every person who has died in custody and relates their story.

After reading 589 coronial reports, a team at the Guardian newspaper found “a record of systemic failure and neglect” and reported on a number of key issues that are too often ignored by police and the criminal justice system.

In May 2022, the inquest into the death in custody of Veronica Nelson is ongoing. The Gunditjmara, Dja Dja Wurrung, Wiradjuri and Yorta Yorta woman was being held on remand at the Dame Phyllis Frost women's prison in Melbourne.

She died in her cell in the early hours of January 2, 2020. Later, an autopsy found she was suffering from a rare medical condition affecting her intestine as well as severe heroin withdrawal symptoms. The inquest found that every time she called for help - 13 times in total in total in the night she died - she was ignored.

It is clear from the reports into the inquest by the Dhadjowa Foundation (https://twitter.com/dhadjowa) that there was an utter disrespect among prison staff and nurses for Ms Nelson’s life.

As we shall see in the conclusion to the lecture, Indigenous campaigners, led by family members of those who have died in custody are mobilising to bring about an end to incarceration and mistreatment (for more on this TRS subject).

References:

https://nirs.org.au/news/another-first-nations-death-in-custody/
https://www.theguardian.com/australia-news/ng-interactive/2018/aug/28/deaths-inside-indigenous-australian-deaths-in-custody
https://www.abc.net.au/news/2022-05-12/veronica-nelson-death-in-prison-custody-coronial-inquest/101058654

V: THE PRISON INDUSTRIAL COMPLEX

So, if prisons, according to experts such as RWG, Loic Wacquant and Angela Davis are largely used to punish marginalised populations and not bring down crime, then why do they continue to be expanded along with a whole suite of other punitive measures such as home detention, tagging, electronic surveillance, including the use of drones in poor neighbourhoods such as Skid Row in Los Angeles (as reported by Stop LAPD spying)?

References:

https://stoplapdspying.org

Angela Davis in Are Prisons Obsolete:

‘The term "prison industrial complex" was introduced by activists and scholars to contest prevailing beliefs that increased levels of crime were the root cause of mounting prison populations. Instead, they argued, prison construction and the drive to fill these new structures with human bodies have been driven by ideologies of racism and the pursuit of profit.’

Already by the 1990s in California, the historian Mike Davis observed that private prisons were becoming as much of an economic and political force as agribusiness.

The orison industrial complex refers to punishment on a mass, industrial scale - crpating the illusion of solving social problems while harming those targeted by he system.

References:

Davis, A. Y. (2022). Are Prisons Obsolete? by Angela Y. Davis Uitgawe and Revised and Updated to Include New Develop and B edition. AK Press.

But what does the term ‘PIC’ mean?

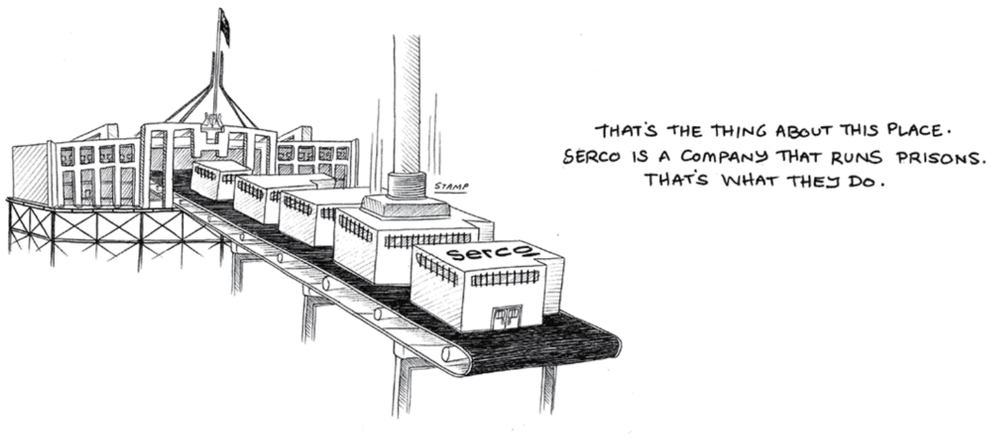
As former death row inmate (now imprisoned for life) writer and broadcaster from inside, Mumia Abu Jamal, explains in this video, the term PIC emerges from the idea of the military industrial complex which describes the link between the arms industry and other companies who stand to profit from war and militarization and the military institution of the government. Today, private prison corporations similarly rely on laws that imprison more and more people to make a profit.

[show video: https://youtu.be/WUuEYbcWEN0]

Angela Davis says that there is a symbiotic relationship between the military industrial complex and the prison industrial complex: ‘These two complexes mutually support and promote each other and, in fact, often share technologies.’

Both are concerned with how crime and war respectively can be turned to profit. But more than this, they both ‘generate huge profits from processes of social destruction’, according to A. Davis.

PRISON PRIVATISATION



THAT'S THE THING ABOUT THIS PLACE.
SERCO IS A COMPANY THAT RUNS PRISONS.
THAT'S WHAT THEY DO.

Private prison corporations operate through money paid to them by governments per prisoner, as well as increasingly the use of prison labour in a whole range of manufacturing work, cleaning services, and the manual labour. This is money that is directly channeled away from public services.

In Australia, several private companies run prisons one of them being multinational company, Serco that also runs immigration detention centres. The comic, ‘Serco: A Guard’s Story’ from which this frame is taken shows what it is like to work within a privately run immigration detention centre.

In Australia, prison inmates do a whole range of labour producing products for well-known companies. For example, ‘Prisoners undertake menial tasks in metal fabrication, furniture manufacturing and assembly work. We do know Victorian prisoners make our number plates and package Qantas headsets. The pay is well below minimum wage — ranging from $5-8 per hour.’

Paying prisoners below minimum wage gives these companies a competitive advantage.

References:

Davis, A. Y. (2022). Are Prisons Obsolete? by Angela Y. Davis Uitgawe and Revised and Updated to Include New Develop and B edition. AK Press.

https://fionapatten.com.au/news/which-companies-profit-off-prison-labour-the-answer-is-we-dont-know/

Serco: A Guard’s Story http://tgm-serco.patarmstrong.net.au

‘‘THE TRANSFORMATION OF IMPRISONED BODIES - AND THEY ARE IN THEIR MAJORITY BODIES OF COLOUR - INTO SOURCES OF PROFIT WHO CONSUME AND ALSO OFTEN PRODUCE ALL KINDS OF COMMODITIES, DEVOURS PUBLIC FUNDS, WHICH MIGHT OTHERWISE BE AVAILABLE FOR SOCIAL PROGRAMS SUCH AS EDUCATION, HOUSING, CHILDCARE, RECREATION, AND DRUG PROGRAMS.’

ANGELA DAVIS (2003)

As Davis writes, ‘The transformation of imprisoned bodies - and they are in their majority bodies of color - into sources of profit who consume and also often produce all kinds of commodities, devours public funds, which might otherwise be available for social programs such as education, housing, childcare, recreation, and drug programs.’

Because private corporations are often involved, there is no intrinsic interest in incarceration. These are companies that are involved in many other sectors of the economy, ‘producing all kinds of goods from buildings to electronic devices and hygiene products and providing all kinds of services-from meals to therapy and healthcare.’

There is a convergence between politicians’ interest - to be seen to be tough on crime and the interests of corporations - to make as much money as possible. To put it bluntly, there is no interest in reforming imprisoned people and turning them back out to society because the number of prisoners equates to the amount of money earned.

References:

Davis, A. Y. (2022). Are Prisons Obsolete? by Angela Y. Davis Uitgawe and Revised and Updated to Include New Develop and B edition. AK Press.

PRIVATE PRISONS IN AUSTRALIA

- Total cost of AUS prisons: $3.4
- Aus has highest no. of private prisons
- NSW jails are 122% above capacity (The Guardian)
- 3 global companies: GEO, G4S, Serco
- Offshore Immigration detention: $10 billion

Australia has the highest number of privately owned prisons per capita in the world. In Victoria nearly one third of prisoners are held in private prisons. The population of people held in private prisons in Australia has increased 95% in the past 15 years.

References:

‘Prisons at breaking point but Australia is still addicted to incarceration’ **https://www.theguardian.com/australia-news/2017/dec/29/prisons-at-breaking-point-but-australia-is-still-addicted-to-incarceration**

‘Accounting research raises doubts about prison privatisation’ https://www.sydney.edu.au/business/news-and-events/news/2019/04/08/holding-private-prisons-to-account.html

Serco-run Acacia women's prison in WA

The incarceration of women is one of the biggest growth areas for private prison companies in Aus.

Over the last decade, the total number of women in prison in Australia has increased by 77%.

In Queensland the Gatton prison which is run by Serco which is currently a men's prison has been proposed to become a women's prison because it is deemed more profitable by Serco.

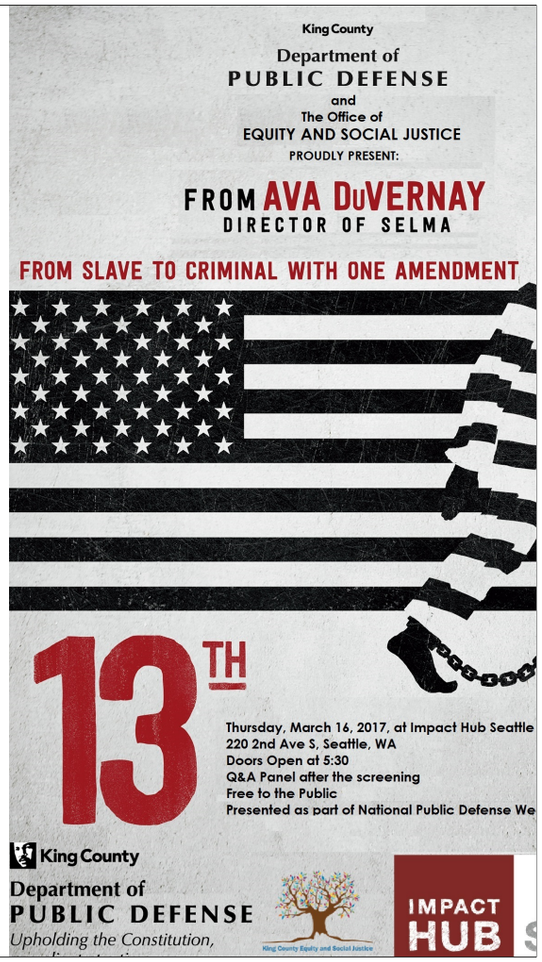
As the campaigning group, Sisters Inside which campaigns on behalf of incarcerated women in Aus, pointed out this would be the first women's prison in the world under Serco control.
This is worrying because Serco has a very bad record of treatment of women in both prisons and detention centres, including several cases of sexual abuse for example at the Yarl's Wood detention centre in the United Kingdom, where women have said that they have been physically and sexually assaulted by staff.

'Sisters Inside concerned Serco running new private women's prison' https://www.sbs.com.au/nitv/article/2018/08/30/sisters-inside-concerned-serco-running-new-private-womens-prison

BUT PRIVATE PRISONS AREN'T THE FULL PICTURE

'THE PRISON INDUSTRIAL COMPLEX ISN'T JUST THE BARRED BUILDING, BUT THE MANY WAYS IN WHICH UN-FREEDOM IS ENFORCED AND CONTINUES TO PROLIFERATE THROUGHOUT URBAN AND RURAL COMMUNITIES: INJUNCTION ZONES AND INTENSIVE POLICING, FELONY JACKETS AND OUTSTANDING WARRANTS, AS WELL AS SCHOOL EXPULSIONS AND JOB EXCLUSIONS.'

RUTH WILSON GILMORE (2015)



But, according to Ruthie Wilson Gilmore, the focus on prisons means that we do not see the full extent of the PIC.

The PIC is not just private prisons and there has been an over-emphasis of 'the tiny role of private prison firms in the prison-industrial complex, while minimizing the fact that 92 percent of the vast money-sloshing public system is central to how capitalism's racial inequality works.'

In other words, the state-run prisons are also necessary to ensure that Black people are kept poor and criminalised. But the greater focus on private prisons obscure this according to Gilmore in films such as the Netflix film 13th by Ava Du Vernay.

Gilmore says we miss the bigger picture if we only focus on privatization because 'Private prisons (in the US) hold about 8 percent of the prison population and a barely measurable number (5 percent) of those in jails. Overall, about 5 percent of the people locked up are doing time in private prisons.'

So, while it is interesting to consider the role of privatization especially in Aus where it is in fact growing, it is also important to remember that the state still runs and owns the majority of all prisons and also makes the laws which keep a growing number of racialised people in particular going to prison.

References:

Ruth Wilson Gilmore (2015) 'The Worrying State of the Anti-Prison Movement' http://www.socialjusticejournal.org/the-worrying-state-of-the-anti-prison-movement/

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THE PRISON INDUSTRIAL COMPLEX REFERS TO

VI: RESISTANCE - THE CAMPAIGN TO BAN SPITHOODS

Since the Royal Commission into Deaths in Custody in 1991, many inquests and inquiries have been held into the treatment of Indigenous people at the hands of the state.
But, without the relentless campaigning by social movements, often led by families of people who have died in custody, there would be no change to the current status quo.
To end, we will look at the campaign to ban the use of spithoods in South Australia and why this needs to be a national ban.

A warning that some details to be shared here are distressing.

Spithoods are a form of restraint used supposedly to stop people from spitting or biting. It is normally secured around the neck with an elastic band. Usually brute force is used to put it on. They are used in many different countries around the world.

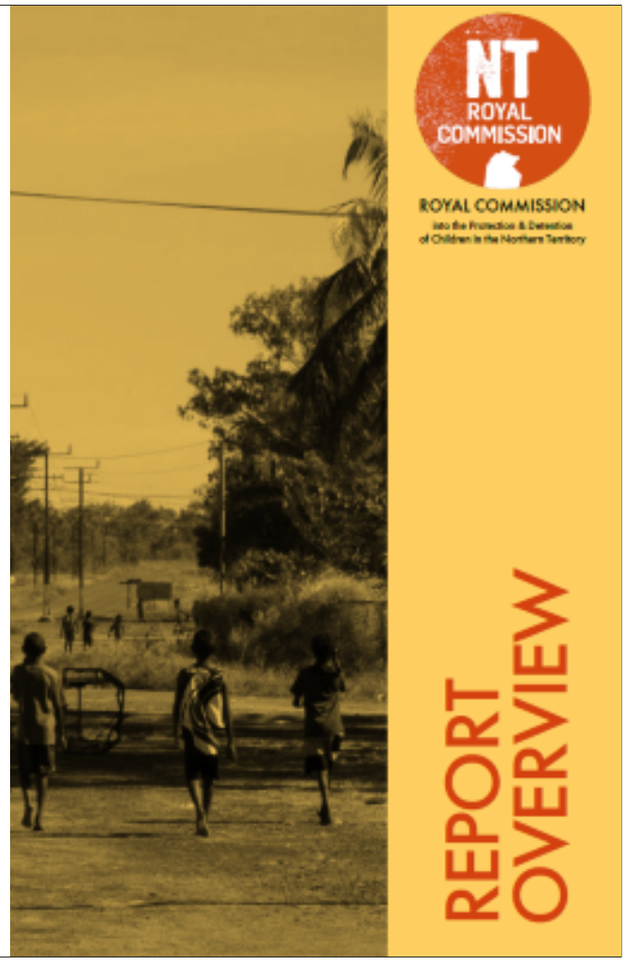
Their use came to light in Australia after a 2016 4 Corners report into conditions at Dondale Youth Detention Centre in the NT which focused on the case of then 14 year old Dylan Voller. The image of Dylan striped to the chair with the hood over his head can be seen in placard being held by his sister.

References:

Jenke, T. (2021, May 11). We Need a National Ban on Spit Hoods. Rolling Stone Australia. https://au.rollingstone.com/culture/culture-features/national-ban-spit-hoods-25190/

ROYAL COMMISSION FINDINGS

- youth detention centres were not fit for accommodating, let alone rehabilitating, children and young people
- children were subject to verbal abuse, physical control and humiliation, including being denied access to basic human needs such as water, food and the use of toilets
- children were dared or bribed to carry out degrading and humiliating acts, or to commit acts of violence on each other
- youth justice officers restrained children using force to their head and neck areas, ground stabilised children by throwing them forcefully onto the ground, and applied pressure or body weight to their 'window of safety', being their torso area, and
- isolation has continued to be used inappropriately, punitively and inconsistently with the Youth Justice Act (NT) which has caused suffering to many children and young people and, very likely in some cases, lasting psychological damage.



The Royal Commission into The Protection and Detention of Children in the Northern Territory found that 'youth detention centres are not fit for accommodating let alone rehabilitating young people.'

On the slide are the further findings of the report.

References:

The Royal Commission into The Protection and Detention of Children in the Northern Territory, Report Overview. https://www.royalcommission.gov.au/child-detention/final-report

WAYNE FELLA MORRISON

Latoya Aroha Rule carrying a portrait of their brother Fella

Latoya Aroha Rule is an Aboriginal & Māori, Takatāpui person. Their brother Wayne Fella Morrison died after being restrained in a Spit hood in Yatala Prison, SA.

‘THE BASIS OF WHAT WE KNOW THUS FAR IS THAT WAYNE WAS RESTRAINED WITH A SPIT HOOD – AT ONE POINT BY MORE THAN 14 PRISON OFFICERS, CUFFED BY HIS WRISTS AND ANKLES, AND PLACED FACE DOWN IN THE BACK OF A PRISON TRANSPORT VAN AFTER MERELY SIX DAYS ON REMAND – HIS FIRST AND LAST TIME IN PRISON. THERE WAS NO CCTV TECHNOLOGY AVAILABLE INSIDE THE VAN WITH SEVEN PRISON OFFICERS INSIDE, AND THERE WERE NO BODY CAMERAS. HE WAS PULLED OUT UNCONSCIOUS. ‘

LATOYA AROHA RULE (2021)

In their article Rule describes their brother’s death.

Their campaign, supported by the National Aboriginal and Torres Strait Islander Legal Service, asked why are spit hoods being condoned at all when so many people have died as a result of their use.

Campaigners in South Australia held a memorial in May 2021 on the 5th anniversary of Wayne Fella Morrison’s death, wearing spit hoods and representing figures of authority.

A bill was introduced to the SA parliament to ban the use of spithoods and was supported by the majority, so that its will become law.

BLACK LIVES MATTER

Almost 30 years and over 474 deaths since the Royal Commission, no police officer or authority has been convicted for Black deaths in custody. Our people continue to die at horrific rates. There is no accountability, and no justice. We call on the Prime Minister to meet us face to face on the 30 year anniversary to hear our stories, to see our pain, but most of all we want answers.

We want to know why his Government will not take action to stop our people dying in custody. We want a commitment from him to work with us to implement the Royal Commission recommendations and to make sure no other family has to experience this injustice. Our families, and so many more, are calling for your support. We believe our lives matter, do you?

Sign the petition calling on the Prime Minister to meet with families whose loved ones have died in custody

Now, the family together with NATSILS is campaigning for a national spit hood ban which we can all sign if we wish. Link is on vUWS.

SUMMARY

- Prisons are seen as a solution to crime but what we define as crime changes over time and between places
- Police and the threat of prisons replace social services and community investment
- The prison is traced back to new forms of modern discipline (Foucault)
- Prisons and other institutors like schools are used to instil self-discipline in the population
- The Tough on Crime movement creates the perception of crime via moral panics
- Indigenous people are the most incarcerated people in the world per capita
- The Prison Industrial Complex describes the economic and social function of prisons - discipline is profitable
- Indigenous families are campaigning to end deaths in custody