

THE SOCIOLOGY OF PUNISHMENT: SOCIETAL DYNAMICS AND MODERN CRIMINAL POLICY

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Abstract This scientific article explores the complex phenomenon of criminal punishment through the analytical lens of the sociology of punishment. Traditionally, penal institutions have been evaluated either through a penological framework focused strictly on crime control or a philosophical framework concerned with moral justifications. However, these approaches often fail to capture the broader social determinants and consequences of penal practices. By synthesizing the foundational sociological theories of Emile Durkheim, Karl Marx, Michel Foucault, and Norbert Elias, this article demonstrates that punishment is a deeply embedded social institution shaped by cultural sensibilities, economic structures, and technologies of power. Furthermore, the study conducts a comparative analysis of modern penal policies, contrasting the harsh, exclusionary practices of American mass incarceration with the reintegrative, humane approaches found in European systems. The findings emphasize that the true social efficiency of criminal policy relies not on the severity of sanctions, but on the capacity of the state to resocialize offenders, uphold human dignity, and maintain social solidarity.

Keywords Sociology of punishment, criminal policy, social solidarity, disciplinary power, civilizing process, political economy, resocialization, humanization.

INTRODUCTION

The standard ways in which society thinks and talks about punishment have traditionally been framed by two distinct discursive traditions: the penological and the philosophical. The penological approach views punishment almost exclusively as a technique of crime control, measuring its success through rates of recidivism and deterrence. The philosophical tradition, on the other hand, sets up punishment as a distinctively moral problem, asking how penal sanctions can be justified and what their proper ethical objectives should be. Despite the central importance of these frameworks, both are marked by serious limitations because they fail to recognize that penal measures are never fully and rationally adapted to a single organizational objective. In recent years, a third style of thinking has emerged: the sociology of

punishment. This approach conceptualizes punishment not merely as a means to an end, but as a complex cultural and historical artifact shaped by an ensemble of social forces. It serves as a connecting link between the theory of criminal law and its metatheory, exploring the socio-legal significance of punishment in ensuring society's security and shaping human behavior. The purpose of this article is to examine the theoretical foundations of the sociology of punishment and apply these insights to evaluate the social efficiency of contemporary criminal policies.

LITERATURE REVIEW

The sociology of punishment does not consist of a single, unified framework, but rather a set of competing and complementary interpretations. Emile Durkheim posited that punishment is above all a moral process functioning to preserve the shared values and normative conventions upon which social life is based.¹ For Durkheim, crimes that violate the collective conscience provoke moral outrage, and the ritual of punishing offenders serves to reaffirm the strength of that moral order and restore collective confidence, thereby producing social solidarity.

Conversely, the Marxist perspective, most notably advanced by George Rusche and Otto Kirchheimer in their seminal 1939 work "Punishment and Social Structure," provides a political economy approach. They argue that modes of punishment are social phenomena shaped by economic drivers, specifically the labor market. In this view, penal policy is understood not as a simple response to crime, but as a mechanism operating within the broader struggle between social classes and the regulation of marginalized populations.

Michel Foucault shifted the focus to the internal workings of the penal apparatus in his book "Discipline and Punish".² He analyzed the transition from public spectacles of bodily violence to the modern prison system, viewing the latter as a technology of power and knowledge. For Foucault, modern punishment aims to create docile, obedient bodies through constant surveillance, routine intervention, and disciplinary normalization rather than mere physical repression.

Finally, the work of Norbert Elias on the "civilizing process" highlights the role of cultural sensibilities in shaping penal history. Elias demonstrated that as society developed internalized restraints and a heightened sensitivity to pain and suffering, brutal public punishments became culturally offensive.³ Consequently, modern society relocated punishment behind the scenes, privatizing and sanitizing the violence inherent in penal practices. As David Garland suggests, a comprehensive understanding of punishment requires a multidimensional approach that synthesizes these moral, economic, power-based, and cultural perspectives.

¹ Garland, D. (1991). Sociological Perspectives on Punishment. *Crime and Justice*, Vol. 14, pp. 115-165.

² Garland, D. (1990). *Punishment and Modern Society: A Study in Social Theory*. Oxford: Oxford University Press.

³ Elias, N. (1978). *The Civilizing Process: The History of Manners*. Oxford: Basil Blackwell.

MAIN BODY

To understand how these sociological theories apply to actual state strategies, one must examine the comparative political economy of punishment and the divergent penal cultures of the modern Western world. A striking divergence has occurred between the United States and Europe regarding their cultural and institutional approaches to criminal offenders. In the American penal culture, serious or repeat offenses are often perceived as marking the offender as a morally deformed person. This perspective views criminality as an immutable and devaluing feature of the actor rather than merely the act, leading to a strategy of social banishment. Practices such as extremely long prison sentences, life without parole, and the severe collateral consequences of a criminal record effectively exclude the offender from the social contract. This American phenomenon of mass incarceration was historically fueled by a combination of moralistic and instrumentalist political reactions to rising crime rates, where policymakers concluded that rehabilitation was ineffective and that dangerous or evil individuals simply needed to be permanently caged.

European criminal punishment, however, expressively denies that any offense marks the offender as a permanently deformed or ruined person. Guided by a commitment to human dignity, the European model insists that criminality is mutable and that actors must be kept at a distance from their acts. In jurisdictions like Germany, the penal system operates on the principle of approximation, which dictates that prison life must resemble life in the outside world as closely as possible to facilitate reintegration. The European Court of Human Rights has even recognized a "right to hope," asserting that all prisoners must be offered the possibility of rehabilitation and the prospect of release.⁴ This approach actively prevents the total severing of ties between the offender and the community, prioritizing social membership and forgiveness over permanent stigmatization.

Furthermore, the scale and quality of punishment are deeply influenced by the institutional structure of a country's political economy.⁵ Coordinated market economies with generous welfare states, such as the Nordic countries and Germany, feature lower levels of inequality and highly developed social safety nets, which organically generate incentives for inclusionary criminal justice policies. In contrast, liberal market economies like the United States and the United Kingdom, characterized by majoritarian electoral systems and higher inequality, often face political environments where tough-on-crime rhetoric is easily mobilized for electoral gain, leading to more punitive and exclusionary penal policies. Modern regulatory frameworks also show that responses to crime are increasingly hybridized with business regulation models, utilizing risk analysis and preventative technologies rather than relying solely on post-

⁴ Braithwaite, J. (2003). What's wrong with the sociology of punishment? *Theoretical Criminology*, Vol. 7(1), pp. 5-28.

⁵ Lacey, N., Soskice, D., & Hope, D. (2017). Understanding the Determinants of Penal Policy: crime, culture and comparative political economy. LSE International Inequalities Institute, Working paper 13.

event punishment.

RESULTS AND CONCLUSIONS

The results of this sociological analysis demonstrate that the social efficiency of imposing criminal penalties cannot be measured simply by looking at crime rates or the severity of the sanction. When a state employs overly harsh punishments that rely on social banishment and extreme isolation, it inevitably leads to the rupture of social ties, psychological damage, and the creation of a permanently marginalized underclass, which ultimately undermines public safety. Criminal punishment is not merely an act of state revenge, but a complex mechanism of social regulation.

A rational and socially efficient state strategy must recognize that punishment communicates profound messages about social solidarity, human dignity, and the foundations of rights. In this regard, the ongoing reforms in the Republic of Uzbekistan, which focus on the humanization of criminal law, the expansion of alternative sanctions, and the implementation of international standards for the treatment of prisoners, reflect a highly advanced sociological understanding of penalty. By rejecting the illusion that severe repression cures crime, and by prioritizing the resocialization and educational correction of offenders, the state ensures that the penal system restores social justice without destroying the human potential of its citizens. Future developments in criminal policy should continue to integrate these sociological insights, fostering an institutional environment where penal practices are continuously evaluated not just for their deterrent effect, but for their overall contribution to the welfare, culture, and democratic dignity of society.

REFERENCES

1. Garland, D. (1990). *Punishment and Modern Society: A Study in Social Theory*. Oxford: Oxford University Press.
2. Garland, D. (1991). *Sociological Perspectives on Punishment*. *Crime and Justice*, Vol. 14, pp. 115-165.
3. Foucault, M. (1977). *Discipline and Punish: The Birth of the Prison*. New York: Vintage Books.
4. Durkheim, E. (1933). *The Division of Labor in Society*. New York: Free Press.
5. Rusche, G., & Kirchheimer, O. (1968). *Punishment and Social Structure*. New York: Russell & Russell.
6. Elias, N. (1978). *The Civilizing Process: The History of Manners*. Oxford: Basil Blackwell.
7. Kleinfeld, J. (2016). Two Cultures of Punishment. *Stanford Law Review*, Vol. 68, pp. 933-1036.
8. Lacey, N., Soskice, D., & Hope, D. (2017). *Understanding the Determinants of Penal Policy: crime, culture and comparative political economy*. LSE International Inequalities Institute, Working paper 13.
9. Braithwaite, J. (2003). What's wrong with the sociology of punishment? *Theoretical Criminology*, Vol. 7(1), pp. 5-28.
10. Antonchenko, V.V. (2024). Criminal punishment: social illusions and theories of delusion. *Legal Science and Law Enforcement Practice*, No. 2 (68), pp. 34-42.