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Olivera I. Pavićević, Ljeptosava M. Ilijić, Milena D. Milićević

NEOLIBERAL PENAL POLICY AND PRIVATIZATION^{1,2}

The paper analyzes the relationship between neoliberal penalty transformation and prison privatization as part of neoliberal market reform. The neoliberal political and economic project characterized by deregulation, individualization, privatization, and commodification has introduced competition, entrepreneurship, and economic efficiency in areas that previously belonged exclusively to the public sector. The alleged need for greater efficiency has led to an increase in private prisons, and the results of this transformation have shown that it is more about achieving economic efficiency at the expense of quality, competencies, and outcomes of services provided in this sector. In this paper, the starting assumption is that the increase in the number of private prisons does not imply the withdrawal of the state concerning the market. In contrast, it raises the question of the regulatory role of the neoliberal state that enables the market of new fields for profit. As a consequence of the tightening of penal policy, mass incarceration is a mechanism for resolving social conflicts caused by the transformation of social policy. Therefore, private prisons are aimed at making a profit by reflecting the spread of neoliberal rationality throughout society. Withdrawal of assistance and support from the social sector and transfer of exclusive responsibility from the social to the individual responsibility of prisoners as rational neoliberal subjects lead to a reduction of rehabilitation goals. In the context of prison

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privatization, this transformation leads to turning prisoners into a means of earning or cheap labor.

Keywords: penal policy; neoliberalism; mass incarceration; market; rehabilitation

1. INTRODUCTION – ABOUT NEOLIBERALISM

Since the mid-1970s, the post-industrial restructuring of Western economies marks the beginning of neoliberalism, a doctrine that the free market dominates all goals and processes of government. The reformed role of the state implies harmonization with the requirements of economic liberalism, which are primarily the protection of market and individual economic freedom and the regulation of economic life to encourage entrepreneurship.

“Neoliberalism is in the first instance a theory of political economic practices that proposes that human well-being can best be advanced by liberating individual entrepreneurial freedoms and skills within an institutional framework characterized by strong private property rights, free markets, and free trade.” (Harvey 2012: 2)

Aware of the importance of the state, neoliberals considered the state’s role as the creation and preservation of an institutional framework appropriate to such practices. For neoliberals, market mechanisms are the most efficient way for societies to organize the provision of goods and services. In this approach, market mechanism could and should be applied to all areas – including education, health and penal policy (Cummins 2015). The fundamental principles of neoliberalism relate to the dominant market rule, “reducing” public spending on social services like health, education, and welfare programs. Neoliberal policies aim to “desacralize” institutions previously protected from competing forces in the private market (Mudge 2008: 704). Wacquant (2009, according to Lynch 2011: 242) argues that a major transformation or “break” from a distinct past mode of governance is at work here – that the neoliberal state is de facto “neo” rather than just an old power with some new tricks up its sleeve. The question is whether neoliberal regulation is something actually “neo” or just a new form and restructuring of the power hierarchy. Another important “neo” in political project of neoliberalism involves the dismantling of welfare provisions (Wacquant 2012).

The critical analysis of neoliberalism does not rely on a false dilemma for or against the (free) market, nor on misguided and malicious interpretations that see this

critique as a desire to abolish the market economy, private property, private entrepreneurship, and, most drastically, human freedom itself. This critique is based on a deep understanding of the implications of neoliberal aspirations to subordinate everything to the (privatized) market, equating economic rationality with the rationality of the entire individualized society and equating human freedom with market freedoms (Kuzmančev-Stanojević 2021).

From the perspective of critically oriented theoretical approaches (Wacquant 2009; Cavadino & Dignan 2006; Di Giorgio 2012), the paper starts from the assumption that neoliberal penal policy is a kind of regulatory mechanism of neoliberal political and economic order whose purpose is to neutralize the social consequences it caused. Furthermore, this refers to the politically expedient punitive criminal justice policies they pursue in the name of security (Cheliotis 2013; Xenakis & Cheliotis 2018).

Although there are several approaches in the literature (comparative, institutionalist, historical) that criticize and even challenge the thesis of neoliberal penal policy, this paper does not aim to present or confront these different interpretations of neoliberal penal policy but rather to analyze “reformist experiences of market relations” (Soss, Fording & Schram 2011) through a discussion of the privatization of prison systems. The paper analyzes the connection between the spread of private prison systems as a commodification of state institutions and services, which not only does not represent an adequate solution to the problem of increased imprisonment (criminalization) but also mainly focuses on achieving additional economic and political profits.

Within the UK criminal justice system, marketizing prisons entered a new era of policing when a Prison Competition Strategy gained ministerial approval (Ludlow 2017). At that moment, three strands were noted, including the re-emergence of competitiveness between private and public prisons, the building of new ones with only the private and third sectors participating, and continued effort to identify low-profile performance against private sector costing.

However, privatization trends in the provision of imprisonment focus particularly, but not exclusively, on US-based developments. Neoliberal commitment to the privatization of public services with the purported intention of reducing strains on the public purse has fueled an expansion in the private provision, even if – or, rather, because – in many cases, public expenditure has increased in tandem with the burgeoning of corporate interests in this area (Gilmore 2007; Bell 2011). This assumption is supported by the fact that neoliberalism has not only intensified and expanded private supply where it, as is the case in private prisons, proves to be worse and even harmful

concerning public services, but also led to the hybridization of public and private prison services (catering, security, medical supplies, etc.). This has led to increased costs for prisoners and the exploitation of prison labor, as documented in studies by De Giorgi (2015) and Kilgore (2013). The paper analyzes the changes in penal policy as a particular set of reforms from a neoliberal perspective in the context of mass incarceration and the privatization of prisons. The aim is to establish a link between more restrictive penal policies, mass incarcerations, and the proliferation of private prisons. The assumption is that it is not a consequence of the withdrawal of the state from the market but that it is a matter of achieving the specific regulatory role of the neoliberal state. In this context, prison privatization is interference of state power with private agencies. Deprivation of liberty, primarily acknowledged as an elementary state function, is modeled in practice through the demands stemming from contractual arrangements exerted by private service providers (Metzger 2003; Freeman 2001). With neoliberal governance and its essential market logic, public services have been restored in line with the belief in the superiority of market solutions and private sector management techniques (Crewe, Liebling & Hulley 2015).

Although the privatization of prisons in Serbia has not been implemented yet, there are several relevant features of neoliberal penal reform identified in criminal law solutions in the current prison policy in our country. Therefore, we believe that some essential characteristics of neoliberal or so-called new penology³ should be considered carefully as significant for the expected effects of the spillover of these changes into domestic penological practice.

2. NEOLIBERAL PENAL POLICY

The process of globalization, along with the accompanying development of society and neoliberal ideas, has led to changes in criminal law and penology (Ilijić & Pavićević 2020). The idea that trends in state penal policy tend to reflect the internal relations of the dominant system of production in society appears in the seminal book *Punishment and Social Structure* (Rusche & Kirchheimer 1929/2003). The relationship between neoliberalism and punishment is, at the same time, the subject of the

3. The management, supervision, and control of specific groups of individuals within the prison system are referred to as the “new penology”, as defined by Feeley and Simon (1992). The new orientation aspect implies the transition to different methodologies of work aimed at assessing the needs of convicts and the risk of future criminal behavior. The practical implications of the new penological approach in practice are mainly evident through a different approach to prison management, multiple classifications within the institution, and treatment programs targeted at convicts with a certain degree of risk (Ilijić 2017).

relationship between systems of production and modes of punishment. Economic and fiscal forces determine the manner and degree of state penal policy in society more remarkably than the actual crime trends.

Since the 1970s, there was an accelerating shift away from “penal welfarism”, the institutional arrangements that increasingly characterized the field from 1890 to 1970 (Garland 2001: 3). Nature of this change was caused by the neoliberal “penalty wave” (Wacquant 2010), which, among other things, manifested itself in the field of penal policy through a significant increase in the prison population, especially in the United States and the UK (Peacock, Turner & Varey 2018), and prison privatization (Clark 2016). Criminology of social causes has been replaced by criminology of control aimed at questioning the circumstances in which crime arises, and appropriate control mechanisms need to be developed. Under neoliberalism, a penal policy was privatized following the contracting out model. Moreover, there was a proliferation of private security agencies and large prisons privately managed (Petković 2010). The abandonment of “penal welfarism” manifested itself in various directions (coping and control, exclusion, warehousing, waste management, creating new prison institutions such as super-max prisons, spatial exclusion or expulsion, electronic surveillance, redirecting older institutions including mass prisons and probation management and risk management (Simon 2013). Theoretical explanations for neoliberal “prisonfare”⁴ offered various causes and intentions that motivated the new penal policy. The reduction in state social provision as a basic tendency of this reform is explained by the disciplinary regulation of poor workers replaced by “rehabilitated” convicts willing to take the lowest-paid jobs (De Giorgi 2012). The change in a social structure characterized by respect for social inequality has turned the neoliberal penal policy into political regulation of social conflicts through the criminalization of class and racially deprived social groups, especially in urban areas (Wacquant 2009; Cavadino & Dignan 2006). Furthermore, that poses as a means by which neoliberal political leaders can make up for the legitimacy lost in the pursuit of other societal economic policy goals (Cheliotis 2013), redundancy due to changes in the economic structure absorbed by work in large prison complexes located in depopulated rural areas (Gilmore 2007). In other words, commercialization and commodification are positioned as solutions to all social issues and problems.

4. The single oversight of the poor by the maternalist arm of the social state has been superseded by the double regulation of poverty through the paternalist action of restrictive “workfare” and expansive “prisonfare” (Wacquant 2011: 207).

Positioning the market in the central sphere of public policies is a change in which market issues and interests are placed before political issues. Such a change has led to privatization, described in the United States as “virtually a national obsession” (Metzger 2003: 1369). Major issues occurred with the increased importance of “privatization” following changes in the public perceptions of state sovereignty over activities such as the administration of justice and order. Selman and Leighton (2010) argue that privatization involves both active anti-state sentiment and business bias. However, privatization of prisons requires determined, adequate, and powerful acting in a way that would justify passing on essentially a government obligation (Selman & Leighton 2010).

The story of prison privatization in the United States begins before the end of slavery. One example of early prison privatization took place in 1844 when Louisiana turned over the operations of its penitentiary to a private company that used the facility like a factory where prison laborers had to manufacture clothing. Today, the 13th Amendment still allows corporations to extract labor from those trapped between the walls of America’s prisons, but prison labor is not the only way businesses profit off the carceral system. They also make money by operating the prisons themselves (Young 2020). Since the 1960s, the United States has led the development of prison privatization, closely followed by Australia and, within Europe, the United Kingdom. The ideology of marketization is manifested in thinking that includes

“privatized ownership and management, private sector design, finance, construction, and management of whole institutions, outsourcing or contracting out of core or ancillary functions, and competition or market testing processes in which public and private service providers are compared” (Ludlow 2017: 914).

The recognition of these attitudes, combined with situational factors, led to an influential historical moment in the 1970s and 1980s of the last century, which encouraged the expansion of the privatization of prisons (Clark 2016). Accepting and promoting the privatization of the prison sector would not have been possible without two preconditions being met. First, there was an ideological turn towards neoliberal ideas, and second, there was an extreme increase in the number of prisoners. All levels of administration were under pressure caused by the constant overcrowding of prisons (Selman & Leighton 2010). During Nixon’s presidency, the campaign “for order and peace” introduced political attitudes of “tough treatment of crime”. Moreover, a decades-long war “against drugs” and the adoption of numerous laws increasing the

length of prison sentences has led to an increase in the number of prisoners, producing a shocking trend of mass imprisonment (Selman & Leighton 2010).

The aim of the new penological strategy, in the context of new social, economic, and market constructions, is no longer to eliminate crime but to make it bearable through systemic coordination (Feeley & Simon 1992). One of the significant indicators of the change in the goals of the penal policy is the change in the significance of the recidivism rate as the former ultimate criterion in the success of penal policy and prison treatment. Crime is detached from its moral connotations close to Durkheim's vision of crime, perceived as an inevitable and accepted phenomenon. Furthermore, delinquency is considered a normal risk of the same type as other risks within social security, illness, or unemployment (Feeley & Simon 1994). Crime normalization is just one of several unfavorable risk outcomes that need to be predicted accurately, and its negative effects minimized from the point of view of its "technical nature". Neither individual nor social factors are critical for new penology as it focuses on the offense without reference to the external context, and the offense is not seen as an outcome of individual behavior but as part of group management – as a statistical phenomenon (Simon & Feeley 2003: 102).

The reduction of "recidivism" has always been a universal goal of penal policy, (even if shaped in different ways (Maltz 1984). However, in the modern context, this goal has lost importance and been replaced by a more efficient system of access control and crime control (Ackerman, Sacks & Furman 2014). Previously, recidivism was viewed as a failure, while the reduction of the recidivism rate was considered a success. In modern criminology, accurate assessments of the risks and the probability of potential or future recidivism are considered indicators of success, regardless of the criminal outcome (Ilijić & Pavićević 2020). While evidence about the effectiveness and efficiency of the private sector remains scarce (Ludlow 2017), private prison organizations justify their existence with arguments of cost-effectiveness, increased safety, and security, and reduced recidivism rates (Cummings & Lamparello 2016). Prison corporations emphasize their favorable characteristics and achievements (e.g., active engagement in positive actions) while simultaneously de-emphasizing their wrongdoings and problems (e.g., violence) (Marko 2021).

Rather than individual success or failure, system management has led to reduced expectations of new penology from criminal sanctions. Instead of a tendency to respect social norms, eliminate crime, reintegrate into the community, or protect public safety, institutions began to consider their results indicators of performance (Feeley & Simon 1992: 455).

According to Wacquant (2010), punishing the poor remains the dominant way of resolving social turbulences and conflicts caused by extreme social polarization. Structural production of poverty and structural causes and features of poverty lead to structural, economic and spatial inequalities. Insecurity and instability, both social and economic, are defining aspects of neoliberalism, and this insecurity is often attributed to the risks encountered by marginalized or underprivileged social groups.

The “underclass”⁵ is qualified as useless, comprising only human surpluses given their lack of competence and education (Feeley & Simon 1992; Simon & Feeley 2003; Slingeneyer 2007). Furthermore, this underclass is sanctioned as a risk group with an extremely high cumulative potential for crime (Simon & Feeley 1992). In addition to the issue of prison privatization and the involvement of strong private interests in the maintenance and expansion of the prison system, interpretive and political attention was particularly drawn to the specific racial and ethnic image of the prison and technological innovation (Petković 2016: 126).

The deprived social group is the most exposed to the negative and unfair effects of the new penalty wave. Its members have been judged and objectified as “waste” that should be disposed of (Simon 1993; Simon & Feeley 2003). As Sinden (2003) noted, regressive prison tendencies had resulted in a heavily unbalanced increase in the prison rate among marginalized communities. Racial discrimination and social deprivation are widely spread among offenders in the prison system, and many offenders in the prison system have already faced racial discrimination and social deprivation (Teague 2012). Staying out of the criminal justice system is more challenging after prison release, given that supervision is self-financing; otherwise, they are threatened with imprisonment (Teague 2012). The criticisms appear to be valid, with critiques highlighting the system’s central viewpoint that it perpetuates social injustice, which has a particularly negative impact on low-income individuals, especially those belonging to minority groups.

Neoliberal criminal restructuring has also led to rarely explored reconstructions in terms of prison staff work, the life of prisoners, and their interpersonal relationships. Corporate self-regulation in the prison community context implies the implementation of neoliberal public policies aimed at reshaping the self of prisoners and prison staff by changing their identities and traditional roles and relationships.

The neoliberal project had an impact on the relationships within prison commu-

5. In the recent book *The invention of the “underclass”: a study in the politics of knowledge*, Wacquant criticizes the use of underclass concept which through media and pseudo-scientific use blunts the analysis of the structural production of urban poverty (Wacquant 2022).

nities and significantly changed the dynamics of power and disciplinary discourse. Neoliberal agenda replaced traditional authoritarian control with more subtle forms of regulation that were soft, indirect, and mediated (Liebling & Arnold 2004; Peacock, Turner & Varey 2018), thereby permeating the organizational structure of prison life. The “reconstruction of power” in prisons is accompanied by the transition from “hard” to “soft” power (Crewe 2009). Changes in the labor practice of prison officers, which include contracting out, fear of losing a job, intensification of work, and technological breakthroughs (McElligott 2007), are characterized by a simultaneous complexity of their professional function and practice (Crewe, Liebling & Hulley 2015). Moreover, this complexity refers to the new requirements based on the mediation of the relationship between the state and the client (subject of the population). In more detail, this complexity involves the interpersonal skills significant for interaction with a group of prisoners, the centrality of “crafts” as the ability to adapt to the dynamics of life in prisons and their daily practices, and the value of “personal presence”, honesty, consistency of experienced use of formal and informal sanctions in maintaining daily order and control (McElligott 2007: 91).

New studies on prisons point to the importance of prison officers’ commitment to specific practices and emphasize maintaining peace and discretion, in which prison officials appear as mediation and arbitration experts (Liebling 2000). Their role is to transpose rules into action or apply general rules to specific situations (Liebling 2000). The way prison staff uses their authority has a profound impact on prisoners’ experiences, including the level of order and security, violence, and suicide. More broadly, it creates the overall moral quality or legitimacy of penitentiary institutions (Liebling 2004).

Contradictory tendencies between the demands of market logic and the privatization of sectors lead to the deteriorating working positions of prison officers by reducing them to service workers. At the same time, the demands for exceptional working skills occur as a challenge for monitoring the quality of prison life. The representation of human or financial incentives for introducing competition in the private sector of prison services may vary across different countries. Concerns about the treatment of prisoners, better staff work practices, and the development of productive activities for prisoners are becoming elements of competitive pressure in the private sector, regardless of the underlying reasons they are guided by (James, Bottomley, Liebling & Clare 1997), are concerns that are still relevant (Young 2020). Considering human rights and the role of administrative law between privatization, prisons, and democracy, Aman Jr (2005) recommended applying public law values to private actors and creating informal ap-

proaches. As highlighted, a broad province of administrative law should consider both noneconomic and economic issues.

3. SOME WEAK POINTS OF PRISON PRIVATIZATION

The United States prison system has faced several important philosophical, empirical, and political questions about the effects of privatization during the past two decades (Clark 2016). Administrative law in the United States is developed in a state-centric way, that is, as a bridge between the market and the state (Aman Jr 2005).

Charles Logan's book entitled *Private Prisons: Pros and Cons* discusses and makes the question about the importance of the issues of propriety, cost, quality, quantity, flexibility, security, liability, accountability, corruption and dependence (Logan 1990). Although all these dimensions of the prison system are relevant, the focus is most often on the three segments of the privatization of the prison system. These include the issue of state sovereignty, prioritization of profits and efficiency, and the quality of services provided (Clark 2016). These three segments are holistic since they largely overlap yet cannot be separated into individual categories. However, their analysis contributes to the consideration of relevant aspects in the debate on private prisons.

One of the central concerns regarding the shift to private operations for corporate interest is that sovereign governmental responsibilities are given up. When this governmental sovereignty, derived from its citizens, is delegated to corporations outside the government, it undermines its capacity for governing (Verkuil 2007). However, it should be noted here that the neoliberalism of the merged state is of great importance. The state has been transformed into a market agent that takes over corporate principles in governance. It is not simply that neoliberalism privileges markets, but that it seeks to buttress markets (and market-like behaviors and culture) using the state force and to transform the state around principles extracted from the market (Davies 2014). The state authority shifts to regulate economic activities whose principles are of the utmost importance and are not subject to state intervention or control. The state acts aggressively to produce a comprehensive framework that will be biased enough to withstand the turbulences occurring within a competitive market (Greber 1994). Almost all spheres of social life are subject to the logic of the market, whereas the kaleidoscope of the neoliberal ideological matrix falls on incompetent, parasitic, and corrupt public services, playing on populist sentiments and new technocratic efficiency as a "benchmarking" (Davies 2018).

Delegating the execution of a prison sentence to the private sector weakens the authority of the state and the integrity of the justice system. If the private sector is responsible for enforcing a prison sentence, the prisoners see that the institution punishes them for the crime committed, not the state. This change completely compromises the state's authority and transforms crime correction by turning the public sector into a profit-making venture (Shichor 1995). By renouncing sovereignty over a prison, the system loses its responsibility towards the state. Hypothetically, this transfer of control to the private sector is intended to increase efficiency. However, the transition from public to private control causes profit and efficiency to become the most important factors in decision-making on prison management.

Some researchers state that whatever cost savings private prisons achieve, they come at the expense of inmate well-being – that private prison operators save money by skimping on personnel training and staffing, offering only minimal educational programming and vocational training, and housing inmates in cramped and unsafe quarters (Sigler 2010). The profit motive that fuels prison privatization exerts a constant pull in the direction of cost-cutting (Sigler 2010). As some authors have observed, private contractors can attempt to save costs by reducing the amount spent on meeting inmates' needs – food, housing, security, and medical care – and by keeping wages low (Dolovich 2005).

Moreover, it is believed that the profit motive creates perverse incentives to extend inmate sentences and promote criminal justice policies that yield more and longer prison sentences regardless of whether they are in the public interest. Finally, critics denounce the delegation of governmental functions to private actors and highlight the threat it poses to democratic accountability and the rule of law (Sigler 2010).

The sacrifice of accountability for efficiency may not be worthwhile, even from an economic standpoint, as many scholars criticize that the prison industrial complex constructed by private prisons does not fulfill its promise to cut governmental costs. As incarceration rates in the United States have gone through the roof, so has the system's economic cost. "Despite extreme pressure on public expenditure, America currently spends an overwhelming \$68 billion each year on its penal-industrial complex, which includes local, state, and federal correctional systems. The United States' second-largest employer is the prisons industry," exemplifying the economic importance this industry has for the American economy (Teague 2012: 50). While some may argue that neoliberalism has led to cost-effective justice rather than an expansion for economic imperatives (Teague 2012: 47), the cost-effective argument falls short, as there is much evidence that the system does not save any money (Clark 2016; Teague

2012; Gaes 2008). Many scholars have taken the time to compare the costs of private prisons versus public prisons to study economic efficiency. Recent research from the Arizona Department of Corrections finds that private prisons do not save money and cost more per prisoner (Clark 2016). Simple cost comparisons that appear to favor private facilities are based on per diem rates that may not reflect the overall cost of incarceration (Gaes 2008). The advent of this private prison corporation ushered in an era where the traditional government function of crime, punishment, and imprisonment became intertwined and enmeshed with corporate principles and goals. These principles and goals include, for example, profit maximization for shareholders; executive compensation based on profits and share price; forward-looking statements forecasting larger prison populations; management's discussion and analysis focusing on a more robust prison state; and increased profits built solely on human misery and debasement (Cummings & Lamparello 2016).

Prisons in the former Yugoslav states, including Serbia, are under public sector control, but their penal policies are shifting towards "neoliberal reform" trends (Pavićević & Ilijić 2022). Although private-public cooperation for prison privatization has had negative outcomes in developed Western countries (according to critical theory), any potential collaboration in the region should consider the economic, social, and institutional development levels of the countries as these factors can increase the risks of corruption, profiteering, and a decline in the quality of prison life.

4. "PENAL REGRESSION"⁶

Because the focus on profits takes priority, many scholars, such as Michael Teague, argue that neoliberal goals have undermined liberal and rehabilitative approaches to incarceration (Teague 2012). He argues that this ideological shift has "prioritized punitiveness, de-prioritized rehabilitation, fostered a growing incarcerated population, and engaged in the pursuit of private profit at the expense of social justice" (Teague 2012: 45). This change towards prioritizing profits and decreasing accountability can lead private prisons to cut costs in unacceptable ways.

The sharpest criticisms of the privatization of prison systems coming from scientific research circles are aimed at reducing the quality of services in favor of cost reduction. Phillip Wood describes this tendency as a "pattern of criminal regression"

6. Penal regression – in the context of neoliberal tendencies in prison systems, it refers to the growing distance from the idea of rehabilitation of convicts and an increasingly intense focus on the control and management of groups of offenders.

(Wood 2003: 19). This regression has reduced the quality of services and made prisons “cruder and more cynical”, and its consequences have a negative impact on both prisoners and professional prison staff (Wood 2003). Private prison company directors, managers, and their lobbyists currently work doggedly to increase profits by: (1) influencing carceral policy so that greater numbers of Americans face incarceration; (2) exploiting those imprisoned through private prison labor contracts; (3) lobbying government officials tirelessly to privatize entire state and federal prison systems; (4) reducing the quality of food and degree of safety for prisoners to cut costs at privately run facilities; (5) drafting legislation and lobbying for passage of draconian sentencing policies including mandatory minimums, three-strikes, and illegal immigration legislation; (6) bribing judges and government officials to fill private prison facilities with children on dubious charges; (7) requiring governments that contract for their services to maintain capacity in the private prisons at ninety percent or risk breach of contract and higher per diem fees; and (8) building new prison facilities despite no government contract or ready prisoners to fill them (Cummings & Lamarello 2016).

The high rate of inexperienced and untrained prison staff has also led to an increase in the rate of ill-treatment of convicts, as a staff is unskilled to work with the prison population (Sinden 2003). As the quality decreases, tolerance to violence as a means of social control in prisons increases, i.e. the degree of compensation for rehabilitation by punishment (Wood 2013). On the other hand, the lack of effective state control increases the opportunities for corruption and abuse (Shichor 1995).

As the private sector generates revenue from the prison system, there seems to be a justified concern that prison industrial complexes are undermining the policy of imposing and enforcing prison sentences and their primary goal. This order keeps convicts in the prison system and deprives private prison complexes of responsibility for achieving actual rehabilitation of convicts (Selman & Leighton 2010).

Expanded support for offender-funded probation and rehabilitation services, recognized by American prison policy, is crucial for cutting costs for taxpayers and the criminal justice system and creating responsibility for the convicts at the same time (Teague 2012). As further noticed, the undeniable consequence is the risk of prolonged imprisonment due to technical violations of parole or supervision requirements, including payment (Teague 2012).

A system designed this way does not help individuals in conflict with the law at all. On the contrary, it is challenging to get out of this system. Reducing the importance of safety and rehabilitation and focusing on financial profit is problematic in

several ways. Since there is no adequate or necessary support for the convicts, this system does not allow for changing the circumstances that led to the commission of the criminal offense. Next, reduced implementation of rehabilitation programs makes it more complicated for convicts to avoid the cycle of committing crimes and leads to high recidivism rates. This situation is not beneficial for convicts or their families, yet it is profitable for profit-oriented companies.

5. SUMMARY

Market-oriented goals start to dominate institutions when the primary purpose of public services shifts towards efficiency, opening space for profit and transforming prisoners into a means of earning. In the case of prison systems, neoliberal values are reflected in the transformation of services once intended to help people into economic investment now. Broadly speaking, the transformation toward profiteering incorporates factors that spread neoliberal rationality to a whole society (Clark 2016).

Through neoliberal transformation, individuals are expected to protect themselves and act responsibly to meet their own needs, successes, and failures. Accordingly, prisoners are considered individually responsible for the way they are perceived and supposed to behave. This context includes the expectations that society has of them. In the context of prison privatization, cost-cutting is achieved by shifting responsibility from the organization to individual prisoners. However, from a societal perspective, the increase in the imprisonment rate indicates a transformation from policies that promote personal transformation and rehabilitation through developing competencies, which should involve both individual and social responsibility toward the prisoner.

A neoliberal responsible self that functions following neoliberal rationality requires prisoners to interpret individual responsibility outside the context of pronounced social inequality. The culture of individualism that characterizes neoliberalism prioritizes individual responsibility in both positive and negative outcomes. Considering deprivation of liberty, Teague (2012) has explained that a “neoliberal culture” holds individual offenders personally responsible for committing crimes without recognizing the neoliberal social and economic context. In summary, convicts are held accountable for their behavior, excluding political and structural circumstances as factors of their imprisonment (Teague 2012). The neoliberal structure might lead disfavored individuals to turn to crime. In the context of prison treatment, mental healthcare, addiction treatment programs, and training or supports for economic empowerment are becoming overlooked as implied policy and practical

solutions. By shifting responsibility to individuals, punishment becomes a more desirable solution than assistance and support.

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NEOLIBERALNA KAZNENA POLITIKA I PRIVATIZACIJA ZATVORA

Sažetak:

U radu se analizira odnos neoliberalne penalne transformacije i privatizacije zatvora u sklopu neoliberalne tržišne reforme. Neoliberalni politički i ekonomski projekt koji karakterišu procesi deregulacije, individualizacije, privatizacije i komodifikacije uveo je konkurenciju, preduzetništvo i ekonomsku efikasnost u oblasti koje su nekada isključivo pripadale javnom sektoru. Navodna potreba za većom efikasnošću dovela je do porasta privatnih zatvora, a rezultati ove transformacije su pokazali da je pre reč o ostvarivanju ekonomske efikasnosti nauštrb kvaliteta, kompetencija i konačnih ishoda usluga koje se pružaju u ovom sektoru. U radu se polazi od pretpostavke da porast broja privatnih zatvora ne predstavlja povlačenje države u odnosu na tržište, naprotiv, postavlja se pitanje regulatorne uloge neoliberalne države koja omogućava tržištu nova polja za ostvarivanje profita. Masovno zatvaranje kao posledica pooštavanja penalne politike predstavlja mehanizam rešavanja socijalnih konflikata izazvanih transformacijom socijalne politike. Posledično, privatni zatvori su usmereni na ostvarivanje profita odražavajući širenje neoliberalne racionalnosti na celo društvo. Povlačenje pomoći i podrške iz društvenog sektora i prebacivanje isključive odgovornosti sa društvene na individualnu odgovornost zatvorenika kao racionalnih neoliberalnih subjekata, dovodi do smanjivanja rehabilitacionih ciljeva. U kontekstu privatizacije zatvora, ova transformacija dovodi do pretvaranja zatvorenika u sredstvo zarade ili jeftine radne snage.

Ključne reči: penalna politika; neoliberalizam; masovno zatvaranje; tržište; rehabilitacija

Adrese autorica
Author's address

Olivera I. Pavićević
Ljeuposava M. Ilijić
Milena D. Milićević

Institute of Criminological and Sociological Research, Belgrade
oliverapavicevic4@gmail.com
lelalela_bgd@yahoo.com
milenaadresa@gmail.com