4.3. Convict Labour

Convict labour is “the work performed by individuals under penal and/or administrative control”.¹ It is the work of prisoners and deportees, individuals impressed into the army and the navy, prisoners of war, and military convicts. Arguably a ubiquitous phenomenon in human history, it stretches from Antiquity to the present, appears in virtually all parts of the world, and cuts across multiple punitive institutions and labour contexts: from the Roman mines to contemporary concentration camps, through the early modern Mediterranean and Oceanic galleys, penal transportation, workhouses, and penitentiaries. This chapter addresses convict labour from three distinct perspectives. In the first section, I discuss its definition by pointing to the ways by which an individual becomes a convict labourer. I contend that some historical processes are especially likely to produce such transformation: war; empire and state building; the search for labour flexibility; conceptualizations of the function of punishment; and ideas on ethnicity, class, and gender. The second section highlights the new trends in both labour history and the history of punishment that have been, and still are, transforming the study of convict labour. I argue that three approaches have been especially relevant: the reconceptualization of the “working class” beyond wage labour, to include other labour relations imbricated in the process of labour commodification; the attention paid to the multiplicity of forms that punishment has taken historically, rather than to single punitive institutions; and the focus on the spatiality of punishment, i.e. on the fact that punishing has often involved not only the immobilization of convicts, but also their relocation across space. The concluding section reflects on how these new insights might provide the basis for a new theory of the relationships between punishment and labour, both in the past and in the present.

Defining and locating convict labour

Convict labour emerges at the crossroads of two dynamic social processes: the enforced social definition of the “convict” and the commodification of labour. In other words, in order to become a convicted labourer, an individual has to undergo a double process: he or she has to be constructed as a convict, through the social and cultural dynamics of the legal and administrative systems (laws, rules, orders, and trials); subsequently, this convict has to be turned into a forced labourer, by


DOI 10.1515/9783110424584-018
means of both discourses that legitimize his or her labour coercion and organization-
al instruments that make it possible. The complex making of convict labour has
significant implications. Individuals held under distinct legal regimes and with dif-
ferent statuses belong to the category of “convict”. They are military, common-law,
and political prisoners, together with prisoners of war, vagrants, and those who
are subjected to legal control both while awaiting sentence and after its completion.
They depend on multiple formal and informal administrative agencies (including po-
lice, overseers, and religious chiefs) and are sentenced by various types of courts
(lower and higher, military, and religious courts for example). At the same time,
not all convicts become forced labourers. Across history, for example, elite convicts
have typically been excluded from the obligation to perform coerced labour. Under
certain circumstances, the same has been the case for political prisoners. Moreover,
not all convict labour is connected to labour commodification, as I will discuss later
in this section. Finally, in many contemporary Western prison regimes work is not
compulsory, nor is it available to all those who voluntarily apply for it.

Some social processes appear especially conducive to the emergence of convict
labour, even though their actual impact largely varies through time and space, and
combines differently in distinct contexts. Here I will address a selected group of them
in order to provide an idea of the broad variety of economic, political, social, and
cultural aspects that have been imbricated in the making of convict labour.

War inevitably plays a major role in the emergence of convict labour.² Accompa-
nied by cultural processes of production and dehumanization of the “enemy”, mili-
tary conflicts typically create “states of exception” that legitimize the recourse to
multiple repressive measures and a broader array of punitive regimes. At the same
time, war produces labour needs that across history have been frequently met
through the multifaceted mobilization of convict labour: in the early modern period
and up to the early twentieth century, it has facilitated large-scale impressment into
the army and the navy; it has required convicted workforce for military-related labour
at the frontline and, particularly during modern armed conflicts, at the home front;
and it has fostered the employment of convicts in public works and reconstruction
during and after the conflicts.

Partially connected with war, empire and state building has been another histor-
ical process typically associated with the production of convict labour. Especially the
need to claim sovereignty over and colonize new territories and the borderlands, and
the scarce availability of voluntary settlers to perform these tasks, has made convict
transportation one of the most long-term features in the history of punishment and
convict labour, as I will explain in more detail in the next section.

² For a more detailed analysis of this aspect, see Christian G. De Vito, Ralf Futselaar, and Helen Grev-
ers (eds), Incarceration and Regime Change. European Prisons during and after the Second World War
(New York and Oxford, 2016). For the reference to the “states of exception”, see Giorgio Agamben,
State of Exception (Chicago, 2005).
The need for convict labour has additionally stemmed from the search by employers and policymakers for labour flexibility, that is, their “quest to synchronise the availability of what they perceive as the most appropriate workforce, with their productive and political needs”.

³ From this perspective, the coerced labour of the convicts has usually been appreciated for its relative cheapness and high spatial mobility, although the productivity of convicts has often been deemed insufficient. Moreover, a dialectics has frequently developed between state and private actors, with convicts leased to private employers being an option in many and diverse historical contexts.

Whereas focusing on labour flexibility foregrounds the connection of convict labour with the process of labour commodification, one has to keep in mind that the production of convict labour equally depended on broader conceptualizations of the social functions of punishment that were not necessarily or solely designed to serve economic purposes. In this context, not only did certain forms of punishment not imply the exploitation of the work of prisoners, they could also privilege non-commodification-related functions of convict labour. One example of this can be found in those daily occupations performed by convicts in modern prisons that merely serve the purpose of the penal institutions themselves: the cleaning of the cells and corridors, the preparation of food, and administrative work. More extreme, but not infrequent, historical cases of non-commodified convict labour are associated with the merely punitive work political prisoners have been assigned to under multiple penal regimes across the world: one only has to think of the African National Congress (ANC) activists forced to uselessly break stones with hammers in the courtyard of the prison on Robben Island; or the Ecuadorian political convicts carrying huge stones in order to build the “Wall of Tears” (Muro de las Lágrimas) in the penal colony of Isabela, in the Galapagos islands (1940s-1950s).⁴ Often related to conceptions of punishment allegedly meant to “redeem” the convicts, those dramatic human experiences remind us of the multifaceted nature of “rehabilitation” through punishment, and of its frequent disentanglement from the progressive idea that we tend to associate with it. After all, draconian regimes of human exploitation have been legitimized under self-defined “enlightened” eighteenth-century imperial schemes to “redeem” the vagrants, Lombrosian distinctions between “born-crimi-


nals” and “occasional criminals”, and Stalinist attempts to create the “socialist man”.⁵

Broader conceptualizations of society, not directly related to punishment, have also played a key function in the production of convict labour. Ideas around ethnicity, class, and gender are a case in point, and have additionally contributed to differentiate the experiences of convicts vis-à-vis coerced labour. In many colonial contexts, for example, identifying someone as “black” or as “native” led to supplementary punishments being administered that were typically associated with corporal punishment and the exploitation of labour. Moreover, while for thousands of transported and imprisoned convicts whiteness proved no guarantee of not being subjected to involuntary labour, it did create dialectics of power within the convicted population and beyond, as in the standard colonial discussion regarding the undesirability of having black or native overseers guarding white prisoners. When associated with elite status, whiteness, but also other ethnic definitions, effectively exempted convicts from the harshest employment, and often from coerced labour at all. The geography of punishment of elite convicts sometimes overlapped with the political ones, and presented distinct features vis-à-vis those of their subaltern (and common-law) counterparts. A similar distinction in the spatiality of punishment characterized the experiences of male and female convicts well before strict gender separation was introduced in the penitentiary.⁶ Indeed, the imbalance of gender – that is, the absence or lack of women – in sites of deportation was a constant worry for early modern and modern colonial authorities alike, and not infrequently triggered schemes for that peculiar form of coerced labour migration that was the deportation of prostitutes.⁷ At the same time, the conceptualization of gender was a key source for the differentiation in the employment of male and female convicts, with military and construction work being a typical task for the former, while cleaning, sewing, and assisting in hospitals and monasteries were deemed appropriate “women’s work”.

All in all, the awareness of the constructed nature of convict labour and the analysis of the historical processes more likely to facilitate its emergence contribute greatly to shifting from a static definition of convict labour to the study of its functions among other labour relations and across punitive regimes. In turn, this step from asking ourselves “what is convict labour?” to investigating “why convict labour?” is of

⁵ See, for example, Rosa María Pérez Estévez, El problema de los vagos en la España del siglo XVIII (Madrid, 1976); Criminal Man: Cesare Lombroso, trans. Mary Gibson and Nicole Hahn Rafter (Durham, 2006); Sanne Deckwitz, “Gulag and Laogai: Ideology, Economics and the Dynamics of Space and Scale”, Workers of the World, 1, 3 (2013), pp. 175–191.

⁶ For the importance of gender analysis in the history of convict labour, see Mary Gibson, “Gender and Convict Labour: The Italian Case in Global Context”, in: De Vito and Lichtenstein, Global Convict Labour, pp. 313 – 332.

⁷ See, for example, John Scott, “Penal Colonies”, in Encyclopedia of Prostitution and Sex Work (Westport, CT, 2006), pp. 355 – 356.
fundamental importance in order to write convict labour back into the history of labour and punishment. As I argue in the next section, this is a goal that recent developments in scholarship have made considerably more feasible.

Punitive pluralism, geographies of punishment, and convict labour

The history of convict labour lies at the crossroads of labour history and the history of punishment. This provides a privileged perspective for doing innovative research, but such potential has remained largely unexplored so far. Indeed, in both sub-disciplines convict labour has been traditionally marginalized because of a double teleology: first, the focus on “free” wage labour has dominated labour (and migration) history, conflating wage labour with capitalism and modernity, and, by contrast, coerced labour with pre-capitalism and pre-modernity; second, in the history of punishment the quest for the “birth of the prison” has played a similar role, sketching an alleged one-way shift to the “modernity” of the penitentiary. The two discourses have also reinforced each other, producing a deterministic narrative of the penitentiary as an instrument for the formation of wage labourers and for factory discipline.⁸

New trends have emerged in the last few decades within the scholarly literature that disclose the opportunity to reverse this situation. On the one hand, as this volume shows, global labour historians have recentred the field of labour history around the issue of labour commodification, and reconceptualized the “working class” beyond the traditional exclusive focus on wage labourers.⁹ In this way they have been able to include slaves, coolies, tributary labourers, and other groups of subaltern workers that participated in the process of labour commodification. Convict labour has consequently found a place in the taxonomy of the Global Collaboratory on the History of Labour Relations, albeit one that almost exclusively foregrounds its participation among non-commodified forms of labour.¹⁰ Conversely, Marcel van der Linden’s identification of the “coerced commodification of labour

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¹⁰ For the taxonomy of the Global Collaboratory, see Karin Hofmeester’s introduction to part 4 of this handbook, or https://collab.iisg.nl/web/labourrelations, last accessed 5 February 2017.
power” as a key aspect of the making of a global working class has provided implicitly a broader way to integrate convict labour with other forms of free and unfree labour.¹¹ The dialectic between the two classifications offers the advantage of raising the important issue of convict labour being both commodified or non-commodified labour, depending on the historical circumstances and especially on the conceptualization of punishment, as I noted earlier in this piece.

The evolution in the field of global labour history provides the backbone against which a renovated approach to the history of convict labour is possible. Indeed, it is from within that area of research that the first attempt at a comprehensive understanding of the topic has emerged. The volume *Global Convict Labour* especially provides an overview and theoretical definition of the field and points to three directions for its study: long-term genealogies; the entanglements of convict labour with coloniality, ethnicity, and racialism; and the key role that polities, and therefore governmentality, have played in the production of the coerced work of convicts.¹²

The scholarship on the history of punishment has hitherto offered more contradictory inputs to the history of convict labour, possibly as a consequence of its persisting fragmentation in multiple sub-fields and because of its unwillingness to engage in broader theorization. I will return to this point in the concluding section of this chapter. Significant areas of exception to this rule exist though, particularly within research on the following topics: colonial prisons; concentration camps and the penal system under National Socialism; the Soviet gulags; and, more systematically, in the studies on early modern and modern convict transportation. It is to these fields that I will now turn in order to foreground their specific contributions to the study of convict labour so far. More generally, I contend that, for all their differences, they share a tendency to question the standard conflation of punishment and imprisonment and the related view of punishment as immobilization in isolated institutional contexts. In other words, in addressing punishment these scholars also look beyond the prison and are fully aware that punishing frequently meant relocating convicts across empires and nation states. Consequently, their approaches provide a vantage point to reflect on the relationships between punishment, spatiality, and labour, that is, on the entanglements between multiple punitive geographies and convict labour.¹³ At the same time, they are better positioned to appreciate the entan-

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¹¹ Van der Linden, *Workers of the World*, p. 34.
¹³ The multidisciplinary field of “carceral geography” has similarly insisted on the importance of addressing the spatiality of punishment. However, this area of study has hitherto taken a presentist
glements among the multiple types of punishment that have characterized the long-term, global experience.\textsuperscript{16}

Taylor Sherman has noted that the new generation of studies on colonial justice has created “much scope for examining colonial coercive institutions and practices in a single frame, and as a function of larger political, administrative, economic, social and cultural processes”.\textsuperscript{15} Accordingly, she has proposed thinking about “coercive networks”, including capital and corporal punishments, incarceration, and penal transportation. Beyond the colonial experience, my suggestion is that the adoption of the concept of “punitive pluralism” might be an even more appropriate and broader conceptual frame to address the simultaneity of multiple punitive regimes. Building on the multidisciplinary concept of “legal pluralism”, it retains three key ideas of that field of studies. First, the simultaneity of multiple legal systems within the same society as the standard in history. Second, the plurality of state law, constituted of distinct types of jurisdictions, courts, and authorities. Third, the plurality of imperial legal orders, or the fact that different ideas and practices of justice existed within the same empire. To these features, the concept of “punitive pluralism” adds three extra dimensions, as it: expands the focus beyond the legal system, to include administrative enforcement and military justice; foregrounds punishment, whereas the literature on legal pluralism is mainly concerned with sentencing; and highlights the tensions produced by those forms of punishment that implied relocation across imperial spaces.

In her insightful review essay on “global perspectives on the birth of the prison”, Mary Gibson has pointed to the contribution of five recent studies on the colonial prison to the field of prison history.\textsuperscript{16} Addressing respectively the nineteenth- and


\textsuperscript{16} Mary Gibson, “Global Perspectives on the Birth of the Prison”, \textit{American Historical Review}, 116, 4 (2011), pp. 1040–1063. The volumes reviewed are: Peter Zinoman, \textit{The Colonial Bastille. A History of
twenty-first-century history of the prison in Vietnam, various African countries, China, Japan, and Peru, this new scholarship fundamentally questions Foucault’s idea of a linear shift from corporal punishment to penitentiary discipline taking place between the late eighteenth and the early twentieth centuries. In all those contexts, especially the perceived insufficient punitiveness of the standard penitentiary model for colonial subjects led to regimes of corporal punishment and forced labour being maintained or introduced within and beyond the prison systems. Other studies reached similar conclusions regarding an even broader range of colonial settings: the persisting importance of convict labour both within and outside the prisons (i.e. “intramural” and “extramural” labour) as a means of labour commodification and/or mere torment has been demonstrated, for example, for the colonial Middle East and Asia and for colonial and post-independence Latin America.¹

However, I contend that this significant expansion of the geographical scope has not always been accompanied by a truly global historical perspective that allows for the overcoming of Eurocentric and methodologically nationalist approaches. Indeed, a tendency exists in this literature – possibly in the one on Latin America particularly – to conflate the “birth of the prison” with modernity, and therefore to prioritize the penitentiary, marginalize coexisting punitive regimes, and interpret the gap between the penitentiary model and its concrete realization as a sign of the “backwardness” or incompleteness of colonial and post-colonial contexts vis-à-vis supposedly “modern” Western experiences. Yet, Foucault himself warned in Discipline & Punish about the failure of the (Western) prison to accomplish its ideal goals of modernity and rehabilitation,¹⁺ and recent historical works have largely substantiated this claim. This is most notably the case in the scholarship on the history of the US penal system, which has foregrounded the persisting role of convict labour – i.e. convict lease, the chain gangs, and intramural work in the penitentiary – in marking ethnic and

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social boundaries within the process of “modernization”.¹⁹ In Europe, new publications on the nineteenth- and twentieth-century Italian prison system, for example, have similarly highlighted the long-term gap between the theory and practice of the prison system. Combined with a refreshing focus on penal and administrative confinement in liberal and Fascist Italy, and with new studies on the spatiality of punishment in Italy and the Italian empire, this approach promises to provide an articulated picture of the ways by which extramural and intramural convict labour has worked as a “pillar” of the punitive system as a whole.²⁰

Until recently, a striking feature in the discussion on the birth of the prison in Europe was its separation from the extensive scholarly field of the history of the concentration camp. Indeed, the twentieth century has been viewed alternatively as the age of the full hegemony of the penitentiary or as “the century of the camps”, with insufficient attempts to move from such contradictory assumptions to a more comprehensive reflection on the implications of the entanglements and co-existence of the two punitive regimes for the history of punishment.²¹ However, Nikolaus Wachsmann’s Hitler’s Prisons has broken this taboo:²² this major work on “legal terror in Nazi Germany” has addressed the role that the criminal justice system and state prisons played in the broader punitive practices of the Third Reich. Inevitably, the author repeatedly dealt with multiple forms of convict labour, most notably in connection with prisons becoming “penal factories”, the policy of “annihilation through labour”, and the experience of the over 10,000 prisoners impressed in the “Probation

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Battalion 999” to fight in Africa, the Balkans, and Soviet Union. A more recent edited volume on Incarceration and Regime Change has appropriated Wachsmann’s approach and sought to expand it in three directions: first, by applying it to a broader range of European countries, including Francoist Spain, Belgium, France, and the Netherlands; second, by addressing a longer periodization that allows one to study the relationship between punishment and regime changes around World War II; and third, by systematically exploring the entanglements among different punitive regimes, including prisons, workhouses, deportation, and camps. As a result, not only have certain groups of forced labourers gained a new visibility, as in the case of the colonial prisoners of war in occupied France and the members of the national socialist movement of the Netherlands Indies; the perspective has also shifted from a single-institution view to larger social processes, including convict labour. Moreover, the broader spatial scope has allowed the editors to propose the hypothesis that the flows of deported convicts to Germany from the countries occupied by the Nazis constituted a “single integrated system”, albeit one articulated according to the distinct legal and political relations each of those countries maintained with the Third Reich.

The possibility for writing connected histories of punishment across multiple punitive regimes during World War II owes much to the “new histories” of the Nazi concentration camps that have been published (or made available to English readers) during the last decade. Through extensive empirical studies of individual camps and specific aspects of their organization, these new narratives have offered a more complete picture of the groups of inmates and of those involved in the management of the camps. Moreover, they have fully historicized the development and the experiences in the lagers by paying “close attention to differences among the camps and to changes over time”. The result has been an immersion in the complexity of the camp system that has greatly improved our understanding of the forced labour within it. In particular, the awareness of the internal spatial and functional differentiations of the system has allowed one to overcome the traditional question of the primacy of ideology or economics as motivations for the exploitation (or the annihilation) of convicts. Indeed, a more dynamic view has emerged by which ideo-

23 De Vito et al., Incarceration and Regime Change.
logical and economic goals played shifting roles in shaping convict labour regimes in different geographical contexts, through the dialectics of main and affiliate camps, and in relation to distinct groups of inmates. At the same time, a more precise periodization has been proposed – usually along the tripartition 1933–1938, 1938–1943, and 1943–1945 – at the crossroads of shifting geographies of the overall system and changing functions of work. Parallel developments have led to new insights into the internal articulation of the Gulag system and its “continual administrative flux”, and into the role of convict labour in the hundreds of camps and special settlements that comprised that system. Ongoing research on the continuities between convict transportation during the tsarist regime and Soviet deportation is likely to provide further inputs, especially as far as the connection among colonization, punishment, and convict labour is concerned.

The field of studies on early modern and modern convict transportation has witnessed a profound and rapid transformation during the last three decades, showing a tendency to progressively expand its spatial reach, embrace a refined version of global history, and pay increasing attention to convict labour. Whereas the first generation of studies, in the 1980s-1990s, dealt almost exclusively with convict transportation from Britain to Australia, the late 1990s and especially the 2000s saw the publication of works by Tim Coates on the Portuguese empire, Andrew A. Gentes on the tsarist empire, and Kerry Ward’s on banishment and convict transportation in the Dutch East India Company. The latter’s focus on the connections between the Cape and Batavia joined Clare Anderson’s Convicts in the Indian Ocean in pointing to the relevance of inter-colonial routes of penal transportation – a major shift in the understanding of systems of penal transportation that reinforced the findings of the “new imperial histories”. In the third, and present, generation of studies, the

28 On the spatial dimension, see Anne Kelly Knowles, Tim Cole, and Alberto Giordano (eds), Geographies of the Holocaust (Bloomington, 2014). See also the “Holocaust Geographies Collaborative”, available at https://web.stanford.edu/group/spatialhistory/cgi-bin/site/project.php?id=1015, last accessed 4 November 2016.
30 See, especially, the ongoing research by Zhanna Popova as part of the team of the “Four Centuries of Labour Camps” project.
31 For an overview of the first generation of studies, see Ian Duffield and James Bradley (eds), Representing Convicts. New Perspectives on Convict Forced Labour Migration (London, 1997). However, isolated but outstanding publications did focus on other contexts: Ruth Pike, Penal Servitude in Early Modern Spain (Madison, 1983); Joanna Waley-Cohen, Exile in Mid-Qing China: Banishment to Xinjiang, 1758–1820 (New Haven and London, 1991).
32 Clare Anderson, Convicts in the Indian Ocean. Transportation from South Asia to Mauritius, 1815–1853 (Basingstoke, 2000); Timothy J. Coates, Convicts and Orphans. Forced and State-Sponsored Col-
geographic scope of the field continues to expand, with ongoing research addressing the Japanese, Spanish, French, German, Habsburg, Danish, Swedish, and Italian empires, and introducing new insights into the Australian, Russian, and Dutch contexts. More generally, the long-term chronological scope (typically from the sixteenth to the twentieth century), the focus on the broad geographies of empire, and the spotlight directed on punitive regimes associated with spatial mobility have arguably placed the scholarship on convict transportation at the forefront of new trends in the history of punishment as a whole. Especially within and around the ongoing project “The Carceral Archipelago”, the empirical study of convict transportation has fostered broader thoughts on the entanglements between punishment, mobility, empire- and nation-building, and labour. The persistence of penal transportation in what has traditionally been considered the “age of the triumphant prison” has inspired reflections on the essentially pluralist punitive regimes of the early modern and modern periods. Consequently, the need has emerged to reconceptualize the entanglements between the galleys, the penal colonies, military impressment, re-


34 See http://www2.le.ac.uk/departments/history/research/grants/CArchipelago and www.convict-voyages.org, last accessed 4 November 2016. Clare Anderson is the project’s principal investigator.
gimes of public works and personal service, the workhouses, the prison, and the camps. The observation of the complex logistics of penal transportation across land and sea, short- and long-distance routes, has led to a perception of the central-

ity of the relationship between punishment and spatiality (or the spatialities and ge-

ographies of punishment) and its necessary substitution for the standard narrative of punishment as immobilization in the penitentiary. On this basis, the double relationship between punishment and empire/state building emerges: on the one hand, the extreme flexibility of punishment vis-à-vis the processes of colonization and sovereignty is foregrounded; on the other, convicts appear as agents of those broad societal processes, together with other free and coerced migrants and workers.

Within this picture, convict labour assumes a new centrality, both as a topic and as an epistemological perspective. Rather than being a remnant of a “backward” past, it claims its role in the definition of a contradictory and conflictual “modernity”. Moreover, it proves a vantage point from which multiple punitive and political regimes can be studied in conjunction, at the crossroads of their ideological, social, and economic legitimations. The relevance of these findings is confirmed by their convergence with those of another ongoing project – the “Four Centuries of Labour Camps” project. In addressing the question of labour camp formation by asking “why and under which particular social conditions have forced labour and intern-

ment converged over the past four centuries”, the researchers on this project have reached a similar awareness of the importance of the intersections and fluidity among institutional contexts within complex punitive and labour geographies.

The road ahead

The four main theories of punishment the twentieth century has passed on to us are all, more or less explicitly, connected with the issue of the relationship between punishment and labour. Thorsten Sellin’s *Slavery and the Penal System* (1976) foregrounded the influence of the social institution of chattel slavery on the evolution of penal practices in the Western world, thus generalizing the thesis originally proposed by Gustav Radbruch in 1938, according to which “punishments originally reserved for those in bondage were later inflicted for crimes committed by low-class freemen, and ultimately regardless of their social status”. In *The Prison and the Factory* (1977) Dario Melossi and Massimo Pavarini pointed to the close relationship between the origin of the penitentiary and industrial capitalism, building on the broader
claim of the connection between punishment and the labour market put forward by Georg Rusche and Otto Kirchheimer in *Punishment and Social Structure* (1939). Michel Foucault’s *Discipline and Punish* (1975) saw the shift away from corporal punishment as the “birth” of a new “disciplinary society”. Less specifically focused on labour, and more on the “microphysics of power”, this theory nonetheless foregrounded the centrality of the prison as a “laboratory” for broader mechanisms of societal “governmentality” that inevitably include the management of labour. Finally, Norbert Elias’s theory on the “civilizing process” that gradually transformed post-medieval European cultural and ethical standards (1939) has been the inspiration for unconvincing histories of growing prisoners’ rights, but also, and more interestingly, for Pieter Spierenburg’s studies on the early modern workhouses. The latter have pre-dated the “birth of the prison” to the early modern period and showed the centrality of work in the “prison experience”.

Recent studies have produced numerous, detailed, and pertinent critiques of these theories, and especially Foucault’s, without any doubt the one that has had the most impact on the field. Partly repeating what was already reproached to the French philosopher in the late 1970s, in the last decades scholars have radically questioned his periodization and the idea of the shift from corporal punishment towards the “disciplinary society”. Appropriately, as I have showed in the previous section, they have also exposed Foucault’s deep Eurocentrism—a decisive critique that can be extended to the other three theories as well. And yet, painstaking deconstructions of received theories have not been followed by new comprehensive theoretical visions. The priority assigned to empirical research and a sometimes prejudicial aversion to theory have prevented that further step being taken. However, new proposals for theoretical syntheses appear vital at this stage in the scholarship, not the least in order to instil some order into the ever-growing and increasingly fragmented field, and to substitute the anti-Foucauldian mantra that now features in many academic

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38 Foucault, *Discipline and Punish*.


41 For an overview of past and present critiques, see Gibson, “Global Perspectives on the Birth of the Prison”, especially pp. 1045–1051. For an exemplary critique of Foucault’s paradigm, see David Arnold, “The Colonial Prison: Power, Knowledge and Penology in Nineteenth-Century India”, in *idem* and David Hardiman (eds), *Subaltern Studies VIII. Essays in Honour of Ranajit Guha* (New Delhi, 1994), pp. 148–194. For a critical engagement with Foucault’s theory as part of a renovated, broader framework, see Sherman, “Tensions of Colonial Punishment”.
texts with truly refreshing questions and hypotheses. This is an urgent but challenging task, especially considering that the four theories established distinct types of dependence between punishment and society (and labour): indeed, whereas Sellin fundamentally wrote about an internal evolution of penal practices starting from the institution of slavery, Melossi and Pavarini and Elias/Spierenburg highlighted the impact of societal changes on punishment, and Foucault envisaged punishment (i.e. the prison) as producing broader techniques of societal power. Will a new theory of the relationship between punishment and labour prioritize the impact of social processes on punishment, or vice versa? Or will such a theory be able to embrace both aspects at once?

From the perspective of this chapter, the question is whether convict labour can become the basis for this new theory. More specifically, the point is whether a new conceptualization of the relationship between punishment, labour, and society can emerge out of the awareness of the centrality of the connections between punishment, labour, and spatiality that I have described so far. At this stage, a full answer appears beyond reach, but the previous pages of this contribution suggest at least four key characteristics for such a future theory: a truly global scope and the explicit refusal of ethnocentric and methodologically nationalist explanations; the capacity to address plural and complex punitive regimes, rather than prioritize single institutions or specific groups of convicts; the importance of the connected spatiality of punishment and labour; and the understanding of punishment and convict labour as social constructions, at the crossroads of economic, political, social, and cultural processes.

The quest for such a theory is not simply an intellectual exercise to understand the past better. It is an equally necessary task in order to address the contemporary relationship between punishment and labour, especially considering the inadequacy of the most influential explanations. In particular, I contend that the conceptual efforts produced in the last twenty years in order to explain the latest phase of mass incarceration in the Western world present typically Eurocentric, presentist, and determinist biases.⁴² Their Eurocentrism is striking, since they exclusively focus on North American and Western European cases and dismiss “the rest”. In this way, contemporary mass experiences of coerced work by the inmates of the Chinese, North Korean, and Russian labour camps are entirely removed from the picture, preventing any discussion on the role of convict labour in contemporary coerced labour regimes and “new slavery”.⁴³ Moreover, once the world has again been reduced to

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⁴³ For a broader discussion on contemporary coerced labour, see van der Linden and Rodríguez García, On Coerced Labor.
“the West”, the view is proposed in part of this scholarship that a shift has occurred from the Foucauldian “disciplinary society” to a regime of social control designed to manage the “surplus” of population structurally excluded within the allegedly “post-Fordist” society. All transformations are addressed within a chronological scope of no more than four decades, and in this frame recent changes appear detached from the longer history of convict labour. As a consequence, convict labour is marginalized. Apparently, this mirrors the “lack of work” lamented by many prisoners held in Western penal facilities, however, it simultaneously hampers the possibility to address significant phenomena such as the employment of thousands of (mainly black and Latino) inmates in productive intramural work in US prisons. Indeed, this issue is hardly ever mentioned in this literature. The opposite perspective of a “prison-industrial complex” is more useful in this respect, but no less partial: it has the advantage of making long-term connections with slavery and segregation regimes visible, but by focusing only on that part of the US penal system where convict labour is a central feature it fails to embrace the system as a whole. What is typically missing in both approaches is also a reference to the expanding semi-coerced work performed by individuals on probation or anyway subjected to penal control outside the prisons. Determinism is another striking feature of sociological analyses of contemporary punishment. In these studies, social processes like mass incarceration and the lack or excess of work in penal institutions are seemingly set in motion by anonymous mechanisms, with human agency taking no part in them. At most, abstract private capital and business are mentioned. Convict agency especially is completely ignored.

Against this background, there is much scope and need for a truly global, fully historical, and agency-based perspective on punishment and labour. This requires a closer integration between the debates on contemporary punishment and the historiographical approaches and insights presented in this chapter. Some recent historical studies have shown the potential of such an encounter. Although still exclusively

44 Especially in De Giorgi, Il governo dell’eccedenza.
focused on “the West” (but not necessarily Eurocentric), this scholarship presents two significant features. First, it recentres the field around convicts’ agency, and makes labour a centrepiece in this endeavour. When focusing on the transnational prisoners’ movements of the 1960s and 1970s, for example, it interrogates their role into the history of the exploitation and commodification of prison labour. At the same time, these scholars aim to fully historicize contemporary punitive regimes by contextualizing them in longer-term research including, at least, the whole post-World-War-II period, and in some cases going back to the nineteenth century. In the case of the US punitive practices, for example, this allows one to appreciate the specific and shifting connections between the legacy of slavery and criminal justice across the decades, understand recent mass incarceration “as a response to labour unrest and the search for alternatives beyond the waged labour/capital relationship”, and address the most recent movement to decarceration accordingly. By bringing the convicts and history back centre stage, these scholars fully participate in the renewed interest in the relationship between labour and punishment – and convict labour more specifically – which this chapter has foregrounded. Hopefully their contributions, and the wealth of historical knowledge produced in the last few decades around convict labour, will also find their ways to impact the debate on contemporary punishment and labour.
Suggested reading


