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# Why Prison? A Ruby Jubilee Reading of *The Prison and the Factory*

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Dario Melossi and Massimo Pavarini, *The Prison and the Factory: Origins of The Penitentiary System (40th Anniversary Edition)*, Palgrave Macmillan UK: London, 2018; xxxii, 282 pp.: 9781137565891 \$39.99 (pbk); 9781137565907 \$29.99 (eBook)

Forty-year anniversaries are sometimes celebrated with a “Ruby Jubilee.”<sup>1</sup> In modifying the title of Dario Melossi and Massimo Pavarini’s *The Prison and the Factory* for a 21st-century audience, one can accept for clarity’s sake *40th Anniversary Edition* in favor of *Ruby Jubilee Edition* (though it does have nice ring). In the 40 years since original publication, an historical development we now call “Mass Incarceration” materialized, hardly a matter for celebration, but as a tragic milestone the book’s latest edition serves to commemorate.

In good keeping with a robust line of “radical criminology” works published in the same era, Melossi and Pavarini did not envision what would soon follow the first edition, originally *Carcere e fabbrica* (1977[Italian]), and *The Prison and the Factory: Origins of the Penitentiary System* (1981[English trans.]). Decarceration and deinstitutionalization were then favored as a dispersal of punishment in the crystal ball of penal history, which projected the spatial future of social control as a dawning circuitry *outside* prisons, forming a “carceral archipelago” (Foucault, 1975: 301) of community-based sanctioning (Cohen, 1979; Scull, 1977).<sup>2</sup> What came to pass instead was the “imprisonment boom” of the late-20th century (Lynch and Verma, 2016) and remarkable surge of incarceration in formal, totalizing institutions that proliferated into a 21st-century landscape thoroughly installed with more and differently degradingly designed prisons. Alongside the prison’s saturation of late-modern society, factories would become relics of a bygone era, shuttering doors to entire sectors of a post-industrial workforce whose wage-labor commodification surrendered to a commodity of captivity laid bare now in the surplus worker’s last-ditch commodification, as inmate.

*The Prison and the Factory (40th Anniversary Edition)* (2018) offers a chance to reflect on how our reading changes in light of these intervening years, and what an era of Mass Incarceration reveals about the book’s thesis. Whether or not

presumed to take place “after” Mass Incarceration or, still, very much in its midst, at stake in this “Ruby Jubilee” reading of *The Prison and the Factory* is how revisiting an historical work in the critical criminology canon might help move along the making of Mass Incarceration as history itself.

## **Carcere**

When *The Prison and the Factory* was first published, Mass Incarceration was just becoming, yet to enter our lexicon. In naming the “mass” of incarceration since, we have accomplished a way to discuss what has happened as distinctive and significant, as a darkly hued kind of milestone entitled to a title, demanding a discourse. Whatever faults exist in the slippage of such keywords, coinage of the term, Mass Incarceration, has at least given us a way, in Arendt’s (1958/1998) words, “to think what we are doing” (p. 5).

Arendt’s *The Human Condition* (1958/1998) presents a “study of the state of modern humanity” and “considers humankind from the perspective of the actions of which it is capable.”<sup>3</sup> Like *The Prison and the Factory*, a new edition (1998) was published to coincide with the 40th anniversary of Arendt’s original publication, containing a new scholarly introduction that examines the renewed relevance of the book’s argument. Following the opening dedication in memory of the late-author, Massimo Pavarini (1947–2015), in *The Prison and the Factory’s 40th Anniversary Edition* readers will find a new Preface by Jonathan Simon (vii–xi), as well as Melossi’s “Revisited” Introduction offering fresh reflections on “Penalty and the Critique of Political Economy Between Marx and Foucault” (1–24).

In Italian, the title of Melossi and Pavarini’s first edition (1977) unearths *Carcere* as an originary discursive accomplishment with stakes for thinking about the book’s object in present light. The “factory” (*fabbrica*) attaches by the conjoiner “and” (*e*) to that object, *Carcere*, which designates “the Prison” in English translation. In larger Italian parlance, however, *Carcere* encompasses the Jail (*galera*), the Penitentiary (*penitenziario*), and Confinement (*reclusione*) as synonymous with the Prison (*prigione*). A fitting 21st-century rendering of the book’s title returns to its root in *Carcere* and re-encounters a *Carceral* beyond the Prison’s given institutional form as a way to think about just “what we are doing” with punishment that translates across languages, and over time as a through-line of penal history (Beckett, 2018: 237–238).

## **Why (not) prison?**

Posed beautifully as a way to “[re]think what we are doing,” perhaps most refreshing to this 21st-century criminological reader is the power and simplicity of the book’s central research question: *why prison?* (Melossi and Pavarini, 2018: xxv). Revisited and restated in light of Mass Incarceration, it warrants pause to remember that prisons are not natural features of our landscape. It reminds us that the prison’s very existence demands explanation. Posing (all over again) the question—*why prison?*—returns us to an original framing of the problem, to the starting point of prison-as-problem, prison-as-puzzle. Subtle, yet significant,

*why prison?* reminds us away from a more hegemonic organization of the problem in a late-modern criminology oriented, even in so-called critical divisions, around the different question: *why not prison?*

As meta-question and fundament of many contemporary research questions, *why not prison?* summons the urgency of the social scientific criminological project around inquiries into how we could possibly live in a world *without*, rather than *with*, prisons.

In this sense, the valence of late-modern criminology holds together around the core problem seen quite differently now, as specter of the *no-prison-problem*. The *no-prison-problem* puts the burden of proof, if you will, on any transformatively minded criminologist to demonstrate why we should not have prisons, rather than to systematically examine questions proceeding from the problem of why one would have a prison at all. Such radical reasoning is otherwise known by that dirty word: “abolition” (Brown and Schept, 2017), collapsing all criminological critique with abolitionism and making “abolitionists” out of any critical thinker who risks identification in the wider fields of criminology.

Prisons have come to assume a defensive stance, where even when put “on trial” for their bad practices, the presumption of innocence in their very existence remains intact as a fundamentally modal institution right to present society. From this stance, incarceration sits at an angle of repose, passively defending itself in any case, where those criminologists who try to mount any claim against prisons cannot help but be forced to proceed in a “critical” or “radical” note, as from the position of prosecutor who must galvanize facts, figures, evidence, and victims sufficient to lay claim to a charge, daring even to bring the case in the first place, then holding the burden of proof beyond a reasonable doubt to establish culpability and guilt adequate to prove up the case against the law of prisons, and prisons as law.

A television ad for a prescription drug marketed to help people quit smoking bears the tagline: “Every great *why* needs a *how*.”<sup>4</sup> The logic of *The Prison and the Factory*’s organizing question, *why prison?* returns us to a more critical, and more essential, inquiry that remains necessary, not as a reminder, but in order to properly confront as ancestry and lineage the very DNA transmitted through its latest expression of inheritance in our age, when *how to end Mass Incarceration?* animates some of this century’s most urgent research questions.

*The Prison and the Factory* is not only a carefully descriptive historical work, it is an analytic history. The book’s project is to explain the prison, to infer causes. In this way, the research question, *why prison?* takes Prison as the outcome to be explained, the effect of prior causal forces, the dependent (*y*-) variable.

In contemporary criminology, we’ve gotten used to placing Prison on the other side of the equation, as (*x*-) variable explaining other effects. Outcomes of interest include crime and recidivism in research literature on the paradigmatic question of whether incarceration deters crime. When incarceration is posed as an outcome to be explained, the paradigmatic question posed by inverse is to what extent crime explains incarceration. This literature finds that crime does not explain

incarceration much at all as it turns out (National Research Council, 2014: 24; see also Lacey et al., 2018).

What, then, explains incarceration? In *The Prison and the Factory*'s posing of the simple question, *why prison?* we find ground-zero for conceptualizing Prison as *y*-variable. The body of critical research that took hold during an era of Mass Incarceration, which extends the search for explanations of incarceration levels beyond crime rates, owes its inheritance to this first-order, *a priori* pivot away from crime and criminal as the deviant puzzle, to prison and imprisonment as the social deviation that originally animated Melossi and Pavarini's study years before we would have a name for Mass Incarceration.

Returning to this ancestry as heirs to the question, *why prison?*, today a vague sense of shame and awe permeates the "critical," "radical" wings of criminology, both in how far punishment and society studies have come and how far we tend to stray from this lineage as a later generation of scholars stage what feels an inherently reactionary research agenda in response to coming of age in Mass Incarceration, which continues to function precisely through bracketing and rendering invisible its own nature and very existence as a question.

### ***e fabbrica***

The book's answer to *why prison?* is relayed through the metaphor of the prison-as-factory. This answer, however, is not only metaphorical as a kind of heuristic, but empirical in comparatively tracing the development of capitalism and penal institutions alongside from the 16th-to-19th centuries in England and Europe, in Part 1 (Melossi and Pavarini, 2018: 25–144) and Part 2, "The US Experience of the First Half of the Nineteenth Century" (145–256). In this analytic history, Melossi and Pavarini offer an explanatory account that relates shifting modes of production to shifting modes of punishment as industrial capitalism came of age in England, Italy, and the US. The empirical contours of each case have their particularities, but the central thesis of the book is a more general theory about the common basis for prisons, whatever institutional or material forms they take, and whatever modes of punishment within them happen to dominate.

The *why?* of prisons is explained through the historical mode of production, which in the early modern era, Melossi and Pavarini identify as the development of generalized factory work and the demand for physical labor at a specific stage of capitalist accumulation. The advent of wage-labor, which commodified both time and bodies in this period, is constitutive, the book argues, of the emergent mode of punishment that came to predominate on the premise of deprivation of liberty. Given the factory, hence the prison.

A 21st-century reading of *The Prison and the Factory* allows us to relate anew the web of theory and thinking going on simultaneously with Melossi and Pavarini's first edition in 1977[Italian]/1981[English trans.], including several consequential works first translated into English around the same time. Besides Mass Incarceration, the intervening years have cleared space for a backdrop to link

works cross-sectionally, but also for something of a “genealogy” (pace Foucault (1975: 29–31), and notably referenced in Melossi’s *40th Anniversary Edition* Introduction (2018: 2)), wherein we can trace not just Marx’s (1867) *Capital* to Rusche and Kirchheimer (1939/1968), both later summoned in *The Prison and the Factory*’s first edition, but extend the line to subsequent English translations of Marx and Engels (e.g. “Debates on the Law on Thefts of Wood” (1842/1975)) and Gramsci (1948/1971), as well as American transmissions (e.g. Chambliss, 1964) that seem to link between what we now consider “classic” Marxian criminology (Marx, 1975; Pashukanis; Rusche and Kirchheimer, 1939) and *The Prison and the Factory*. Not only that, *The Prison and the Factory*’s *40th Anniversary Edition* affords readers the opportunity to now draw the genealogical line forward to the vibrant body of punishment and society scholarship we find today spilling well beyond the confines of even a “critical” criminology by the 21st century (beginning for instance with the peer-reviewed work appearing in *Punishment & Society*, which published its inaugural volume (July 1999) some 20 years after *The Prison and the Factory*’s first edition).

At the time of original publication, *The Prison and the Factory* introduced a kind of triple-threat to mainstream criminological thinking about punishment by synthesizing sociology, law, and history to explain prisons. As a work known as “historical criminology,” and rendered “radical” as such, *The Prison and the Factory* animated a classic “critical criminology” canon, which can be traced in part through the line of Marxian criminology from Pashukanis (1924/1978) and Rusche and Kirchheimer (1939/1968) to what can today be read as companion pieces in peer works to *The Prison and the Factory* (e.g. Hay et al., 1975; Ignatieff, 1978; Thompson, 1975), including more thoroughly sociological accounts (e.g. Chambliss, 1964; Cohen, 1979; Piven and Cloward, 1972; Scull, 1977).

In Hegelian terms, the book’s original question—*why prison?*—perhaps poses prisons as Thesis in observing their social fact. Today’s (re)reading of *The Prison and the Factory* in light of the intervening era provokes us to ask: has there been any Antithesis? Or has our era in-between simply extended the Thesis?

The trajectory to our logic of inquiry, from the question *why prison?* to *why (not) prison?* suggests that we remain firmly implanted in the Thesis, and that in the field of scholarship since *The Prison and the Factory*’s first edition, up until today, our search continues for an Antithesis to the prison. And in fact, the work we now characterize as penal change scholarship can be described well as organized around pursuit of the Carceral Antithesis that can transform in a revolutionary rather than reformist way, the original Thesis materialized in the prison, the *Carcere* upon and around which the jail, the penitentiary, prisons, however conceived, and all that comes with constructing and policing their walls, rests.

## **In pursuit of o: The Carceral Antithesis**

More than celebration, the “Jubilee” understood historically across religions evokes emancipation as a special rite to be kept every 40–50 years, as when farming

was abandoned and Hebrew slaves set free (*Judaism*), and as a designated year when remission from sin and others indulgences could be granted upon making a pilgrimage to Rome (*Catholicism*). These more somber designations seem better-suited for our occasion. Perhaps the Ruby Jubilee, as an emancipatory act of grace to repair our sins and forgive our indulgences, offers some use in thinking what we are to do now, to whom, and for whom.

In this spirit, Jubilee occasions our own salvation as much as all “those strangers, those outsiders, [we have] so inimitably produced” (Melossi and Pavarini, 2018: 14) along the way. This hue of Jubilee, as an emancipation beyond “subordinate inclusion” of the “perennial outsiders” who “are usually the guests of the prison, no matter when and where” (p. 14) is a sacred movement of both material and spiritual dimensions for which we are at least 40 years overdue. Perhaps recovering the ruby stone of innate human value, with an intent to restore and heart to repair as precious gems the lives captured, caught, and lost in the rubble of our prisons, is one thing we can do, that can be done. Here, it was Marx (1843/1978) who wrote, “[e]very emancipation is a restoration of the human world and of human relationships to man himself” (p. 46).

In observing that “[e]ach season reads the classics in a way that suits it” (Melossi and Pavarini, 2018: 11), the authors have given license for the present-day reader to ask how *The Prison and the Factory’s 40th Anniversary Edition* might help make history as much as help us make sense of the history of prison as we know it. With the *40th Anniversary Edition*, *The Prison and the Factory’s* original question, *why prison?* ripens under the ruby-hued light of this Jubilee occasion, staging itself in a new century through the inherited question: prisons, *or what?*

Here, the successor’s “or” (*o*) in *prisons, or what?* stands to disrupt the *Carcere e fabbrica* continuum, the prison-and-the factory and prison-as-factory, by supplanting *e* with *o*. The staging of *o* (“or” what?) breaks the conceptual conjoint of prison-and-, prison-as- always ready to attach beyond itself. In the strange light of Mass Incarceration, *why prison?* is (re)read differently after more than 40 years as pursuit of the *o*. In pursuit of *o*, answers are cast against prisons as that for which we would opt instead; as such, the ruby (if not rosy) hued iterations are necessarily referential and yet stand to be imaginatively creative at the same time. As are the twin sides of abolition’s meaning: to destroy and to create. In pursuing *o*, history never escapes us, is never escaped, and remains, it seems, one reliable guide for routes of escape from our trapped present beyond which we have too often forgotten to blink.

Arendt (1958/1998) wrote, “What I propose, therefore, is very simple: it is nothing more than to think what we are doing” (p. 5).

But it is not simple.

What has distorted our ability to think is precisely that which we have been doing. In our “doing” of the prison *qua* Mass Incarceration, we have rendered a way of questioning that disguises the self-referential answer yielded. What we seek after 40 intervening years of thinking-doing, is an answer for how to bring about an end to, rather than explain how began, the prison. This amounts to restating the

same question, but with a different reason for asking. Melossi and Pavarini have already posed *why prison?* as a way of “thinking what we are doing”; today, we return to their original question in order to think what we are not-doing, and thus, what is to be done.

*The Prison and the Factory's 40th Anniversary Edition* (2018) warrants a “Ruby Jubilee” reading in commemoration of our spectacular present, Mass Incarceration, as a future that could be told in no book. Yet the *40th Anniversary Edition* does occasion its authors’ jubilant memory at the time of original writing: “Suddenly we realized that these institutions were not eternal, would not last forever, that, as they were born, they could go” (Melossi and Pavarini, 2018: 7).

That prisons had a beginning, they might have an end. (Re)reading *The Prison and the Factory* after more than 40 years of Mass Incarceration offers some kind of redemption to 21st-century scholars of crime and punishment by restoring the history of prisons as radical, not us who question them.

## Notes

1. The “Jubilee” hue-index (historically, commemorating milestone-years in a sitting monarch’s reign): Silver (25-year), Ruby (40-year), Golden (50-year), Diamond (60-year), Sapphire (65-year), Platinum (70-year).
2. Besides Foucault, Solzhenitsyn (1973/1974), while not focused on criminal punishment per se, provides a relevant accounting of history for the penal state in *The Gulag Archipelago*.
3. University of Chicago Press website: <https://press.uchicago.edu/ucp/books/book/chicago/H/bo29137972.html> (accessed 21 May 2020).
4. After a Father’s personal testimonial expressing frustration and shame for having to leave his son’s basketball game for a smoke, thus missing his son score the winning point.

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