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The Neutralization, Rehabilitation or Responsibilization of Dissidents, Subversives and Terrorists

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SUMMARY *Scientific literature identifies a shift in the logic of the prison system towards a rationale of risk and responsabilisation. We argue that a program designed to control and transform prisoners into malleable entities that can be used according to the needs of the institution and the State continues to exist behind that logic. In terms of political prisoners, the prison aims to transform political actors and active citizens into passive and atomised individuals in order to prevent organisations that make claims of the State from gaining power. Thus, the prison continues to be a political tool of the State and a site of political resistance for those opposing the State.*

KEYWORDS *Political prisoners, prisons, terrorism.*

RÉSUMÉ *La littérature scientifique décrit une transformation dans la logique de la prison vers une rationalité basée sur les concepts de risque et de responsabilisation. Nous proposons que la logique de la prison continue à être le contrôle du prisonnier et sa transformation dans une entité malléable utilisable selon les besoins de l'institution et de l'État. En ce qui concerne les prisonniers politiques, le but de la prison est de transformer des acteurs politiques et des citoyens actifs en individus passifs et atomisés pour éviter que des organisations qui s'opposent à l'État obtiennent du pouvoir. Ainsi, la prison demeure un outil politique de l'État et un lieu de résistance pour ceux qui s'y opposent.*

MOTS CLÉS *Prisonniers politiques, prisons, terrorisme.*

RESUMEN *La literatura científica describe un cambio en la lógica del sistema penitenciario hacia una racionalidad basada en los conceptos de riesgo y responsabilización. En el presente texto argumentamos que la lógica de la prisión continúa siendo el control del prisionero y su transformación en una entidad maleable en función de las necesidades de la institución y del Estado. En cuanto a los prisioneros políticos, el objetivo de la prisión es transformar a actores políticos y a ciudadanos activos en individuos pasivos y atomizados para evitar que las organizaciones que se oponen al Estado ganen poder. Así, la prisión sigue siendo un instrumento político del Estado y una forma de resistencia para quienes se le oponen.*

PALABRAS CLAVE *Prisioneros políticos, cárceles, terrorismo.*

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Political Prisoners

The notion of “political prisoner” has little meaning in legal terms. Unlike “prisoners of war” which is a status recognised by the Geneva conventions, “political prisoner” is not a status sanctioned by national or international laws. In fact, despite there being multiple definitions of the term, there is no internationally recognised definition of what a political prisoner is and who can be considered to be one. However, it is usually accepted that political prisoners have been incarcerated by a civilian or military authority because of the politicalⁱ character of their actions and motivations whether they are declared as such by the prisoners or by the authorities detaining them.

The actions of political prisoners and the activities in which they participate are believed to be prejudicial to the welfare of the State. They are considered to represent a direct threat to the status quo and the established order. Therefore, the behaviour of these individuals is considered reprehensible by the political elite of the time. The State promotes its official values and public policy by sending to prison those who blatantly oppose and reject them. For example, throughout the history of the People's Republic of China criminal process and administrative sanctions have been viewed as media for the exercise of coercive state power against those who would undermine the existing political order. In order to protect the status quo the State needs to render illegitimate their actions and ideas by refusing to acknowledge the political nature or motivation of the acts. Thus, political prisoner is a status claimed by prisoners but rarely granted by the state.

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The actions leading to the detention of prisoners demanding political prisoner status are:

- ❖ Participating in military actions aiming to bring down the government ;
- ❖ Being involved in protests and/or actions of civil disobedience;
- ❖ Expressing a dissenting voice or making public claims of the State;
- ❖ Belonging to a group or organisation considered by the authorities as an enemy of the State.

In most cases, the activities for which political prisoners are incarcerated are related to collective action and not to individual-action as usually is the case of most ODCsⁱⁱ. In fact, political prisoners are usually part of a larger organisation that is making claims of the State. In some cases, the organisations might have existed before as apolitical entities such as a cultural or religious groups but are transformed into political groups when the State attempts to interfere with their activities, gain control over the group or close them down. The members of the previously apolitical organisations become politicised through this process and conceive their organisations as means to resist what is or has become an oppressive State. In other cases, these organisations might have formed from the beginning as means to make claims of the State and/or oppose governmental decisions and policies. In these cases, members might have already been politicised and it would have been precisely because of their politics that they had chosen to join an organisation that might be making claims of the State, opposing governmental decisions and policies, attempting to change the government and even destroy the existing State in order to reconstruct it under a different form.

Regardless of the origins of the organisation, once it claims to be a political entity it needs to be recognised as such by the State. By granting an organisation the label of “political,” the State is in fact according it a certain level of legitimacy (Hall, 1974). The State is actually allowing the organisation to address political institutions, to organise itself and try to exert a certain level of influence. However, if the organisation is not recognised by the State as being political, it is considered an illegitimate organisation and is not allowed to interact with the State. Once an organisation is considered illegitimate, the State can also define it as being deviant and even criminal. Furthermore, by not being allowed to interact with the State, the organisation is left to use more marginal methods to try to influence the distribution, maintenance or transfer of power. The organization’s use of marginal methods reinforces the State’s definition of

it as an apolitical organisation and further reduces its chances of being recognised as a political actor. Nonetheless, organisations labelled as political are also in a perilous situation as the State can at any point withdraw the label and render them illegitimate through status-degradation. According to Hall (1974), this is a political process in itself that reflects the power structures in place and the interests of the State.

The label of political prisoner will rarely be used by the State, as this would, in its eyes, undermine and endanger the status quo. In fact, just as the State refuses to label these organisations as political entities, it also refuses to label the imprisoned members of these groups as political prisoners. If the State actually referred to these prisoners as political prisoners it would be granting them a certain level of political recognition and thus, legitimacy to their actions and claims. On the other hand, political prisoner status is claimed and demanded by the prisoners themselves as they do not perceive themselves to be criminals but as people who have used illegitimate means or violated the law out of conviction for the betterment of society. By claiming to be political prisoners, they are legitimising their actions and differentiating themselves from “common criminals.” Furthermore, by claiming political status, they are indicating that their imprisonment is illegitimate, immoral and even illegal. Thus, the dispute about political prisoner status leads to a game of reciprocal denunciation as political prisoners turn the table around by claiming that the State or the government in place is not truly representing the interests of the community and is therefore illegitimate, illegal, criminal.

There is a continuing rhetorical fight between the State and political prisoners, each claiming that they are not only political entities but that they are morally right. Nonetheless, given that the State through the law has the power not only in discourse but in reality to render groups and claims illegal and criminal, those who oppose the State are seen by the general public as criminals and therefore are less likely to be believed by the national and international community. While the State has a clout that grants its discourse an aura of legitimacy, the prisoners are further stigmatised by their imprisonment and therefore the prisoners rarely win in the exchange of charges and accusations.

The policies of imprisonment regarding political prisoners

Political prisoners are attributed de jure or de facto a particular status by the State or the prison administration allowing for the implementation of

a different regime than the one applied to the regular prison population. In order to be able to do that, the State and the prison administration is likely to label them as dissidents, subversive, terrorists or some other euphemism (such as “special category” prisoners in the United Kingdom during the “troubles”.) By doing this, the State is able to underline that this prisoners are more dangerous and deviant than common criminals. Furthermore, they cannot really use the term “criminal” as this would imply that they are not different from the rest of the prison population and hence should be subjected to the same regime.

In certain cases, political prisoners are allowed to be housed with other members of their organisation and granted a certain autonomy in running the day to day of their imprisonment. They are also allowed not to wear prison uniform, to refrain from doing prison work, to have political debates, inter-prison conjugal visits etc. In other cases political prisoners are faced with more restricted regimes than the rest of the prison population- they are locked up in overpopulated cells with no access to reading, writing or working material, no radio, with extremely limited access to the patio and restricted family visits which could be suspended at any point if there are suspicions of political activity or discussions taking place between prisoners.

Despite the fact that political prisoners are incarcerated under a different regime than that of regular prisoners, the concept of risk as the fundamental organising principle of contemporary penal practicesⁱⁱⁱ is also used to determine the length of the sentence and the place where it will be served . What is particular to the case of political prisoners is the use of political considerations (maintaining the established order) in order to establish their level of risk (Epstein & Hing-Yan, 1996). This usually means that, whatever the charges might be, the prisoner will automatically be considered high risk and be sent to a maximum or super-maximum facility because her actions are considered to be undermining the authority of the State and are hence a threat to it. In most cases the individual will serve the whole sentence given that by being considered a high risk or dangerous offender it is unlikely that she will be granted parole if parole even is applicable to her case. For example, throughout the 1990s it was common in Peru to find people charged with non-violent offences relating to the Shining Path or the MRTA sentenced to 20 years imprisonment to be served in a maximum security prison. However, when a conflict comes to an end through a peace agreement, the release of all political prisoners is part of the negotiation. Some countries simply give an executive order of blanket amnesty but this might actually undermine the evaluation process and

the rationale behind contemporary penal practices. Therefore, in certain cases, such as Northern Ireland, the same process of risk assessment is used before releasing the prisoners (Dwyer, 2007). By evaluating them individually and considering them no longer dangerous the conditions for the peace agreement are met and the legalistic process is upheld, protected and further legitimised.

Thus, the process of risk assessment is used in order to serve the protection of the status quo. However, this is not the case with the concept of responsabilisation recurrent in prison policy as it would actually undermine the established order. The notion of responsabilisation implies that prisoners can be transformed into “good” citizens by being held responsible for their own actions (Bosworth, 1999). Political prisoners’ actions leading to their arrest are in fact the result of their moral and political convictions. They see themselves as having acted as responsible citizens who are unwilling to remain passive and accept governmental policies, a government or a State they consider to be undesirable and illegitimate. They are prisoners because they have taken a conscious rational and moral decision to oppose a state of affairs they consider no longer tolerable. The concept of responsabilisation has no bearing in their case given that taking it into consideration means recognising them as responsible citizens, thus, as political actors.

Acknowledging them as political actors means legitimating them and their actions which would in turn undermine the status quo. Therefore, the State and its representatives will resort to a policy of neutralisation and rehabilitation/re-education. In other words, their goal is not to responsabilise these prisoners but to find a way to transform them back into subservient and unquestioning members of the polity. In order to succeed in rendering obedient citizens the prison needs to destroy the identity of the political prisoner as a political actor and reconstruct it into that of the passive and compliant individual. Thus, we see the prison working as a full scale and all-out total institution. In fact, we see that, when dealing with political prisoners, the “decentering of prison”^{iv} in prison administration discourse does not really take place. When dealing with political prisoners, the administration does not claim that the prison can be used to address social problems or to deal with unwilling partners in a coerced responsabilisation contract, as political prisoners do not fit the image of the majority of the prison population—meaning the marginalised presenting multiple problems. Political prisoners do not have mental health issues, drug problems or some sort of sexual deviance (except when dealing particularly with women) that the prison can resolve. Moreover, for political reasons, prison administrations

claim loud and clear that terrorists need to be neutralised or, under a communist perspective, re-educated (meaning reformatted) not merely to protect society but to ensure the continuation of the State. The only efficient way of obtaining this is through the utilisation of the prison in its traditional sense: as a total institution. Despite changes brought about by prisoners' rights that might question the appropriateness of applying the concept of the total institution to the analysis of those detention centres, the prison has not lost its total character when holding political prisoners. When the government perceives an organisation to be a threat to its power or when the continuation of the State is at stake, the prison reappears as a blatant tool of the State whose role is to destroy, or at least neutralise, the threat posed by political opposition. As Buck (2000) states, imprisonment continues to be one of the State's weapons against political activists.

The experiences of imprisonment by political prisoners: facing two, not one, total institutions^v

The regime set in place for political prisoners is programmed to allow the maximum use of mortification techniques through the admissions ceremony but mainly through the loss of property, loss of personal safety and security as well as the physical and moral contamination of the self. However in doing this, the prison allows political prisoners to recreate a political organisation inside the walls that functions also as a total institution. The existence of a political organisation inside the prison might actually be detrimental to political prisoners who do not identify with the organisation in place or who might actually belong to an opposing organisation^{vi}. In such cases, the identity of this marginal or marginalised political prisoner is subjected to the attacks of not one but two total institutions. Under those circumstances, most political prisoners will use, in turns, one total institution to fend off the attacks of the other one. This will lead, in the long term, to the fortification of their identities as autonomous individuals and allow them to fend off the identities imposed by the prison and by the organisation: prisoner, terrorist, combatant, traitor or reactionary. Nonetheless, political prisoners that identify with the organisation will be comforted by the camaraderie, security and stability offered by it, thus reinforcing the individual's identity as an active political citizen and, in some cases, as a combatant^{vii}.

Conclusion

The prison continues to be a political tool of the State and a site of political resistance for those opposing the State. We have seen how the label attributed to political organisations and its members as being legitimate or illegitimate and thus deviant even criminal is a political strategy to destabilize, weaken and demoralize these organisations and their members in order to protect the status quo. Furthermore, the types and length of sentences handed out to political prisoners as well as the regimes they are subjected to once incarcerated aim at neutralising and rehabilitating/re-educating individuals who oppose and undermine the State.

The prison aims at transforming political actors and active citizens into passive and atomised individuals in order to maintain their power and prevent organisations making claims of the State from gaining power as, according to Arendt (1969), power comes from people getting together in order to act together. However, through the State's solution of incarcerating political opponents, the State actually participates in the development of a political conscience for the individuals and the expansion of political organisations. In fact, by housing political prisoners together and inflicting a harsh regime on them that violates, in most cases, human rights, the State creates the prison as a site of struggle.

The prison becomes the stage where the State exercises its power of repression and where the political organisations, through political prisoners, resist and confront the State. The strategies used by political prisoners are varied, including the use of the courts and the media to question the prison itself and the regime they are subjected to. In doing so, they are able to strike at the State through attacking a critical political tool and one of its most visible institutions. At the same time, by resisting the prison regime and its intended effects, they build their political identity as individuals and help strengthen and develop their organisation. In fact, their imprisonment is used as a stage from where to present and put forth their claims and ideas on how society should work and be organised.

The role of the prison as a political tool can be seen through an analysis of the development and current loss of prisoner's rights. In "western" countries, the development of prisoner's rights has been linked to political prisoners in terms of the legal recourses put in place by them and their supporters, as well as through the politicization of the other inmates during their incarceration. The rights won allowed for a certain

democratisation of prisons, the continuation of the political prisoners' struggle and the furtherance of their identity as militants, combatants or responsible citizens. However, the development of prisoners' rights has always been hindered by the prison administration's resistance to the implementation of those rights. In the United States, the privatisations of prisons and other developments since the 1980s and particularly since the 1990s, demonstrate the continuous effort from prison administration and the State to undermine prisoner's rights.

September 11th and the imprisonment of illegal combatants in Guantanamo has allowed for a more open disregard for prisoner's rights through legitimating discourses based on reasons of national security. These changes are being used as examples by other countries who also claim to be fighting the "war on terror" and are curtailing prisoners' rights and disregarding the United Nation's Standard Minimum Rules for the Treatment of Prisoners. The losses of prisoners' rights is allowing the system to better target and destroy the identities of political prisoners, to limit their capability to continue their struggle inside the prison and is paving the way to a return to a prison without the rule of law where the administration holds arbitrary and unrestricted power over prisoners. It would thus seem that through political prisoners, the State lost some of its power and it is precisely through them, that it is currently claiming it back.

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ⁱ In this paper we use a weberian definition of politics. Politics is the striving to share power or to influence the distribution of power. A political question is one which relates to the distribution, maintenance, or transfer of power either as means to other aims or for its own sake (Weber, 1919).

ⁱⁱ Ordinary Decent Criminal is the term used in the United Kingdom to refer to people incarcerated for traditional crimes.

ⁱⁱⁱ Dwyer (2007).

^{iv} Hannah-Moffat (2001)

^v For a more detailed discussion of this issue see Felices-Luna (2005).

^{vi} For example in Northern Ireland not only do we find the loyalist and republican factions but within those factions there are multiple organisations confronting one another (IRA, Real-IRA, Continuity-IRA, etc.).

^{vii} There is a vast literature describing the living conditions of political prisoners as tools used by prison administration and the State to break the political will of the prisoners as well as the strategies developed individually and collectively not only to resist the institution and the State but to continue the struggle. See, for example, Hammond (1996) in El Salvador; McEvoy (2001) and Corcoran (2006) in the Irish conflict; Buntman and Huang (2000) in South Africa and Taiwan.