



## Neoliberalism's penal and debtor states

### *A rejoinder to Loïc Wacquant*

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Loïc Wacquant's bold attempt to offer a new description of the neoliberal state is full of insights—many of which I can embrace. But the purpose of this essay is to raise questions about his arguments and in some cases to push them in new directions. I begin with a brief description of his sketch of the neoliberal state in order to be clear about what I see as the most important parts of his argument. Then I turn to a series of comments and questions about it. Insofar as his theory focuses on the neoliberal state's relationship to the lower class, I begin by discussing that relationship and his analysis of the *penal state*, which he argues is an important appendage of the more general neoliberal state. This is followed by a discussion of the neoliberal state's relationship to the middle and upper classes.<sup>1</sup> Here I introduce the concept of the *debtor state*, another appendage of the neoliberal state but one that he overlooks even though it has had a dramatic impact on middle class behavior and may have helped sow the seeds for the ultimate demise of the neoliberal state itself. Much of this discussion focuses on the United States because he takes it to be the bastion of neoliberalism. I conclude with a comment on his tendency to over-generalize about the neoliberal state and side-step how neoliberalism has had rather different effects in different countries.

### Wacquant's neoliberal state

Many people, including Wacquant, view the decline of the Fordist-Keynesian model beginning in the mid-1970s as the beginning of the rise of neoliberalism. International economic competition increased and markets and prices became more volatile. In response, firms sought ways to be more flexible by downsizing

and relying more on contingent, part-time, and low-wage labor—often found overseas through outsourcing. States came under pressure to cut back taxes and regulations on business in order to allow firms the room they needed to be flexible and competitive. And all of this was accompanied by an attack on the welfare state, which was viewed as being so generous as to undermine the threat of unemployment and, therefore, create perverse incentives for workers to be less productive than they might otherwise be.

Wacquant argues that several results flowed from all of this. First was the development of the neoliberal workfare state that strengthened work requirements, limited welfare benefits, and reduced the duration for which such benefits would be available. In the United States this was epitomized by the 1996 welfare reforms under the Clinton administration. Second was the rejuvenation of the penal state, which sought to contain the unanticipated social fallout from this. That is, as opportunities for work and welfare support dried up, crime became a more tempting alternative, which led to rising rates of incarceration and an expansion of the penal state. This represented a re-linking of social welfare and penal policies. The target of these new policies, of course, was the lower class that shouldered the brunt of contingency work, unemployment, underemployment, limited welfare, and in turn greater engagement with criminal activity in order to make ends meet. Third, at the cultural level we have seen the development of more law-and-order pornography. This has involved the increased representation of penal activity in movies and on television for the primary purpose, according to Wacquant, of being displayed in ritualized form by the authorities, presumably to remind citizens of the penalties associated with crime. The lesson is that if you engage in crime, you can run but you will eventually be brought to justice by the long arm of the law.

In sum, we have witnessed the double regulation of the lower class via the wedding of social and penal policy at the bottom of an increasingly polarized class structure—a major structural innovation most obvious and swift in the United States but also in progress in all advanced societies that have been submitted to what Wacquant describes as the relentless pressure to conform to the American pattern. Hence, he says that we need to expand the definition of the neoliberal state to include four parts: (1) economic deregulation; (2) welfare state devolution, retraction, and recomposition; (3) emergence of an expansive, intrusive, and proactive penal apparatus; and (4) development of the cultural trope of individual responsibility, which preaches that how you fare in the world is up to you, not the State. Contrary to neoliberal rhetoric we see now a *centaur state*, as he puts it, which is liberal at the top for the upper and middle classes but paternalistic at the bottom for the lower class. What about all of this?

### **The lower class and the penal state**

To begin with, the nature of the penal state is more complex than Wacquant acknowledges. Functionally speaking, it is more than a punitive control

mechanism designed to ensure social peace in the streets. It can also be viewed as an incipient form of active labor market policy sopping up excess labor capacity that might otherwise be unemployed. After all, a great many of the people residing in jails and prisons today in the United States are young, uneducated, lower class men, often of color, who would likely be among the ranks of the unemployed if they were not in jail. Indeed, if these men were not incarcerated, then the US unemployment rate in the 1990s would have been as many as two percentage points higher than it actually was (Western and Beckett, 1999). This is not to say that development of the penal state was designed deliberately to reduce unemployment rates. But it did have such an effect.

Moreover, the penal state reflects neoliberalism in two important ways. For one thing, the prison system has gradually become more *privatized* to the extent that the State has shifted some responsibility for housing prisoners from the public to the private sector—sometimes as a deliberate economic revitalization strategy (Huling, 2002). For instance, the Corrections Corporation of America (CCA), founded in 1983, now owns and runs more than 66 prisons across the United States housing 75,000 inmates and employing 17,000 corrections professionals (Corrections Corporation of America, 2009). This has become a lucrative business. The stock price of CCA, the industry leader, climbed from \$8 a share in 1992 to about \$30 by 2000. Another prison management company, Wackenhut Corrections Corporation, enjoyed an average rate of return on investment of 18 percent in the late 1990s and was rated by *Forbes* as one of the top 200 small businesses in the country. In 1990 there were just five privately run prisons in the country, housing about 2000 inmates. By 2000, nearly 20 private firms ran more than 100 prisons with about 62,000 inmates (Silverstein, 2009). To be clear, although the number of private facilities increased further to 415 between 2000 and 2005 and represented virtually all of the increase in correctional facilities during those years, there were still many more publicly run facilities: 1406 in 2005 (US Department of Justice, 2008). But a trend toward privatization is evident. In this regard, the prison system exemplifies Wacquant's centaur state: on the one hand, it punishes the lower class, which populates the prisons; on the other hand, it profits the upper class, which owns the prisons, and it employs the middle class, which runs them.

The prison system also reflects the trend toward *outsourcing* that is associated with neoliberalism. For one thing there is much outsourcing of prisoners across state lines. For example, in 2007 the Texas Department of Criminal Justice sent 11,720 prisoners and probationers to facilities out of state while receiving 6326 from other states (Texas Department of Criminal Justice, 2008: 26). Prisons are also slowly becoming a source of low-wage labor for some US corporations who outsource work to inmates (Weiss, 2006). In 1979, Congress passed the Justice System Improvement Act, which cleared the way for inmates to be employed by private firms while serving their sentences. However, unions and other groups lobbied against this legislation causing policymakers to include restrictions in it, such as requirements that firms

pay inmates prevailing local wages and comparable benefits and that they provide written guarantees that non-inmate workers will not be displaced by prison labor. As a result, only a small fraction of inmates have been hired by private firms so far. But, again, the trend has been set in motion (Atkinson, 2002).

However, beyond these preliminary observations lurk three more serious concerns about Wacquant's argument regarding the penal state. First, his analysis is heavily structuralist. It almost sounds like the penal system is a functionally necessary institutional response to the rise of neoliberalism. This, of course, does not square well with his observation that rates of incarceration are much lower in advanced countries other than the United States, which suggests that there may be something more to this than structural imperatives—at least assuming that other countries have also succumbed to neoliberal pressures for a workfare state. The trouble is that his theory lacks an analysis of politics.

The whole issue of crime, at least in the United States, has been used to mobilize voters beginning in the 1960s as part of a deliberate political strategy to win elections. It was pioneered during the 1960s by the right-wing in the south, refined during the Nixon years, but then quickly embraced by many politicians on the left as well. Indeed, campaigning on a law-and-order platform became an integral part of many political campaigns long before the rise of neoliberalism (Edsall and Edsall, 1991). For instance, electoral politics motivated Governor Nelson Rockefeller of New York to pass in 1973 the so-called Rockefeller Drug Laws that established harsh mandatory prison sentences for the illegal possession or sale of drugs. It was a political move that garnered much national attention and eventually helped propel Rockefeller to the vice presidency of the United States. And it significantly increased the New York State prison population (Wilson, 2000). The point is that the impetus behind the rise of the penal state had at least as much to do with electoral politics as it did with meeting the structural needs of neoliberalism.

Furthermore, there has been political resistance to the rise of the penal state, which has occasionally been successful. Between 2005 and 2007 about 24 percent of all inmates of federal and state prisons were serving time for drug related offenses. Over half of all federal inmates were doing so (Sabol and West, 2008: 21–2). Perhaps as many as 20 percent of these people had been convicted of offenses related to the possession and sale of marijuana—not hard drugs like heroin or cocaine (US Department of Justice, 2003: 444). Concern with locking people up for marijuana offenses has triggered a nation-wide movement for the decriminalization of marijuana for both recreational and medical uses. Beginning in 1973, 12 states reduced the penalties for possession and use of marijuana as have several cities. Notably, in 1977, the New York State legislature removed marijuana as a drug covered by the Rockefeller Drug Laws and in 1979 it eased other aspects of these laws (Wilson, 2000). More recently, voters in Massachusetts approved a public referendum, which took effect in January 2009, decriminalizing the possession of an ounce or less of marijuana or other related

drugs, such as hashish and hash oil. Although the effects of decriminalization are hotly debated, the impulse behind this movement is straightforward. Most supporters believe that decriminalization would save billions of dollars annually in criminal justice expenditures for enforcing marijuana laws and reduce the prison population perhaps by as much as 7 percent (Austin, 2005).

That the rise of the penal state has been contested should not be surprising. After all, neoliberalism itself has been contested. For example, French riots during the summer of 2006 precluded the promulgation of neoliberal labor market policies for people just entering the labor market—policies that would have made it easier for employers to hire and fire new workers. Efforts to impose neoliberal welfare and labor market reforms were also either blocked or pushed back elsewhere such that neoliberalism has *not* come to dominate a good number of countries around the world (Campbell, 2003, 2004)—a point to which we will return later. And even in the United States the recent election of Barak Obama as president is read in many quarters as a political repudiation of neoliberalism. In other words, there is nothing inevitable to this; there are no functional imperatives that demand this. And there is nothing to say that trends toward a penal state in some countries cannot or will not be reversed.

The second issue that concerns me about Wacquant's argument involves his analysis of culture. He argues that the rise of law-and-order pornography is a cultural means devised to remind people that they will eventually be brought to justice if they break the law. The evidence for this, he suggests, is the proliferation of crime shows on television and in the movies. But what caused this proliferation, if in fact it occurred at all? To begin with, the viewing public has been exposed to shows and movies with strong anti-crime messages for decades *before* the onset of neoliberalism. I remember the old gangster movies from the 1930s and 1940s starring James Cagney and Edward G. Robinson among others. And television shows during the 1950s, 1960s, and early 1970s like *Dragnet*, *Manix*, *The Untouchables*, and *Hawaii Five-O* were filled with clear moral messages reminding us that law breakers were scoundrels that would be caught and punished. The same can be said for the genre of westerns on television and in the movies from the same era where bank robbers, murderers, cattle rustlers, and horse thieves were almost always apprehended or gunned down by the forces of law and order. So is there really anything new in all of this?

Even if it is true that there has been a proliferation of this sort of law-and-order media culture during the neoliberal era, was it necessarily caused by the rise of neoliberalism as an intentional warning to the lower class to behave properly? Or was it simply due to the growing number of media outlets that need product to market? Beginning in the late 1970s we began to see the development of cable and satellite television and an explosion in the number of channels that required programming. During the 1950s and 1960s, Americans watched programs on three television networks and perhaps a few local channels. By 1995, about two-thirds of television households subscribed to a cable package that offered between 30 and 50 channels

(Strover, 2009). We also witnessed the development of VHS videos and then DVDs as well as the release of more and more blockbuster movies. And as European and other international markets began to open up for American television and cinematic products, Hollywood focused more on formulaic action movies—including crime movies—because they were largely devoid of subtle dialogue that might not translate well into foreign language markets (Allen and Lincoln, 2004). One could argue that the proliferation of law-and-order pornography was more a response to market demand than to a need to control lower class behavior.

Moreover, Wacquant provides no information about who actually consumes this sort of programming and what meaning they attach to it. I suspect that it is not just the lower class that watches law-and-order pornography. And even if the intended message of such programming is to warn people about the risks of engaging in criminal activity, it is not clear to me that this message always gets through. On the one hand, the line between the good guys and the bad guys, which was fairly obvious in movies and television during the 1950s and early 1960s has been blurred thus making moral messages ambiguous. Clint Eastwood's popular *Dirty Harry* movies, for instance, portray a police detective who was not above breaking the law. On the other hand, some cultural forms nowadays extol crime. Consider the popularity of the 'gangsta' genre of culture, such as gangsta rap music, gansta video games and the like. This genre emerged in the early 1980s and has caused great concern among middle class critics on both the left and right who charge that it glorifies things like violence, rape, street gangs, drive-by shootings, and drug dealing—precisely the sorts of behavior that law-and-order pornography is supposed to abhor. Hence, how one interprets law-and-order pornography is very much up for grabs and there is now an anti-law-and-order genre pushing back in the opposite direction.

My third concern regards the military. If we want to analyze the penal system as an appendage of the neoliberal state, then we should also consider the armed forces because they play a similar functional role in controlling the fallout associated with declining employment opportunities.<sup>2</sup> The United States switched to an all volunteer armed forces shortly after the Vietnam war—about the same time that neoliberalism began to emerge and the US labor market began to tighten. Since the end of the draft, the military has mounted highly visible recruiting efforts to attract lower class people to enlist. It promises money for college after they are discharged, and skills training while they are serving that can bolster their chances of landing a good job once they return to the civilian labor market. Studies suggest that these sorts of incentives have been effective in boosting enlistments (Polich et al., 1982).

What is even more interesting, however, is that the quality of these recruits improved as neoliberalism hit its stride. The armed services define 'high quality' recruits as those with a high school diploma or its equivalent and who score in the top 50 percent of the Armed Forces Qualification Test. All branches of the service experienced sharp increases in high quality

recruits as a percentage of total recruits between 1976 and 1992. For instance, about 20 percent of army recruits were high-quality at the beginning of this period but rose to about 75 percent by the end of the period. According to the Defense Department, sharp increases in high-quality recruits correspond to periods of rising youth unemployment (US Department of Defense, 2009: Figure 2.8). This suggests that as opportunities for relatively low-skilled and low-paying employment diminished in the labor market, more people turned to the military instead. In other words, not only the penal system but also the armed forces served an increasingly important function for managing surplus labor generated by the rise of neoliberalism. In this sense the penal and military systems are flip sides of the same coin.

I do not mean to imply either that the military was deliberately designed to help control the fallout from neoliberalism or that it was a functionally necessary part of the neoliberal program. As is true of the penal state, even though the military may now help remove people at risk of unemployment from the labor market and otherwise control the lower class, there was nothing structurally inevitable or conspiratorial about this.

### The middle class and the debtor state

Wacquant's analysis of the neoliberal state focuses largely on its ramifications for the lower class. But what about the middle class? We should not assume without question that the middle class, like the upper class, is benefitting from neoliberalism. Moreover, important changes in the State have also been directed at controlling the behavior of the middle class.

As is well known, wage stagnation since the 1970s has pervaded the middle class as well as the lower class. From 1947 through 1973 inflation adjusted median family income grew on average in the United States 2.8 percent annually. After that, however, it slowed dramatically. From 1973 to 1979 the average annual growth rate was 1.0 percent; from 1979 to 1989 it was 0.6 percent; and from 1989 through 2000 it was 0.9 percent, although from 1995 to 2000 it was 2.3 percent. From 2000 to 2003 it actually *declined* 0.9 percent (Mishel et al., 2005: 42). This made it increasingly difficult for families to maintain the standard of living that their parents' generation had enjoyed. As a result, more family members went to work. The percentage of middle class husband–wife families with more than one wage earner rose sharply. In 1949 wives worked in about 20 percent of these families but by 1996 that figure had risen to 68 percent (Levy, 1998: ch. 2). And from 1979 to 2000 the combined annual hours worked by husbands and wives from the middle fifth of the income distribution increased by over 18 percent (Mishel et al., 2005: 102). Income growth for many middle class households would have been substantially slower and in many cases in decline during the 1990s was it not for wives working longer hours. All of this contributed to rising income inequality beginning in the 1970s (Mishel et al., 1999: Table 1.6; Keister, 2005: 17).

The reasons for these changes in wage growth, labor force participation, and inequality are complex and need not concern us here (e.g. Danziger and Gottschalk, 1995; Levy, 1998). What is important is how middle class families tried to manage the situation—they borrowed money. Household debt rose from just under 80 percent of disposable income in 1986 to 140 percent by 2007. Much of this increase was due to rising mortgage debt, but borrowing for other purposes was also significant. Observers have concluded that the rise in debt was incurred to offset the decline in real average earnings. Not surprisingly, this corresponded with a decline in household savings. US net savings as a percentage of gross national income declined from about 11 percent in 1974 to about 1 percent by 2003 (Leicht and Fitzgerald, 2007: ch. 3; *The Economist*, 2008: 12). These are aggregate figures for all classes combined. But in important respects this burden fell disproportionately on the middle class. For instance, among all households between 1992 and 2001 those with incomes between \$40,000 and \$90,000 had the highest level of debt service as a percentage of their household incomes. Their debt service was also the fastest growing among all household income groups. Of course, households with lower incomes were more likely to pay their bills late and have levels of debt that represented a real hardship—that is, with debt service payments equal to 40 percent or more of their household income. However, middle class families were not immune from these ills either (Mishel et al., 2005: 301–7).

But why were American families able to borrow so much money when, given their increasingly more tenuous earnings and savings streams, their ability to repay that debt would seem to have become ever more tenuous? The answer is that cheap credit became readily available. Five government policy decisions were important in facilitating this. First was deregulation of the banking industry beginning in the early 1980s. Banks based in one state could now operate branches in other states without explicit permission from these state regulatory authorities. This allowed banks to move to states that permitted them to charge higher interest rates on loans of various sorts. In turn, this triggered competition among state governments to relax their usury laws or risk losing banking business as banks moved to states with higher rate ceilings. Lending became more profitable and so banks began offering more and more credit—often in new and riskier ways like giving credit cards to college students (Leicht and Fitzgerald, 2007: ch. 4).

Second, changes in securities regulation opened up new credit markets. The US Securities and Exchange Commission (SEC) issued regulations that fostered the development in the 1990s of markets for asset-backed securities (ABS). ABS involve the bundling, underwriting, and selling of loans (e.g. mortgages, credit card debt, student and auto loans, etc.) and other receivables as securities. About 70 percent of this market, which was comprised of \$6.6 trillion of tradable securities in 2002, involves mortgage-backed securities issued primarily by government-backed lenders, notably Fannie Mae and Freddie Mac before they were taken over by the federal government in 2008. A substantial portion of the rest involves credit card debt. The securitization of credit card

debt through ABS was introduced in the mid-1980s by Banc One Corporation and laid the foundation for what is now a \$400 billion ABS market in credit card debt. The development of the ABS markets contributed directly to the explosion in consumer debt in the United States. Issuing mortgages and other loans became more attractive as traders could buy and sell bundles of these securities in ways that could be very profitable. In turn, this created incentives for lenders to make more credit available to those who wanted to borrow—even if the borrowers were willing to shoulder more debt than may have been financially prudent for them. In some cases, lenders bent over backwards to extend credit, such as by offering extremely low ‘teaser’ interest rates for the first year or two of the loan. And consumers took the bait in order to borrow as a way to compensate for their faltering earnings and savings. For instance, between 1989 and 2001 average credit card debt per US household doubled from \$4000 to \$8000 (Leicht and Fitzgerald, 2007: ch. 5).

Third, once the ABS market began to flourish, the Government decided not to regulate it. ABS are financial derivatives—that is, financial instruments whose value is derived from the value of something else. The value of the derivative, say a bundle of mortgages, is derived from the presumed value of the group of securities that constitute it. As the complexity of these instruments grew concerns mounted that they involved substantial risk, but risk that was exceedingly difficult to evaluate given their complexity. This is why in 2003 multi-billionaire financier Warren Buffett described them as financial weapons of mass destruction. And this is why some people called for tighter regulation of the ABS markets. During the late 1990s the head of the Commodities Futures Trading Commission proposed that these derivatives should be regulated, such as by requiring banks issuing ABS to maintain adequate cash reserves to cover losses that they might suffer if the mortgages that they bundled, bought and sold went into default in large numbers. This would have dampened the eagerness of lenders to make so much credit available to consumers in the first place because it would have required lenders in many cases to increase the capitalization of their financial institutions. But the idea went nowhere as it ran into strong opposition from the Federal Reserve Board chairman Alan Greenspan, SEC chairman Arthur Levitt, and Treasury Secretary Robert Rubin, who all warned that regulation would undermine the efficiency with which they believed these new, exciting, and increasingly lucrative markets were operating (Wade, 2008: 14). Eventually, in the waning days of the Clinton administration Congress passed the Commodity Futures Modernization Act, which officially preempted derivatives from government oversight. It also excluded from SEC regulation certain types of credit default swaps—another type of security that is traded in ABS markets and that insures mortgage lenders in the event of mortgage default. Without such insurance, prospective buyers would have been much less likely to have purchased ABS. So the decision not to regulate credit default swaps made it even easier for companies to issue such swaps and therefore contributed further to the growth of the ABS markets. All of this meant that credit continued to flow more and more easily to the middle class.

Fourth, the Federal Reserve Board maintained exceedingly low interest rates in the aftermath of the 2001 dot-com stock market crash and subsequent recession by cutting the federal funds rate to 1 percent, leaving it there for a year and then raising it only very timidly after that. So as consumers were turning increasingly to the credit markets to help maintain their standards of living, the price of credit was kept especially low. Nowhere was this more evident than in the housing market where mortgage rates were very low. When combined with unconventional mortgages, such as subprime mortgages—so-called because they are typically made to borrowers with poor credit histories—the Government in effect enticed families to incur more debt.

Fifth, the market for subprime mortgages soared after 2004 because the two government-backed mortgage giants, Fannie Mae and Freddie Mac, began buying up huge swaths of subprime mortgages. Fannie and Freddie did so in response to political pressure from Washington where politicians wanted to expand the financing of ‘affordable’ housing for the middle class. Fannie and Freddie’s move to buy up subprime mortgages created additional incentives for mortgage lenders to make these loans because they knew that they could turn around and sell the mortgages to Fannie and Freddie. This in combination with the Fed’s low interest rates contributed to a booming housing market, rising property values, and a housing bubble that finally burst in 2008 when the Fed began raising interest rates in order to check inflation—a move that suddenly raised adjustable subprime mortgage interest rates to a point where many homeowners could no longer afford to pay them and faced foreclosure (*The Economist*, 2008: 10–20). This, of course, triggered a world-wide financial crisis in September 2008.

What lessons should we draw from all of this? We can redefine the neoliberal state in terms of policies directed not just at the lower class, as Wacquant does, but also at the middle class. If we can talk about the development of the neoliberal *penal state*, then we can also talk about the development of what we might call the neoliberal *debtor state*. Both emerged as a result of the rise of neoliberal policies. And both have had perverse effects on their respective targets: increasing rates of incarceration among the lower class and increasing rates of indebtedness—and recently home foreclosure—among the middle class. Put differently, since the mid-1970s responsibility for stimulating the economy began to shift away from Keynesian-style government spending to debt-financed consumer spending—a shift that was fueled by the dramatic expansion of private credit markets with the encouragement of various government policies. Of course, this is consistent with neoliberalism insofar as the State’s role in the economy is reduced in favor of market forces.

It is worth noting briefly that the availability of capital from high savings countries abroad, notably China, helped put further downward pressure on interest rates and contributed to the availability of cheap credit in the United States. The role that US policy played in this by easing restrictions on transnational capital flows was not insignificant in this regard. Nor was the hegemonic financial position of the United States, which allowed it to

borrow heavily in international capital markets thanks to the fact that the US dollar has been the world's reserve currency since the Second World War.

### The upper class and the neoliberal state

Wacquant is correct in arguing that under neoliberalism we have witnessed the development of a centaur state that is liberal at the top for the upper and middle classes but paternalistic at the bottom for the lower class. But that liberalism has not served the middle class nearly as well as it has served the upper class. In this regard, two quick points should be made. First, as neoliberalism unfolded in the United States whatever economic benefits there were have been distributed disproportionately to the top 20 percent of society—not the middle class. This fact is reflected in rising middle class indebtedness but also in rising inequality. In 1970 the top fifth of all households received about 43 percent of all household income but by 2001 this figure had grown to 50 percent. At the same time, the middle fifth's income share dropped from about 17 percent to 14 percent. In fact, the income shares of each of the bottom four-fifths of the income distribution declined since the 1970s (Leicht and Fitzgerald, 2007: 53).

Second, at least some of this is due to government policy—not the working of free and unfettered markets per se. In particular, the upper class has benefited from numerous tax breaks that have contributed to this redistribution of income. Some have called this a hidden welfare state for the more affluent members of society (Howard, 1999). Notably, the Bush administration's tax cuts in 2003 were skewed heavily in favor of the richest 20 percent of families with the bulk of the benefits going to the top 1 percent (Leicht and Fitzgerald, 2007: 117). This is not surprising insofar as the tax code is riddled with loopholes and exceptions that are frequently written into the law in response to normal Washington politics, which are driven frequently by money and lobbying. These are resources, of course, that rest largely with the upper class in the USA (Clawson et al., 1998).

### Over-generalizing the neoliberal state

My final point involves Wacquant's tendency to over-generalize about the neoliberal state. One must be careful not to over-generalize about the spread of neoliberalism across countries and by implication the rise of the penal state, the spread of law-and-order pornography and the like. There are substantial cross-national differences in how much neoliberalism has been embraced and how it has been handled (Hall and Soskice, 2001; Campbell, 2004: ch. 5; Hancke et al., 2007).<sup>3</sup> Most of the time Wacquant talks about neoliberalism as emerging from a post-Fordist/post-Keynesian form of production without taking into account cross-national variation. To be fair, he does acknowledge differences in incarceration rates among

countries and that these are likely to be greater in countries that have buckled under pressure to adopt the American neoliberal model. But the general thrust of his argument is much less sensitive to these cross-national differences.

This is a problem because even states that have been controlled by conservative governments embracing neoliberalism have not always adopted neoliberal reforms in practice. For instance, a self-avowed neoliberal party has governed Denmark as the senior partner in a two-party coalition government for the last eight years. Yet it has only tinkered at the margin with its extensive welfare state—neither transforming it into the sort of workfare state that Wacquant describes nor developing anything like the penal state found in the United States (Campbell and Pedersen, 2007).

What is interesting, of course, is that the United States has always been more neoliberal than most of the other advanced countries. And it is the Anglo-Saxon countries that have most embraced neoliberalism and lost various social democratic elements while continental European countries like Germany, Italy, and Spain remain Christian Democratic, Scandinavian countries remain social democratic, and East Asian countries like Japan and South Korea remain much more statist in orientation (Katzenstein, 1979; Hancke et al., 2007).

So we should be careful about painting with too broad a theoretical brush when talking about neoliberalism in different countries. The problem of over-generalization has often been evident in arguments about capitalism that emphasize its structural tendencies. Structural functionalism, modernization theory, neo-Marxist theory, and some recent versions of globalization theory are all cases in point insofar as they see structural forces more or less inevitably pushing countries toward a common set of political and economic institutions over time (Campbell, 2004). The structuralism in Wacquant's argument—a structuralism based in his sometimes rather abstract analysis of the demise of the Fordist-Keynesian form of production and its replacement by an equally abstract neoliberal form—causes him to fall into this same trap. In other words, the phenomenon upon which Wacquant focuses, especially the rise of the penal state as a significant appendage to the more general neoliberal state, may be more particular to the United States than his theoretical framework allows him to see. Furthermore, we may be witnessing an initial rolling back of the neoliberal state in the USA. After all, since the financial crisis hit in September 2008, the staunchly neoliberal Bush administration as well as the new Obama administration have brought back the Keynesian state with a vengeance—planning to spend upward of \$1.4 trillion to bail out the financial industry and jump start the economy. Indeed, in light of this the popular joke is that Bush entered office as a social conservative but left as a conservative socialist. Thus, the days of the neoliberal state even in the USA may be fading thanks in large measure to the unintended consequences of the policies described above that engendered the rise of the debtor state and the financial crisis.

## Conclusion

In sum, Wacquant has a provocative and interesting argument. He has spotted some things that are very important and that social scientists should take more seriously. His argument has made me consider whether there might be changes associated with the neoliberal state that bear perversely not just on the lower class, but also on the middle class. However, I suspect that he has over-generalized his argument because his analysis is pitched mostly at a level that is too theoretically abstract to handle the political and institutional variations that mark countries exhibiting the general characteristics of post-Fordism and post-Keynesianism. This is why his argument makes the most sense for the United States, which is rather exceptional both politically and institutionally.

## Notes

Marc Dixon, John A. Hall and Deborah King provided helpful comments on an earlier draft.

1. Insofar as Wacquant is concerned with how the poor are affected by the neoliberal state he seems to define class in terms of income. I will do the same.
2. There is a sociological parallel between prisons and the military. Both are what Goffman (1961) called *total institutions* that exert extreme control over their inmates often through harsh re-socialization programs designed to make them behave in more socially acceptable ways.
3. The same is true *within* nation-states. Some parts of the US state are much less neoliberal than others (Campbell et al., 1991). The Department of Defense, for instance, spent billions of dollars in research and development subsidies in various industries since the early 1980s (Defense Advanced Research Projects Agency, 2009). The federal government has also long subsidized agriculture. And state governments often engage in industrial policy projects (e.g. Whitford, 2005; Jenkins et al., 2006). All of these are examples of the sorts of state intervention that are supposed to be anathema to neoliberals.

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