MARKET-STATE-PRISON

UNDER SPANISH NEOLIBERALISM

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MUCHAS GRACIAS

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No more prisons in the killer state
Stop hiding the system errors
No to the terrorist state
that imprisons the leftovers and those who fight power
We don’t want anyone in prison and we’ll fight for that
No more prisoners
No more prisoners
¡No!

La Polla Records ['No más presos'. Álbum: Revolución. 10th track]
Summary

FOREWORD. The Paranoid Logic of the Repressive Capitalist State. By S. Tombs & D. Whyte ...... 7

INTRODUCTION. ON ECONOMY, POLITICS, AND PUNISHMENT IN SPAIN ................. 9

I / HISTORY-THEORY. PROGRESS, ORDER, CONFLICT AND SECURITY .............. 21

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II / GLOBALIZING EXCEPTION ................................................................. 25

II.1. When Economy Governs. On the criminal spirit of economics............................. 33


II.2.a. On Hyper-Incarceration in the US................................................................. 48

II.2.b. On Hyper-Incarceration in Europe .................................................................. 52

II.2.c. Political Projects and Carceral Societies ....................................................... 54

III / SPANISH PUNISHMENT. MARKET-STATE-PRISON ..................................... 61

III.1. Underdevelopment and Pseudo-Fordism in the Spanish XXth Century ............... 61

III.1.a. Francoism ...................................................................................................... 63

III.1.b. Spain in Prison .............................................................................................. 68

III.1.c. Transition ...................................................................................................... 74

III.2. Visible Hands. Market, State ............................................................................ 84

III.2.a. The Spanish Anomaly. Post-francoism, Reconversion and End-of-Cycle ............ 87


1978-85. An 'Un-protective' Welfare State And a Too 'Free' Market .......................... 89

1985-95. Growth for Underdevelopment. First Bubble and Endemic Unemployment .... 93


III.2.d. Then and Now. Elites, Economic Government and Political Power ................ 104

III.2.e. Game over. Body and Soul of the Fiscal Crisis .............................................. 113

III.3. Invisible Bodies. Growth, Underdevelopment ..................................................... 124


Full Employment, Full Precarity, Full Unemployment ............................................. 126

Foreign Poors: Full Exploitation of the Dispossessed ............................................. 130

III.3.b. Exclusion, Dispossession and Failed Consumers ......................................... 136

III.3.c. Expulsion. Economic Dimension and Punitive Resources ............................ 142

III.3.d. Spain Wasn’t Doing So Well. The Middle Class and a Suitable Amount of Scum 146

III.4. The Functions of the Penal System under Spanish Neoliberalism .................... 150

IV / END OF A CYCLE. AUSTERITY, LOOTING, AND EXPANDED PUNISHMENT .... 169

IV.1. Debt, Debtorcracy, Debtfare ............................................................................. 169

IV.2. Punishment(s). Expulsion as a (Necro)Political Paradigm ............................... 173

IV.3. What Only Austerity Can Achieve. The Example of USA ............................... 181

IV.4. Spain, 2010. The Bubble Bursts ..................................................................... 184

BIBLIOGRAPHY ................................................................................................. 193
Foreword: The Paranoid Logic of the Repressive Capitalist State

Steve Tombs and David Whyte

In September 2019, the Professor of Criminal Law at the University of Barcelona, Iñaki Rivera, a long-term colleague of Dani Jiménez’s and a friend of ours, was hauled in front of a court in Barcelona. His supposed crime? He had done what he was supposed to do as a human rights monitor. He had publicly condemned torture and ill-treatment in Catalan prisons. To end up in court for this is something that we might expect academics to face only in the most authoritarian of regimes, not a liberal-democracy in the heart of Europe. Of course, state repression and neo-liberal capitalism are what they are. They share dynamics and contours across the globe. But there are always local contexts for understanding specificities. Spain must be understood in post Francoist terms.

There is a purely Kafkaesque logic at work in the political and legal apparatuses of Spain. The state has become so intolerant of criticism that criticism of the state itself has become a crime. Iñaki is by no means the only one to experience this Kafkaesque logic. He is one of a growing number of people charged for offences like ‘hate crimes against the police’! In the past few years, a very long line of comedians, artists, rappers and singers have received prison sentences for ‘offences against the Crown’, for ‘sedition’ and for other charges that look like they are from a 16th rather than the 21st century justice system. The Spanish state cannot take a joke. And neither can it take a rap.

In the same month that Iñaki was summoned to court, 47 lawyers, doctors, psychologists and left wing political activists from the Basque Country were forced into a plea bargain that saw 20-year sentences for terrorism reduced to 2 years. Some of those convicted were lawyers who had been arrested while defending their clients in court. They had been accused of belonging to a terrorist group and financing terrorism. None of the charges related to accusations of activities before the ETA ceasefire. Yet facing 20 years, they were intimidated into accepting a plea bargain. Also in that very same week that Iñaki was summoned to court, 7 non-violent pro-independence activists were arrested in a police raid in Catalonia, accused of terrorism and refused bail. The Guardia Civil announced to the world they had seized explosives and were charging the Catalan ‘extremists’ with terrorism. It was later discovered that the “explosives” were fireworks for the local fiesta, something the authorities had known all along.

“Terrorism!” The daily wolf-cry in Catalonia. The peaceful civil disobedience campaign to demand the release of political prisoners in Catalonía is led by “terrorists!” When protestors blocked the Pyrenees border between Spain and France on the day of the 10th November election, the Spanish authorities launched an anti-terrorism operation. The French authorities opted to investigate them for “obstructing the highway”.

Yet, for all its necessarily-grasped specificities, in many ways Spain is not a special case. In the 21st century “terrorism!” has become the reflexive cry of every democratic state facing the consequences of its own violent foreign and domestic policies. “Terrorism!” is the cry of a state that has no clue or ability to control the blowback. Every state has its own version. In Britain it is called Prevent. The legal obligations on public employees to report and place people in our communities under surveillance under the guise of ‘Prevent’ seeks to turn us all into state spies, and turn all of the problems caused by the state into the problems caused by terrorists. Virtually all advanced capitalist states now use anti-terrorist laws to police political protests and political opposition.
Spain is not a special case in this respect. But at the same time, Spain is a particular case that has developed its mechanisms of repression in ways not yet possible in the rest of Europe. Look at the struggle for Catalonia. In many ways it is easier to explain how Spain condemns its political prisoners to more than a decade in jail for organising and leading peaceful protest than it is to explain how this can be tolerated by other European member states. The European Union has been almost completely silent on the question of Spain’s political prisoners.

The complex explanation for the European Union’s wilful blindness lies in the deep political and economic relations that law and ‘criminal justice’ ultimately supports. As European citizens, we idealistically expect the European Union to condemn Spain because Spain is part of the European Union. But the real politic betrays precisely the opposite logic: the European Union will not condemn Spain because Spain is part of the European Union.

Spain’s absolute allegiance to the European Union has been proved not just to the politicians and bureaucrats of Brussels, but also to the bankers of Frankfurt. After the financial crisis Spain gave the strongest of all guarantees that would pay its debts to the European banks. Indeed, it did so as a matter of constitutional prerogative. Spain amended its constitution to say that it must pay the banks before increasing social spending! This is what makes Spain a part of Europe. Not the human rights Europe, but the bankers’ rights Europe.

In this book, Dani Jiménez provides the politico-economic context for understanding the current repressive turn in Spain. He shows in meticulous detail how the repressive apparatuses of the state in Spain have scratched and clawed and spat not to defend ‘justice’ and ‘public’ order, but to defend the narrow economic interests of its elites. This systematic (and increasing) exploitation, exclusion and expulsion adds up to a “general administration of harm”.

*Market-State-Prison*. Such a stark and challenging title anticipates a triple object: the market as the centre of governance, the state as comprised of agencies of ultra-political control, and incarceration as the limb of a state agency focused on punitive management of social surplus. Drawing upon an impressive variety of sources, Dani first elaborates upon the origins of the current pattern of power until the 1970: from imperialism in the 16th century – primitive accumulation - to the exhaustion of Fordism. Second, he explores the four decades since the seventies up to the current crisis, analysing how the market-state symbiosis imposes a post-modern turn in which states assume theatrical and performative tasks. A third section, *Spanish Punishment*, deals with the conversion of fascist dictatorship in a ‘mature democracy’. At that point, the “end of a cycle” is reached and a brutal programme of austerity, the looting of public wealth and an intensification of punishment is unleashed by the state and the financial oligarchy. Yet, as the analysis in this magisterial book demonstrates power is never complete. A renewed counter-hegemonic movement is building strong resistance against this clampdown. And movements of resistance must always know the forces stacked against them. It is for this reason that Dani Jiménez’s book is both timely and an indispensable guide for the resistance.

Steve Tombs and David Whyte, November 2019
INTRODUCTION
ON ECONOMY, POLITICS, AND PUNISHMENT IN SPAIN

What do we mean by order? Which conceptions of the human being and the world, which ideological immanences, and which ethical-political premises retain this idea? What is its material basement? Which has been their historical course? Under which forms of domination, legitimization, reproduction, and control?\(^1\) Which powers can punish? Which acts are punished, who is being punished, and how is punishment applied? What kind of power-knowledge stems from punishment towards social order?\(^\)\ [Oliver 1999, 292].

At the end of the 1970s, Spanish prisons ‘hosted’ a minimum of 8,500 people. Thirty-five years later, the prison population had multiplied by nine, to almost 77,000 prisoners in May 2010. The progressive tightening of legislation and the consequent lengthening of the sentences are the main (although not the only) causes of this boost in institutional abduction. The Spanish penitentiary bubble is the result of a broad dynamic with economic, political, cultural and sociological dimensions, and the dominant criminological perspective has little to say about any of this. Since the mid-eighties, officially reported crime rates have not shown any valid correlation with punitivity, as defined by the rate of imprisonment. That missing link between crime and punishment, only in appearance paradoxical, notes ‘the futility of any approach to the function of the penal system from a strict normative description’ (Bergalli 1996). All these aspects can only be observed with the instruments of a bunch of social disciplines that, generally, do not belong to legal disciplines or training processes of legal experts.

In the same vein, any attempt to understand the functioning of the economic system from the limited perspective of an orthodox economic theory (ideology?) is absolutely useless. In the four decades of post-Francoist democracy – mainly during the second half of that period, Spanish GDP grew to join the world top-ten list, but the progressive redistribution of national income in favour of business and against salaries reveals the real objectives of public policies during those years. Flexibility, temporality and precariousness are the faultlines of the subsequent reforms of the labour market. Working poverty is now an emerging reality. Full employment is an obsolete myth. In the social sphere, the Spanish state has remained at the tail of the EU (Navarro 2002, 2004, 2006). The legacy of a four-decade dictatorship; the absence of significant structural changes in democracy; the lack of mobility in a rigid social stratification; a democratic culture alien to the history of European welfare; a weak and residual conception of rights that stifles social development; the survival of Francoist agents and practices in the democratic institutions – with the criminal justice system as a good example... All of these elements are combined into the solicitous incorporation of Spain into the Europe of Capital and War – aka the ‘Eurozone’.

Today, poverty affects one third of Spanish households. All social indicators negate any rhetoric which tries to legitimize this ‘path to progress’ with the mantra that ‘capital creates jobs’. In fact, daily life shows that capital accumulates capital by destroying jobs. A free global market – as a global economic system – and liberal democracies – its current political regimes – do not either resist a critique that reveals the neoliberal fallacy of ‘efficient markets’ as a direct successor of (physiocrat) natural order, (cameralist) laissez-faire or (Benthamite) be quiet (Harcourt 2011, 2011b). The reductionist, inductive, and

\(^1\) ‘By social control I mean a sum of knowledges, powers, strategies, practices, and institutions through which the power elites preserve a certain social order, i.e., a specific geography of resources, possibilities, and aspirations’ (De Giorgi 2000, 37).
positivist production of knowledge, hegemonized by disciplines such as Economics or Criminology, is a necessary condition for the naturalisation of social conflict and the legitimation of its management.

All those questions point to historical and epistemological obstacles that any critique of penalty must overcome. In the first instance, we need to think back. The analysis proposed on the following pages addresses the institutional transformations, their political trends, the evolution of the economic and criminal sectors and those social changes linked to all these elements, all of which give meaning to the study of legal production and its material and symbolic purposes. ‘Aside from its officially proclaimed purposes of retention and custody, and the systematically unfulfilled objectives of rehabilitating and reintegrating the offenders, it [imprisonment] essentially tends to increase the social mismatch and de-humanisation of prisoners, family decoupling, uproot, and, course, assuming the market’s cynical argument, to create jobs and feed a prosperous industry’ (Cabrera 2005).

On the one hand, regarding its material functions, we must remember that the Spanish state touched the ceiling of its economic growth in the first decade of the 20th century, and entered the current Great Depression as the leader of imprisonment in Western Europe. The period of increased demand for labour was also the phase with highest levels of imprisonment. It is this connection which leads us directly to focus on the prison-exploitation link.

On the other hand, according to its symbolic function, the relationship between economic consensus and punitivism is confirmed. The period to which I refer, also known as the ‘Spanish miracle’, is not only characterized by an exponential increase of GDP, but also by massive private debt and ‘asset price Keynesianism’ (Brenner 2008, López & Rodríguez 2010).

An important pillar in the generation of that wealth effect is based in a reality produced by the discourses that operate in the synoptic (De Giorgi 2002, 123-124) – that social reversal of the Panopticon model in which the screen represents a paradigm of modern social communication and a citizen audience consumes published opinion. Nonetheless, that does not mean that the panoptic logic has disappeared in many other areas. Rather we have a hybridization of paradigms, a paradoxical dynamic of totalized control and individual mobilisation. The technological expansion of permanent surveillance reinforces the panoptic control of certain groups, while synoptic communication restrains a majority sector. The carceral institution appears in this context as a machine that operates by chopping meat for social peace and consensus (Jiménez 2015, 57).

Individualistic glorification and the dispersion of social links are two marks of a governmental rationality that does not exist under capitalism anymore, but rather can be already considered as capitalism in its apotheosis, a culmination of the ‘great transformation’ (Polanyi 1944) which is imposed ‘above its concrete social democratic or liberal management’ (López Petit 2009, 30).

We must, therefore, revise the structure-superstructure link in its neoliberal2 version, as well as its effects on penal policies, to understand that the Spanish criminal justice system

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2 A definition, among others: ‘liberalism is, in broad terms, the ideology of capitalists […]. And for neoliberalism we should understand the resurrection of liberal ideology before the push of the State in the economy. It would be better to assert that globalization is the latter phase in the development? of a world market, a phase when there is no place on Earth where the market has not yet penetrated. The capitalist market has become global or total. And during this development of a global market, liberalism has gained impetus. Thus, for neoliberalism we should identify the dominant ideology among capitalists in times of globalization’ (Umpiérrez 2011).
shows a clear combination of both a post-Francoist legacy and a neoliberal modernization. The market-state-prison analysis is proposed as a comprehensive approach to increasing punitivity, considering exploitation, inequality, exclusion or conflict in their economic, political, legal, philosophical, and sociological dimensions. Its perspective is more **anti-disciplinary** that multidisciplinary, and the question to answer is: *How can we interpret this vicious triangle in order to change it?*

The attack on state-planning structures executed since Pinochet’s ‘first 11-S’ (Hinkelammert 2007) in 1973 was later redoubled since 2001 (after the second 11-S) as a ‘new imperialism’ focused on ‘spatio-temporal fix’ (Harvey 2004, 65), systematic theft and overexploitation of resources and people (Harvey 2012). Both its ‘infinite growth syndrome’, and the violent process which seeks to overturn this crisis, impose the same logic: income, wealth and financial disparities increase across decades in the capitalist North, even more so since 2008, and the Spanish version of this model is no exception. Households got poorer, large fortunes grew larger³ and modes of punishment expanded. Planning-states give way to ‘crisis-states’ and ‘war-states’ (López Petit 2009). Welfare gives way to prisonfare. The path towards the latter is drawn by a workfare (Wacquant 2009) system that maintains the axes of class, ethnicity and gender, revealing criminal practices as ‘a chapter of political anatomy’ (Foucault 1975). The market assumes the power to manage exploitation, exclusion and conflict in favour of its beneficiaries.

Exploitation is the economic translation of power abuse by a minority – a capitalist elite – on the social majority, the labour force. Labour and social overexploitation lies at the heart of massive dispossession. Exclusion is another structural key in the configuration of class relations, and finds its multiplier in the policies of harm production and rights abandonment. This is why we should talk about *expulsion*. As an expression of these tensions, conflict is a de-legitimizing reflection of the political management of the disorder. Today, more than ever in the last century, Marshall’s thesis remind us that rights and freedoms are mere ‘exceptions to a more general moral and legal frame which suggest that, in the first instance, we should not have them’ (Graeber 2012, 277). We will call that general frame *neoliberal Ban⁴*, a relationship between Government and population determined by the golden law of a sustained profit growth.

³ The 200 richest families accumulate €135 billion, a 30% in cash and deposits. Flight of capital from Spain rose to €179 billion in 2012, a 25% of GDP.

What happened during the three decades following 1973 that the new phase of growth cannot compare to the previous period? […] How to explain, then, that the long decline of the old Fordist industries has not displaced investment to more profitable sectors? [López & Rodriguez 2010, 58].

Who benefited from this decline? Again, the winners were those who could keep on accumulating wealth on a global playing field. Are we at an irreversible drift towards devaluation in the economic cycle? That is how it seems. Moreover, those two questions lead us to two further issues. First to what extent can the current strategy of massive dispossession push its global effects? We should not dare to check it. Second, is liberal democracy a valid agent for regulation and control?

Neoliberal states derogate rights while claiming to be based on the rule of law. In first instance, capitalism’s anomic drift depends on where power is disputed and how inequality is produced or managed. Under the current financial debtocratic crisis, all mechanisms of capitalist reproduction had spent decades showing signs of exhaustion (Beinstein 2009, 2012), while neoliberal governance has tried to perpetuate those mechanisms and open new ways of permanent accumulation.

The state-market link has mutated into a market-state dependency. As the neoliberal cycle drew to a close, an essential feature of liberalism – read Government of economy – gave way to a regime that withdraws the state’s obligations owed to people’s basic needs – read Government from the market: privatizing any ‘public service’, commodifying every fundamental right, and devaluing citizenship status to a sort of postmodern feudalism. The symbiotic phenomena of the re-concentration of power and the regressive distribution of wealth are forcing us to re-focus our analysis on their recipients. The first symptom is not poverty but that richness. In the government from the market, the state also promotes and distributes – the plunder’s booty – although it acts as a subordinate agency which has been colonised by the raison de marché. The two main state functions are police and warfare, control and war, simulating efficiency and generating disorder. According to the Gramscian approach, the state behaves as an organism owned by a group and favours the expansion of this same group. In the current socio-historical conditions, this implies the generation of an increasing volume of social waste, not even considered indeed as ‘population’. With Agamben, it could be said that government from the market is the political space of economic ban.

In the government from the market, the institutional inability to meet the needs of a majority is a weakness becoming a virtue. Theory dissolves in the latent conflict between statements and practices, guaranteeism and exception, citizenship and classism. The ‘short 20th century’ (Hobsbawm 1994) was one of a setback for the social advances made at the start of the ‘slaughter’s era’ (Hobsbawm 1994, 32), and globalisation worsened it. The modern paradigm of order and progress globalized its opposite: disorder and regression. Only a radical – at the root! – revision of neoliberal reason can attack the naturalisation of that harmful process. The concept of democracy has long been subjected to the will of a more and more airtight economic sphere.

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5 Liberal knowledge deals with national wealth and the population is the object of government. According to Foucault (1978), Liberalism introduces in the 18th century the figure of a government focused on promoting the ‘natural’ development of (mercantile) economy and ‘managing’ populations. Hence the term state governmentalization. Economy will be then considered a science of populations, and the key feature of the modern State will not be the social contract but promoting and reproducing capitalist order.

6 A progressive shift in the source of sovereignty takes place throughout capitalism. In a first stage (primitive accumulation/ mercantilism), state powers expand in search of new markets. In a second stage (industrialism/ modern capitalism), states govern the economy. In a third stage, markets govern through states.
However, it is not only a matter of will. The material order determines the production of ideology and knowledge attached to power, and not the other way around. ‘Institutional abduction’ (Pavarini 1986) is a good example. The penal system – the prison in particular – has played a key role by generating and managing exclusion, legitimizing exploitation, reproducing inequality, and perpetuating conflict – selectively visibilizing their symptoms and soundproofing their causes and effects: ‘The determination process of such criminality is configured by creating criminal figures through criminal law, fixing their punitive consequences on the offenders and describing the forms through which the state’s punitive intervention is affirmed. This complex of moments and instances of punitive power state, which emerged under the protection of the construction of the modern State, is called a criminal justice system’ (Bergalli 1996).

Social conflict is usually addressed as an insurmountable consequence of progress or as a resistance against the absolute priority of the growth. Massive precariousness and lack of protection do not tend to be read from a critique of its structural causes, but from ex-post punitive perspectives that reproduce the ‘neoliberal fallacy’ (Bergalli 2004) in the criminal sphere. Thus, the ‘legal form’ is displayed as an effective legitimization of classism. A sum of institutions, strategies and instruments of control – all failing in their declared functions – inhabits the spaces between the market as the core of government and the penal system as the final manager of the conflict. In prisonfare, the functions of centaur state (Wacquant 2011, thesis 2) are resolved in support of the market and in charge of the penal system, under a shared cultural production (Garland 2001) – a particular anti-social conception of the world and of the human being.

If capitalism structures its social project on inequality and exploitation, the history of its penal systems shows how nation-states have imagined an ideal and peaceful order without justice in the service of this structure, reacting against any conflict without removing its material bases. Through powerful signifiers such as democracy or freedom, the neoliberal state underpins an order in which freedom is born of a market that points the way to democracy. As if by despotic magic, an order built on exploitation and plundering becomes the habitat of the rule of law. As an executive tool which is formalized and legitimized by legislative and judiciary powers, punishment conceals the criminal evidence of this farce. Legitimacy and legality get lost in a diffuse argumentary that politicizes justice and judicialises politics (Rivera 2005). Strengthened by ‘left-wing neo-criminalisation’ or ‘new wave of right-wing progressivism’ (Cancio 2003) during the nineties, unique penal thought is the common place. With an adequately legislated arbitrariness, the raison d’etat is imposed against the proliferation of enemies of democracy – who are such because they are also enemies of the market.

European history provides eloquent examples in which the destruction of a democratic regime and totalitarian madness started with a violent act against the legislative organ. To relativize the legal meaning of the events that took place on June 14-15th 2011, through an articulate and wrong jurisdictional consideration, is to banalize the meaning of all principles and values that sustain the democratic system [Supreme Court Sentence 161/2015 in the case against 19 participants in the demonstration Aturem el Parlament, no deixarem que aprovin retalhades (Stop the Parliament, we won’t let them approve more cuts), accused of crimes against State institutions, illicit association and criminal damage].

The social rule of law abandons its declaratory principles. Freedoms are restricted to ensure ‘security’, but more security does not require less freedom. The more rigid is the social stratification, the more recurrent is the state’s invocation of a variety of notions such as contract, popular sovereignty or representativeness. The harder are the restrictions on
the public expenditure, and the greater reluctance to fiscal progressiveness, the higher is the expenditure on anti-riot resources. In the name of social defense and preventiveness, the notions of security and public order evict fundamental rights as ideological pillars of democracy. While invoking the rule of law, a theoretical relic called principle of equality is being abandoned.

The transformation of the absolute state in rule of law takes place at the same time as the transformation of the subject in citizen, i.e., on a subject of rights – not only natural but constitutional – before the state, which is in turn linked to the citizen [Ferrajoli 1989, 860]. Ferrajoli’s warning outlines a theoretical horizon. The law of the weakest is a basic requirement for any legal order with claims of justice. This claim can only be made from outside, and against the establishment. ‘The expansion of rights, far from being an evolutionary or linear phenomenon, necessarily contains the idea of conflict’ (Pisarello 2011), and the withdrawal of such rights evidences a rupture of the statewide link with the minions of the market-state. The nation-state’s collapse, the rhetorical reinforcement and the political emptying of the rule of law, the state’s active protection of the free and sovereign activity of a global elite, massive exploitation, job and social insecurity... all of them are natural conditions of progress, never questioned by the liberal discourse.

It is easy to recognize the existence of a complete reformist strategy that aims to divert the attention from the conflict’s material content to the various modes of its political mediation, making structural changes equivalent to changes in government (Baratta 1979, 6).

Was the uninterrupted increase of the Spanish prison population another ‘condition of progress’ between 1980 and 2010? Why, in the Spanish case, did the most infamous chapters of increasing punitiveness coincide with phases of economic growth and job creation? What is the relevant correspondence between an economic model, social problems, governance and punitive control? Did liberalism need this huge volume of imprisonment? This book describes the democratic process of economic restructuring and penal-penitentiary inflation, through an analysis of public policies. It analyses those public policies as a means of reproduction and management of exploitation, inequality and exclusion, and as a tool for sustaining support for the conflict.

To sum up, trying to give a Hispanic answer to the following question:

How to apply a few hypotheses originally conceived within a different historical perspective to the analysis of criminal policies in the industrial or post-industrial society? […] How to outline the adequate analytical instruments to describe the current economic situation, the contemporary repressive strategies, and what unites them? [De Giorgi 2002, 70].

How much justice can capitalism support? How much injustice can democracy support? The Spanish ‘transition’ to democracy boosted a special process of postfordist development – a post-Francoist chapter without any proper welfarist precedent. The quick development of a ‘demo-liberal’ regime and a ‘post-political’ culture (see Žižek 2009) after forty years of dictatorship adapted many Francoist structures to a precarious rule of law. That general framework would contribute to expand a sort of ‘government through crime’ (Simon 2007) model. A perverted idea of security maintains ‘public order’ as the pillar of ‘social peace’ and ‘institutional stability’. In barely two decades, Spain became the first neoliberal-Mediterranean colony.

At the same time, the global transition of a government of economy to a government from the market reissued the keys of sovereign power. The absence of a welfarist past
facilitates a good reception for the elements of a ‘state of exception’ (Agamben 2003). The main structures of inequality persist. The dynamics of social reproduction become individualized and de-politicised. The *welfare-workfare-prisonfare* drift (Wacquant 2009) describes the penal bubble as a mirror image of the ‘economic bubbles’ (Naredo 1996, 2011) that disguised the social effects of the productive restructuring. The financial and real estate bubbles are the synthesis of economic growth and the forms of domination valorised during the last thirty years. Likewise, the penal bubble symbolizes the change from late-Francoist discipline to democratic control.

Without removing much of the inherited authoritarianism, democracy imposed the priority of wealth concentration to accelerate the processes of dispossession and mass precarity. Spain has a more surrealistic balance of exploitation, poverty, crime rates and prisoners than any other European country, and this is currently synthesized by the figure of the foreign poor. The story, then, is about a Spanish government of social waste abusing of ‘exile’ (Simon 2007), and therefore boosting ‘hyper-incarceration’ (Wacquant 2009). Its only curb appears to have been due to two conjunctures of serious fiscal crisis.

In the discourses and practices of neoliberal governance, the modern categories of *order, democracy and progress* adapt themselves to a new ideology of ‘sustainable development’. But the government from the market is an empire of chrematistics7 where human beings are seen as human resources and the measure of social development remains subject to the calculation of economic growth. Ruling ideologies colonize the common sense of dispossessed majorities. Punitive control evolves to the pace of productive structures, in a historical relationship that has been fully noted by, among others, Rusche & Kirchheimer (1939), Foucault (1975), Melossi & Pavarini (1977) and Wacquant (2000, 2009).

For a consistent analysis of the punitive trends or, by extension, a consideration of the observable continuities and ruptures in the field of social control8, we must interpret all those changes in the regime of accumulation, as well as analysing how the demands of the market are politically transmitted against the population.

All ‘accumulation by dispossession’ (Harvey 2004) strategies unveil a radical incompatibility between the principles of social rule of law9 and the policies of an expansive penal state. *Raison de marché* and penal exception. *Raison d’état* and political economy. Ontological exception and criminal rationale, indeed. Inequality, exploitation and expulsion are taken as constants in an equation that requires public policies to be efficient. The complexity of this context prevents us from ‘defining social control only in terms of punishment or punishment in exclusive terms of social control’ (Oliver 2005, 12). A structural framework of exploitation, a legal framework of exploitation and a political framework of expulsion turn the ‘Empire of disorder’ (Joxe 2002) into the *exclusogenic* regime par excellence.

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7 As ‘the art of getting rich’, according to Thales of Miletus (630-545 bC). Or, for Aristotle, ‘the pursuit of an unlimited accumulation of wealth’ (344 bC, 70-74). Aristotle distinguished three different ways: buying and selling commerce; usury (money creation from money); and paid work – the three bases of capitalist order as described by a Marxian theory that places the third way at the centre. For an extended explanation of this methodological connection, see Sanz (2003).

8 A radical perspective on the ‘mechanisms of oppression and domination on the part of the state and the powerful’ (Oliver 2005, 9) is a key aspect for this analysis. Melossi’s approaches (on the state ‘explains itself’) and Agamben’s thesis (on the construction of the ‘myth of the state’) are two basic references.

Thus, the term *social under-development* becomes a theoretical reference to interpret the sovereign bond in the societies of the ‘first world’. A renewed concept of *surplus* amplifies the essence of any punitive logic: *expulsion*. Growth is an economic concept. To make an apology for growth implies to ignore that capital accumulation and wealth concentrations require the impoverishment of a wider sector of the population. As a by-product of this dynamic, exclusion and expulsion materialize a definition of security that subordinates fundamental rights and basic needs to the *legal certainty* of an economic elite.

The Spanish penal sphere embodies a faithful representation of that model by denying its own constitutional functions\(^\text{10}\). The state changes its shape but not so much its size when ‘reformulating their essential functions’ (Brandariz 2007, 77). The fake ‘minimum state’ is an agency for the violent promotion of neoliberal deployment. In the turn from welfarist government to biopolitical totalisation (De Giorgi 2000, Brandariz 2007), Fordist regulation of inclusion gives way to an *efficient and prophylactic management of exclusion*. The classist-racist nature of these trends has been analyzed in the American context by Garland, Harcourt, Davis, Simon, Wacquant and Giorgi. The USNA is the ground zero of this progressive intervention by the market in the State, which leads the latter to legislate against the impoverished majorities.

With its historical delays and democratic deficits, the Kingdom of Spain breaks in the neoliberal globalisation as an outstanding pupil. Rather than being an obstacle to the deployment of neoliberal policies in the Spanish democracy, its endemic (economic-social-cultural-political) backwardness seems to have represented a very favourable scenario.

> It is evident that the immersion of the economy in the social is such legitimate that, no matter how legitimate are the abstractions carried out by analytical needs, we should not lose sight of the real object of a real economy of practices: it is, ultimately, the economy of the conditions of production and reproduction of the agents, and the institutions of economic, cultural and social production and reproduction, i.e., the object itself of sociology in its more complete and general definition [Bourdieu 2003, 27].

Updating the quotation above: Oligopolistic concentration of power in the hands of a business and financial elite breaks the legitimacy of those democratic regimes re-built during the ‘golden age’ (Hobsbawn 1994, 260) of the 50s and 60s. The denial of the conflict aggravate by this break favoured the resurgence of warlike rhetorics in two directions: outwards, in the form of ‘humanitarian terrorism’ (Zolo: 2009); and inwards, in the shape of ‘criminal law for the enemy’ (Jakobs 2003). The underlying conflict to any structural change must be at the heart of the analysis: conflict is ‘the fight for the materialisation of the ideas of social equality, individual freedom and social solidarity. The first questions exploitation. The other two question dominance’ (Quijano 2000, 16).

> Neoliberalism is precisely the deployment of the logic of the market as the widespread normative logic, from the state until the intimacy of subjectivity [Laval & Dardot 2009].

Therefore, studying neoliberalism implies addressing a multi-directional analysis without ‘giving credence to any abstraction that tries to reflect a dynamic process through static means’ (Enzensberger 1992, 9), from the post-political promotion of an order without justice to the ultra-political boom (Žižek 2009, 29) of punitive control. The study is based on ‘three scenarios’ outlined by de Giorgi: structure-institutions, policy trends and legislation. A Spanish map of political trends and criminal practices will have to bring

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\(^{10}\) See Spanish Constitution (1978), art. 25.2: *Punishments entailing imprisonment and security measures shall be aimed at rehabilitation and social reintegration and may not consist of forced labour.*
together the evolution of certain economic, political, social, labor, criminal and prison parameters, to disprove a series of economic axioms, normative calculations and political mantras. This exercise is justified by the ideological gap between explanatory memoranda and governed realities.

Measurement, of which history had known some splashes in other times or cultures, came from the hand of enlightenment. Calculation, also known before under more rudimentary formats, was imposed through capitalism. As they entered the world mixed, calculation has always attempted to dress up in measurement’s clothes, so numbers could be easy to make; but as they also entered the world in a tight fight, whenever measurement has wanted to take real measures, calculation has made it account for the dead: ‘white’ terror in France, from Thermidor to the 30,000 shot in the Paris Commune, calculation instructed the accountants of the 20th century, and those in this short and intense 21st century, in the very effective practice of ‘killing everyone every twenty years and letting them vote the rest of the time’; and instructed the survivors in the need of accepting the results of the balance, whatever it was, and in trying to be rich or poor, slave or free, with equal meekness and satisfaction [Alba 2004, 115].

Power speaks of measurement but practices calculation. The history of liberal democracy, with its eventual episodes of totalitarian paroxysm, has consisted in saying measure and doing calculation. The climax of this history in the ‘advanced democracies’ and their punitive turn11 presents important nuances in the Spanish post-Francoism. In this regard, the two very important factors have to be taken into account: on the one hand, the disintegration of Fordist labour relations and their consequences12; on the other, the legal treatment and the constructed image of the sector of scapegoats13 bearing the status of non-citizens, a burden that precipitates the punitive response to their mere existence.

In history, judging is equivalent to making understood? The errors, the horrors [when they exist] are deducted from the facts, unless the root of the contradictions, the reason of the fights, is concealed [Vilar 1963, 9-10].

The signifiers root – hence radical – or conflict refer to genealogy, although hegemonic – and ‘democratic’ – discourses find an unacceptable danger in such concepts. Anything but the ‘resurrection of the totalitarian ghost’ (Žižek 2002). But order has roots and harbours conflicts. Genealogy shows that there is no neutral speech. The distinction between critical and orthodox approaches, or between academic and heterodox speeches, hides a fundamental ideological problem: the comprehensive rigour to address any socio-legal analysis requires theoretical coherence and epistemological surveillance (Bourdieu et al. 1994, 11-24). These two conditions prove that objectivity has little to do with that vital principle called ‘neutrality’. The ideological guise of impartiality is as superfluous as necessary is objectivity14 – as a methodological reference.

12 On this growing mass defined by Wacquant as ‘post-industrial precariat’ (2015).
14 The first is impossible: its mere use refers despectively to the term ideology, as a problem that should be treated by surgery. But the level of objectivity (as a result of the relationship between the observer and the observed object) depends on the analyst’s critical rigour.
human nature. The first strengthens the cooperative link that takes the others and the nature into account. The second, when searching for the individual’s private satisfaction regardless of the consequences, destroys that cooperative link and replaces it by competitiveness, whose result is an antisocial sociability [Morán 2007, XXV].

‘We usually accept many definitions and action policies without a critical questioning, i.e., a scientific questioning, which allows us to objectify them’ (Manzanos 2003, 73). Many signifiers and assumptions more typical of economic rationality (Bilbao 2007) contribute to a ‘positivist hallucination’ (Venceslao 2010, 161) which has placed ‘the data’ (Han 2014) on the altar of science and politics. The political potential of any discipline implies that its speech integrates control procedures and that control figures can, in turn, be configured by the action of that speech. This is why ‘any critical task that casts doubt on control instances must also analyze the discursive regularities through which they are formed’ (Foucault 1970b, 65). To submit to critical analysis the influence on the social reality of a form of knowledge implies to take awareness of the conditions of possibility in which knowledge is developed. This is why the criticism of economist axioms includes a genealogy of both inequality and the institutional order that preserves it. There is a history of achievements, and a history of unmet demands and repressed resistances. Policies and devices are placed on value in the context of a ‘security-population-government’ (Foucault 1978, 175) relationship. For this same reason, describing the prison system as a tool for the government of social surplus (De Giorgi 2002), the first chapter of this book starts when capitalism begins to develop. ‘Historicizing the present tense’ (Oliver 1999, 11) requires getting back in time and remembering that ‘there is no way to prevent being partial, because being neutral means taking sides’ (Žižek 1998, 29).

Other equally important requirements are those underlined by Garland in the following premises: ‘not to confuse short term movements with structural changes. Not to confuse what is said with what is done. Not to assume that what is said has no relevance. Not to confuse means and goals. Not to mix different issues. Not to lose sight of long term’ (2001, 63-64). However, the basic principles of a structural approach on punishment were established by Rusche and Kirchheimer [R&K] in 1939. Despite the change of cycle that starts in the seventies and is consummated in the current global depression, their thesis is still useful when addressing the following questions.

What are the limits of the contradiction between the sweet myth of globalisation and the neoliberal degradation of all guarantee-based principles?

How to read the general evolution of the criminal system – and prisons in particular – under the reinforcement of capital-power bond and its corporate-state realisation?

When power invokes ‘justice’ and ‘security’, what does it actually mean?

What does ‘the full force of law’ mean? How strong is a law?\(^{15}\)

Why, after thirty years of neoliberalism, the current crisis has been the only adequate context for an overall reduction of imprisonment in the North-Western capitalist area?

One of the more relevant dimensions of the democratic exercise of domination is its efficient management of an acquired wishing to be that legitimates a naturalized being:

\(^{15}\) ‘Catalá feels perplexed by Lasarte’s release from prison. Revisable permanent prison will prevent this sort of ‘lukewarm’ penalties, says the [Justice] Minister […] Catalá underlined the feeling that sometimes our rule of law does not respond the challenges arisen by the scourge terrorism in the judicial system […] in the past, the legal system has not sufficiently guaranteed the rights of the victims, has not applied the full force of law on such terrible crimes’ (Efe 17/03/2015).
citizenship (formal equality) holding exploitation (material inequality). The in-depth debate arising here has much to do with ‘domination, exploitation and conflict’ (Quijano 2000, 16), five centuries after Machiavelli – in the midst of Merkiavelism.\footnote{U. Beck coined the term \textit{Merkiavelism} claiming to recover power as the subject of discussion. ‘This is not about a crisis of economy (and economic thought) but, above all, about a crisis of society and politics – and the dominant concepts of society and politics’ (2012).}

If social science has any future in the next century, if it may survive to the barbarism of neoliberal economic reductionism or to the conservative nihilism of postmodernism [...], this will happen provided that social science is reconstituted as a unitary endeavour which can capture the totality [Borón 2003, 177].

This must be a methodological totality confronting a criminogenic and criminal totalisation (Barak 1991) of accumulating growth, a progressive concentration of power, and a drift of control to a war paradigm in permanent expansion. All that towards ‘a society in which democracy is not only the institutionalized negotiation of a permanent conflict between winners and losers, but rather the way people live their daily lives’ (Quijano 2000, 23).

Thus, the title of this book anticipates a triple object: the market as the centre of governance, the state as agencies of ultra-political control, and incarceration\footnote{Or institutional abduction in a broader sense, including foreigners and children.} as the limb of a state agency focused on punitive management of social surplus. The historical and theoretical keys of this approach extend its space-time framework to a wide spectrum of sources. The first part (\textit{History-theory}) proposes a contextualisation from the birth of the current pattern of power until the 1970s – where the life of the ‘capitalist cycle’ (Beinstein 2012) is contained. This part will show how the evolution of the criminal system runs parallel to the modern – liberal – concept of \textit{freedom}: from absolutism to welfarism; from imperialism in the 16\textsuperscript{th} century – primitive accumulation – to the exhaustion of Fordism. The second part, \textit{Globalizing exception}, deals with the four decades between the seventies and the current great depression, analysing how the market-state symbiosis imposes a post-modern turn in which states assume a theatrical and performative task (Brown 2010, 132).

The third part, \textit{Spanish punishment}, deals with the quick conversion of fascist dictatorship in a ‘mature democracy’, as well as the leap from pseudo-Fordist backwardness to post-Fordist ‘bubbles’ (credit-property-construction-speculation), and the combination of a failed social state with an over-bloated penal state. Given a relevant number of post-Francoist legacies, the broad framework of this analysis is the inclusion of Spain as a young province of global disorder. Its endemic lag, its proclamation as a ‘social and democratic rule of law’, its close link between economic and political elites, the structural adjustments, the contrast growth-development paradox, the unsustainable \textit{bubble} dependence... are some conditions of possibility for the combination of the lowest official crime rates and the highest incarceration rate in the EU-15. In the fourth part, \textit{End of a cycle}, the notion of expulsion conveys the critique of a new sovereignty and its consolidation in a \textit{General Administration of Social Harm}. De-democratization and denationalisation processes (Quijano 2000, 12), governmental changes, financial crises, debtocracy, structural adjustments underpinning \textit{ban}, political \textit{parrhesy}\footnote{See San Martín (2013, 2) on the political translation of the term \textit{parrhesy}: ‘as a virtue or quality of truthful speech in the political order’. San Martín uses \textit{painfare} to underline a mark that was never registered so clearly since the social contract was established as the basic myth to legitimize sovereignty.}… all these elements override the strategy supported by the neoliberal project in the last decades – a
taken-to-its-extreme liberal fallacy. That is the scenario where, after thirty years, hyper-incarceration has just taken a striking break.
In short, the one principle the modern state is organized around is its ability to resort to violence. The laws that establish state sovereignty create this as an entity of unrivalled power. Not only are the boundaries of the legitimacy of violence established by law, but the power and authority of the state – indeed law itself – is necessarily and intimately bound to violence [Tombs, Whyte, Sim, Coleman 2009, 14].

The historical relationship between discourses of order and practices of control is also the history of the bond between state domination and market expansion. In every stage of capitalism, continuities seem to be much more significant than any alleged ruptures, hence the emphasis on permanent connections between economic deployment (market), political legitimation (state), law enforcement (control) and penal devices (punishment). Today, while post-Fordist accumulation\(^{20}\) speaks of governance, accountability, transparency, peace and love, its market-state-crime exerts a monopolistic influence on most policy-making processes. Welcome to global disorder, market totalitarianism and the state’s ‘waning sovereignty’ (Brown 2010).

The holy quartet: market, state, law, and torment. Ever since the first imperial expansions, the need for a surplus workforce influenced punitive technologies. Notwithstanding increasing inequality, the notions of progress and justice remain the pillars of symbolic domination, because ‘any concept of justice is only a political pretext to protect the interests of the powerful. And that is how it should be, because at the end, after all, as long as justice exists, it is just that: the interest of the powerful. Governors are like shepherds. We like to think of them as benevolent and attentive to their cattle but, in the end, what do shepherds do with their sheep? Killing and eating them, or selling their flesh for money’ (Graeber 2012, 258)\(^{21}\). The state defines its own scope of action. Productive relations are naturalised for major biopolitical reasons and legitimized by criminological and ‘punitive mythologies’ (Rivera 2003b, 89). The validity of punishment as a deterrent to crime has always been commonly assumed, and its implementation has always been depicted as a necessary evil.

The West never had any system to represent, formulate and analyze power than law, the system of law [...] we must get rid of this legal concept of power, of this conception of power linked to the law and the sovereign, of the rule and the prohibition, if we want to proceed to an analysis of the representation and the real functioning of power [Foucault 1970b, 238-9].

The sovereign is the one with respect to whom all men are potentially ‘homines sacri’, and ‘homo sacer’ [who can be killed but not sacrificed] is the one with respect to whom all men act as sovereigns [Agamben 1995, 109-10].

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\(^{20}\) This ‘points to both the regularities ensuring accumulation (productive organization, value share between capital and salaries, composition of demand) and the social relationships and institutional (not just state) complexes adding some coherence to every historical capitalist model. These elements formed an indispensable extra-economic part, which regulates economic dynamics’ (López & Rodríguez 2010, 17).

\(^{21}\) On the argument between Trasymachus and Socrates about the art of government.
Power may change, but capital is constant (López Petit 2009). The law is a tool fitting both state and capital agencies – which are not at all related by opposition (Tombs & Whyte 2015, 164 et seq.). Legal apparatuses are instruments of domination and repression. Law is not natural, as money is not essential. ‘Money has no essence. It’s not really anything; therefore, its nature has always been and presumably always will be a matter of political contention’ (Graeber 2012, 492). This is why we must put law in place and think of politics as the activity of weaving social life within society and not from a state-corporate outside.

This first chapter addresses some systematic and historical determinations of punitive discourses and practices, along with ‘the mechanisms of a world where people are subject to economic rationality’ (Morán 2007, IX). Liberal economic mythology impose their concepts on ‘invisible hands’, ‘perfect competition’, ‘equilibrium’, ‘unlimited needs’, ‘meritocracy’, and ‘entrepreneurship’. As argued by Weber, domination does not need to be oriented by any belief in legitimacy (1922, I-ch.III-pr.I). According to Bourdieu, the structuring power of any symbolic system lies in its mere structure, hence symbolic power can be defined as ‘as the power to establish data through statement’ (2001, 98). ‘The state, as a concept in which the members of a society are supported’, acts as ‘one of the essential products of its own structuring process. […] The concept of state is reflexively used in order to make the state’ (Melossi 1992, 13-4). Therefore, a flexible perspective is required, neither to restrict the role of the state to a mere ‘violence factory’, nor to limit our approach to any Foucaultian isotopy, control paradigm (Deleuze 2006) or exceptionist critique (Agamben 1995/2003), but rather to consider such perspectives as simultaneous and interrelated. In its most advanced stage, the society of control produced new strategies to restrain and inhabilitate the social surplus. As post-Fordism displaced populations through new forces of accumulation, means of segregation were applied by a de-territorialized government from the market that doesn’t need us all anymore. ‘What we have now before our eyes is a life that is exposed as such to an unprecedented violence, although expressed in the most profane and banal forms […] If a pre-determinable figure of the sacred man no longer exists, this might happen because we all are virtually ‘hominas sacri’ (Agamben 1995, 146-7). Liberal theory articulates public law around the ideas of collective sovereignty and individual interest, thus constructing a legal system where disciplinary power can be concealed, alongside a political power whose basis is ‘a life that is absolutely killable’ (ibid. 115).

‘The analysis of processes in history, in its genesis, is a condition to discover its social functions at the present time’ (Varela & Á-Uría 1999, 20), but the theories often ‘get confused and intertwined with descriptions, pretending that reality is not but a mere rationalization of the social’ (Calvo García 1989, 9). Such confusions have to be faced and cleared. Market is the current hegemonic controller of life. A central element of liberal governmentality is a vision of the state as the obstacle for an optimum economic deployment. It is accepted that ‘markets have built a privileged space to test the political rationality of liberalism, i.e. the need to limit governmental actions’ (Castro 2004, 199), but state functions of control and punishment are reinforced and expanded to guarantee such ‘privilege’22. The alleged role of the state in the neoliberal regulation of social life is a fallacy perpetuated by the social elites. States themselves reproduced this false rhetoric claiming to restrain governmental action, while private concentration of power and wealth fed all contradictions within globalized capitalism (Tombs & Whyte 2015, 169).

During the last thirty years, we have witnessed the creation of a vast bureaucratic apparatus for the creation and maintenance of hopelessness [Graeber 2012, 504-5].

Historicist readings create ‘remembered presents’ and ‘scenarios where it is possible to fit and interpret the new facts we face’ (Fontana 2002, 202). Updating the Lampedusian expression **everything must change so that nothing changes**, ‘everything’ refers here to the ideological power of hegemonic discourses and ‘nothing’ refers to exploitation, inequality and exclusion. The original substance of the gap between formal equality and material inequality is economic. Its analysis requires a genealogy of policing as ‘the art of exercising power in the form of the economy’, whose very essence is focused on ‘what we now call economy’ (Foucault 1970b, 182-3). This is why any critical perspective must look through the eyes of ‘those who fell under the wheels of those majestic and magnificent carriages called civilization, progress and modernity’ (Löwy 2005, 85) – namely, those who remain victimized by those same carriages in ‘the state of emergency in which we still live’ (Benjamin 1942, theses 8-9).

Market-state violence is the backbone of modern order. Accumulation regimes determine state functions, and penal systems are the result of this evolving relationship, hence market and penal justice may be placed today in the primary and tertiary segregative stages of governance, while hegemony can be defined as the ‘elementary structure of ideological domination’ (Žižek 2009, 25). Words and facts: most of what follows concerns this controversy. We must remember that ‘regular formation of a discourse can integrate […] the control procedures (for example, when a discipline takes shape and status of scientific discourse); and, conversely, that the figures of control can be enshrined within a discursive formation’ (Foucault 1970, 64-5). The history of social theories does not show a clean succession of changes but a permanent confrontation between slavers and slaves, creditors and debtors, abductors and hostages, exploiters and exploited, words and facts.

Sections:

I.1. Economy, Policies and Punishment. Only Five Centuries
   I.1.a. Dispossession and Sovereignty. Foundational Violence
   I.1.b. Liberalism vs. Freedom

I.2. Accumulation and Institutional Abduction. Correctionalism’s Permanent Crisis
I.3. New Order, Same Problem. Economic Planning and Penal Reformism
   I.3.a. Last Great Upward Cycle. Warfare & Welfare for a Sustainable Growth
   I.3.b. Europe: Productive Democracy, Fascist Parentheses and Reforms
   I.3.c. USA: From Ghettos to Prisons

This historical-theoretical review of economic cycles, governance practices, criminal tendencies and penal resources must help us set up a complete toolkit for the analysis of the Spanish case in chapter III.
II / GLOBALIZING EXCEPTION

PERMANENT CRISIS AND THE NEOLIBERAL ‘BAN’

The ‘globalisation’ of the world power pattern unveils, explicitly for the first time, the old Eurocentric threat of a technical barbarism [Quijano 2000, 20].

The recent history of the Spanish economy has been guided by its adjustment to the patterns of global governance and the acceptance of a particular geoeconomic role. A Lampedusian shift from dictatorship to global neoliberalism integrated Spain in the international arena. This chapter is thus focused on this geoeconomic process, for a basis for an analysis of its effects on Spanish social structure and punitive control policies (ch. III).

Let us first distinguish between three phases: an initial global phase of shock in the seventies; a second phase of political clearance and social demobilisation (neoliberal consolidation) in the eighties-nineties; and a sort of frustrated refoundation in the 21st century. These phases fit in another division defining the time frame around two dates: 1973’s 9-11 – with Pinochet’s coup d’état in Chile and the subsequent breed of neoliberal global order – and 2001’s 9-11 – with the two (actually three) WTC towers’ collapse and the subsequent establishment of ‘Empire of disorder’ (Joxe 2002).

This normative assessment proposed by Richard Falk can help us to introduce a critique of the concept of globalisation: ‘[...] Globalisation, with all of its uncertainties and inadequacies as a term, does usefully call attention to a series of developments associated with the ongoing dynamic of economic restructuring at the global level. The negative essence of this dynamic, as unfolding within the present historical timeframe, is to impose on governments the discipline of global capital in a manner that promotes economistic policy making in national arenas of decision, subjugating the outlook of governments, political parties, leaders and elites and often accentuating distress to vulnerable and disadvantaged regions and peoples. Among the consequences is a one-sided de-politicising of the state as neoliberalism becomes ‘the only game in town’, according to widely accepted perceptions that are dutifully disseminated by the mainstream media’ (2002, 187). This definition includes three key concepts.

1. ‘Dynamic of economic restructuring at the global level’

Post-welfarist crisis, financialisation and ‘new imperialism’ (Harvey 2004) build upon the framework of this analysis. Processes such as wealth redistribution, labour, production, revenue and movement of goods and services are due to a ‘change in the relationships between various forms of capitalist accumulation in favor of the absolute hegemony of speculative accumulation’ (Quijano 2000, 5).

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23 Financial colonization of economic spheres in order to transform and to manage goods and services ‘as financial assets’ (López & Rodríguez 2010, 78).
2. ‘Negative essence’

The way that Falk presents the notions of leader and elite (as subjugated to the discipline of capital) implies a key debate on collusion vs. subjugation. A radical clash of interests between elites (domination agencies) and populations (objects of domination) is the battlefield where this negative dynamic unfolds. Material and symbolic functions assumed by the state as an intermediate executive instance will be interpreted through the contrast between facts and discourses, since social underdevelopment reveals itself an essential condition of post-fordist growth. In any case, capital does not subjugate elites. Their interests overlap, hence the notion of ‘state-corporate symbiosis’ (Tombs & Whyte 2015).

3. ‘De-politicising the state’ and ideological hegemony

The history of European policies in the 20th century can be broadly summarized in four stages: first, the democratic nurturing of social states; second, the reactive flowering of totalitarianism; third, welfare and prosperous fordism; fourth, neoliberal globalisation. The Spanish economy joined the fourth stage along with a late and precarious development of the third. In turn, after a military dictatorship that extended the second stage up to four decades, Spain jumped onto global governance. Since then, in the last three decades, fascist backwardness turned a burden into a useful paradox: The simultaneous assumption of welfarist discourses and ‘free market’ mantras enforced the Spanish local legitimation of a new global order. Formal functions of the social state would play an important role in symbolically legitimating the post-fordist cycle: weak welfare helped institutionalize a fake free market.

‘All of us have become hostages in the new conditions of doomsday technology, runaway economics, global poisoning, uncontrollable war’ (Zinn 1980, 575). To review the structural framework of governance is to focus on the state key role ‘as a facilitator of the strategic interests of capitalist development – rather than a stabilizer of capitalist society’ (Harvey 2001, 374). In this sense, war – the most criminal act against the majority of the population – may be understood within such transformation, as a result of the correlation between economic forces and material interests, rather than dark political relations. Thus, since modern war and international financial reform are closely linked, the collapse of the monetary world system* and the abolition of gold standard fixed the economic obstacle on warfare projects (Polanyi 1944, 40/52).

The 1930s decade raised the possibility of a financially sustainable war through self-regulated and ‘freer’ markets, political dependence and a circular succession of destruction-reconstruction episodes. Instead of implying financial risk to aggressor states, war turned to be economically attractive or profitable. The USA recovered from the great depression through transforming its production model into warfare industry (the military-industrial complex), and ‘joined the Korean war in the fifties; its economy grew in the 1960-70s decades while Viet Nam was being destroyed [...] the US economy became dependent on contracts and supplies for death [...];

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* Reflecting a global crisis started in USA around 1967. Its main highlights are the monetary crises of 1971 and 1973. This process concludes with the establishment of an international monetary system (1944) in Bretton Woods, which gives dollar fixed exchange rate’ (Vidal 1995, 11).
now, the US has reconstructed a world economic order and turned their area of influence into a large gendarmerie. Given the facts, the question is to determine if, both in times of peace and war, capital and profits always come first’ (Cabo 2004, 225). In a geostrategic plane, the economic function of war adapts to a concept of governance whose essence will remain the ‘sole purpose guiding economic action in capitalism’ (Etzezarreta 1991, 68): sustained maximization of profit rates – which concentrates wealth accumulation while capital looses its interest in producing goods and employing labour. Consequences: overexploitation, unemployment, dispossession, and expulsion redefine global relations between capital and labour (Quijano 2000, 6).

While many authors blame those changes on fossil energy, some others extend their analysis to the ‘exhaustion of the accumulation pattern that characterized the European economic boom in the post-war period’ (Etzezarreta 1991, 33). When analyzing the consequences, both approaches barely agree on the ‘tightening of economic policies through the establishment of neoliberal adjustment programmes’ (ibid.). The WB and IMF are the main executers of these plans – with their ‘cross compliance’ (Petras & Vieux 1995, 23) – along with the ‘changes in US economic policy’ (Tamames 1992, 409) since Reagan’s presidency (1980). Hence the starting point of neoliberalism is usually located in USA, UK and some peripheral countries where the project could be ‘properly applicable’ – i.e. the less democratic the country, the better expectations for neoliberal gurus. Chile, with Pinochet in power since 1973, is the paramount example.

Growth no longer implies development. Governance means anything but equality. Genocidal dictatorships ensure a more effective framework to remove ‘obstacles’ and promote ‘growth’ at all costs. However, specific relations of abuse on ‘peripheral’ impoverished countries were imposed by colonial powers a long time ago (Petras & Vieux 1995, 28-33). The common factors to plans in Bolivia (1956) or India (1964) and the Washington Consensus (1989) are loans forcing indebted countries to cut social spending (checkout), apply tax counter-reforms (concentration of wealth), privatize (restriction of access to fundamental rights), suppress price control (loss of purchasing power), devalue the currency and liberalize imports – in order to improve ‘efficiency and competitiveness’ through lack of protection, wealth concentration, restrictions on fundamental rights, and loss of purchase power. With debt as a primary means of restraint, these same conditions are imposed to create free market areas or force any state to ask for the ‘support’ of financial institutions. This is why we may speak of debt as a weapon and ‘debtfare’ (Soederberg 2014, cf. Ellis 2017) or debtocracy as a specific power regime. Big economic powers tend to lose their connections with their ‘home’ countries in the world market: as economies become more and more financialised economic powers become more and more independent of any national roots – hence state legitimacy and liability are more and more compromised.

26 Its use extends in the 1990s, although its wider theoretical production took place in the 1970s: on the one hand, the soft line – with Habermas as the main figure; on the other hand, the hard line – with the Trilateral Commission Report (Huntington 1975) as the key document.
27 After Reagan, M. Thatcher (1979-90) implemented a similar plan in UK and F. González executed the same task in Spain (Petras 1996, 18/49 et seq.).
28 Some native lands of transnational corporations are now turning into ‘demodernised’ (Quijano 2000, 18), ‘self-colonised’ (Žižek 2009, 55-6) or underdeveloping countries.
A truly globalized economy confronting basic social needs in the South with Northern competitive standards, thus tending to exclude Southern producers – and needs. [...] The inequal share in favor of wealthy social strata (locally and worldwide) represents, to a certain extent, a solution to the issue of realisation of gains [Husson 2009, 1].

Despite the sustained growth of inequality, power retains the systemic elements of every crisis of overproduction. This question is a crucial factor within the dissent between neoliberal dogmas and critical analyses. For the former, this level of inequality will always exist regardless of the level of progress achieved. Some ‘soft’ or euphemistic liberal discourses argue that economic growth implies an ‘incomplete decline of inequality’. For the latter, by contrast, the price of that growth is a planetary impoverishment in which ‘there are the poor because there are the very, very rich’ (Taïfa 2007). Social underdevelopment, measured in terms of inequality and exploitation, is a necessary condition for economic growth. Neoliberalism turns macro-magnitudes into ideological ‘equations’ (Husson 2003) in charge of disguising the obvious.

The debtocratic factor will occupy a place different in each plane of the analysis. In the interstate area, the two main ways of aggression are debt and war: creditors invade and debtors are invaded. Debt is the instrument of the markets for dominating states. Although market-state symbiosis does not operate similarly in dependent states – made submissive through debt – or on privileged states – which gain power through accumulated debt – the expansion of transnational capital tends to support both scenarios. Regarding local-national orders, debt functions as a constant threat and a source of conflict: the main effects of deficit-debt spirals on state policies are social neglect and penal excess.

The following pages will discuss geoeconomics and the neoliberal reversal of liberal axioms. In essence, the argument is that the market as a limit of state activity gives way to a sovereign market that organizes and regulates the areas and contents of such activity. State (national) intervention to protect ‘free markets’ gives way to a transnational process through which markets operate to abolish social orders and security structures – with the help of local authorities (Mercado 2003, 318 et seq.). Any direct intervention in the economy is declared illegitimate.

Instead of building an actual ‘global village’ (McLuhan & Fiore 1968), the international division of the economy builds a global fiefdom. However, the main four engines of globalisation contain the germ of its own demise: ‘aggregate demand fed through credit’; importers selling debt to exporters; globalisation of the industrial reserve army; unbridled development of new technological instruments’ (Lorente & Capella 2009, 16). At the same time, its broad features are: geographic global expansion, a new global division of labour, financial internationalisation and distortion of real economy, commodification and sectoral

29 Areas: Interstate (global), interinstitutional (transnational), and intra-state (local). Relational orders: war-world, corporate-state, and war-state. Logics of domination: invader-invaded (warfare), subject-object (economic), and ban-naked life (exception).
30 In response to the crisis of accumulation, neoliberalism imposed a new market-state link in order to (i) promote a credit bubble which could replace public spending as the basis for aggregate demand, and (ii) force the state to govern through taxes (Lazzarato 2013).
expansion, institutional reordering, and technological advance in communication and transports.

As a result of this globalising process, state power turns into a mere transmission belt between beneficiary elites and dispossessed masses under the influence of sovereign (financial) markets. As the self-referential system par excellence, market turns public policies into adequate instruments enabling most conducive structural reforms.\(^{31}\) This is why public deficits ‘are not the cause of any crisis but the effect of a difficult situation for public budgets due to the crisis’ (Torres 2000, 38).

Neoliberalism enforces an ideological construction that is functional to that conducive transformation of state agencies and public policies. Taxes on capital gains and higher incomes decrease, social expenditure is cut, expenditure on armed forces and security increases... All these trends would not be successful without a solid ideological support. In the most critical phases of structural adjustments, all kinds of governments undertake their own repressive spiral. Strictly speaking, state fiscal crisis is an induced process in response to the depletion of a cycle of accumulation. Control and shock strategies, as well as penal management of conflicts, can only be understood within the framework of economic policies. Any event within a penal system is directly connected with what happens outside of it, not due to a sort of causal relationship, but to the relationship between two areas of the same governmental body. Replacing the countervailing measures of the welfare state by a reverse income and wealth redistribution, sustainable accumulation\(^{32}\) invades the sphere of public policies while the penal state prevails on any other pacifying strategy, hence penal security prevails on social security – we will come back to that later.

When this strategy declares its own absolute inflexibility, conflicts easily lead to eruptions of violence, which reproduce only the aggressive nature of the system \(^{[Hinkelammert 2007, 196]}\).

Despite the global deployment of capitalism activated by a ‘dynamic of economic restructuring’ (Falk 2002, 187), structural adjustments had encountered a variety of pockets of resistance for some decades: Bolivian revolution, Indian anti-imperialism, China, Cuba, Vietnam, African decolonizations... (Petras & Vieux 1995, 37). But financial weapons were closely connected to military strategies, and several geo-strategic areas would come to be debtocratically tamed. This logic of domination by and for the market reinforced the strategies for a global appropriation and control of goods and resources. Thus, since the fall of the Berlin wall (1989) and the collapse of the USSR (1991), the North Atlantic metropoles have imposed their own political, economic and military strategies.

Capitalist crises evidence an irreconcilable conflict between ‘the social character of production and private forms of appropriation of the fruits of economic activity’ (Petras & Vieux 1995, 87): ‘the WB itself raised the question on the viability of

\(^{31}\) In order to execute efficient measures: ‘To say that good ideas are those that work means to accept in advance the constellation (global capitalism) establishing what can work – i.e. spending too much money on education or health does not work because it hinders the conditions of capitalist profit’ (Žižek 2009, 32-3).

\(^{32}\) The myth of sustainable development reshapes the same rationality of constant economic growth in the late 20\(^{th}\) century.
neoliberal economic measures and structural adjustments. State budget cuts in public investment and human resources reveal a range of serious problems to sustain long-term economic growth’ (ibid.). 20 years later, despite the massive effects of austerity policies, the so-called ‘regaining of market confidence’ is still entrusted to the financial solvency of the state. The objective remains the ‘return to the path of growth’, regardless of any ‘restoration of a more equitable deal between wages and benefits’ (Husson 2009, 2). Control of labour force and reduction of public expenditure are two essential conditions within the new logic of growth established in 1997. ‘Sanctioned by the Maastricht Treaty, such policies were imposed as the final condition for a future single European currency’ (López & Rodríguez 2010, 182).

For the affected countries, the eighties represented a ‘lost decade’ as the nineties were for Eastern Europe (López & Rodríguez 2010, 53) and the 21st century is becoming for the Mediterranean area. The so-called ‘aid’ enabled the ‘helpers’ to plunder and exploit entire economic areas with total impunity. In the emerging Asian block, the liberalisation of capital movements was carried out through political pressure – whose key instruments were OECD, WTO and the Multilateral Agreement on Investment (ibid. 54). The international weight of these Asian states prevented a neocolonial solution like that imposed on Latin America: the independence of their economic policies protected them from future blackmail. The aid was not so strictly dependent on US interests. In Europe, the myth of globalisation was based upon an alleged humane capitalism – claimed by the first ‘fathers’ of United Europe, who appealed to the history of European social states while sharing neo-colonial goals with the American project.

Cycles of debt and adjustments suffered by developing countries are the roadmap of the ongoing over-accumulation crisis of and its management in the North, hence the terms ‘Northern periphery’ or ‘underdeveloping countries’ – this is why the content of these pages can be taken as a reference in further study of Spanish neoliberalism. Following James Petras and Steve Vieux, let us briefly note these processes’ four main components:

1. Demobilisation. The starting point for the structural reforms, which must be conducive to the application of the adjustment, ‘shows a repressive state where organized labour movements have been dismantled’ (Petras & Vieux 1995, 39). First of all, trade unions and labour movements must stop being the recipient for any political expression of the conflict, and the working classes must abandon their political commitment.

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33 E. Botín announced in a press conference that Banco Santander had won $8.18 billon in 2010 (8.5% under 2009), and added: ‘we have been affected by the situation of the Spanish economy’. Botín said he was ‘satisfied with the pension reform, which ensures stability in a medium and long term and helps to recover market confidence in the solvency of the state and Spain’s economic stability’ (Efe 3.02.11).

34 Ruled by a formally democratic regime, Colombia is the world maximum exponent: two thirds of unionists murdered in the world in 1995-2005 are Colombian. Between 1.01.86 and 30.04.10, at least 10,887 violent acts have been perpetrated against unionists: 2,832 of them are homicides. During A. Uribe’s presidency, 557 unionists were killed (ITUC 2011).
2. ‘Redistribution of shock’ (ibid.)\(^{35}\) and overexploitation. Investments call for legal certainty – which basically means impunity for the corporate activities from state regulations –, while secondary circuits of capital focus on reducing salaries and income redistribution. As described by the WB reports, labour costs are a dwindling part of total costs assumed by companies; hence real wages remain in permanent decline. Higher salaries, it is said, would prevent employment growth. Furthermore, ‘social policy reforms’ jeopardise social protection for the working classes. Informal economy grows, poverty increases, the social power of labour organizations decreases in favour of the dominant classes and their international allies (Petras & Vieux 1995, 47-56; Chomsky 2003, 10). In the US, Reagan declared war on trade unions. In Europe, soft breakdown rested ‘in the corporate unionism, which had so effectively regulated wage growth during the thirty glorious years (1945-73)’ (López & Rodríguez 2010, 42). Both Continental and Anglo-Saxon models shared the need to suppress hiring and redundancy costs, to lower wages and to repeal collective bargaining.

3. Hegemony. Economy elites control executive, legislative and judicial powers. Economic powers dictate political decisions. For more than a century, lobbying had been only regulated in USA\(^{36}\). ‘Canada, Germany, and Australia before 2000; and France, Poland, Hungary, Lithuania, Israel, Peru, and Taiwan from 2000; Mexico and Chile soon; UK has a specific self-regulation too; not to mention the European Commission and the European Parliament’ (Serraller 2010). Regulated or not, lobbying ‘de-politicises the economy’ (Zizek 2009), privatises state-owned enterprises and transfers the risks or losses of private agents at the cost of the state. Without a single empirical argument, ‘the dominant ideological system says that equality and economic growth are incompatible: we must choose, and although the commitment to move along the lines drawn by our hero Adam Smith implies the dramatic consequence of engendering inequality, in the end it generates more wealth for the powerful’ (Chomsky 2003, 72). Friedman proves us right: neoliberalism needs ‘an active state which subsidizes exporters, assumes responsibility to pay private debts contracted by bankrupt banks\(^{37}\), freeze wages and controls trade unions’ (Petras & Vieux 1995, 57). Paradoxically, the discourse of liberalisation legitimates active ‘public’ intervention, along with state decapitalisation and private exploitation of public assets.

Fourth: underdevelopment. The last phase is decline, political decadence, economic stagnation, increasing unemployment, lower living standards and a general failure of foreign investments\(^{38}\). The alleged need of an efficient management of the crisis leads to technocratic demands for power concentration. Basic legal reforms are approved through ‘secondary ways’ in order to avoid

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\(^{36}\) ‘Since 2009, the financial sector (including banks, insurers and real estate companies) has accredited 1,447 former federal officials for lobby tasks in the Congress and other federal agencies […] Calculations exclude those whose relevant work is limited to lobbying on behalf medical insurance entities’ (OpenSecrets 2010).

\(^{37}\) ‘Before the brutal collapse of 1929 – resolved in 24 hours –, the crisis of 2007 emerged in slow motion, in a game where the risks of millionery bankruptcies were responded with governmental bailouts’ (López y Rodríguez 2010, 377).

\(^{38}\) All these elements are included in the European (and Spanish) crisis of the 21\(^{\text{st}}\) century. Petras and Vieux did not analyse such concentric phenomena as financialization, assets price keynesianism or secondary accumulation circuits.
ordinary organic\textsuperscript{39} processes. They are not even subjected to democratic (parliamentary) legislative protocols. ‘Even in those cases whereby neoliberal executives’ programs could receive the support by the legislative power, the representatives of the citizens were out of decision-making process’ (ibid. 63). This can also be applied to the recent (and failed) process of the European Constitution, to EU official entities and private lobbies\textsuperscript{40}, to the ‘anti-crisis solutions’ adopted to balance any ‘democratic overdoses’ or, ultimately, to trade agreements like the TTIP\textsuperscript{41}. ‘According to The Economist, almost 90\% decisions of the [European] Council of Ministers are taken before the ministers actually meet’ (ibid. 283). More than 200 corporations, 500 industrial lobbies and 10.000 professional lobbists have spent more than two decades living in Brussels by the EuroParliament (CEO 2011).

Inflation, public deficit, public debt, interest rates and exchange rates are the convergence criteria imposed by the Maastricht Treaty (1991-1993)\textsuperscript{42} to any country applying to enter the European Monetary and Economic Union. Nine years after, the Lisbon Summit (2000) proposed ‘replacing passive for active employment policies’ (Fernández Durán 2003, 189), while depicting social rights as ‘promises that could not be maintained in the future’ (ibid.). It is no coincidence that, on behalf of the social objective of abolishing unemployment, this ‘solution’ includes gradually ‘cutting’ labour rights and cheapening the labour force\textsuperscript{43}. The ideological power of those two economic myths called debt and deficit leaves no room for any alternative which might prioritise social needs over monetary requirements, thus encouraging state decapitalisations – transferring public funds to private capital and dispossessing a social majority – via labour reforms, dismantling social protection, proletarianizing work\textsuperscript{44} and consumption\textsuperscript{45}. Occupational inclusion is not enough for most of the working poor to cross the poverty line. Overexploitation is the brand of really existing inclusion: the way back to a proto-fordist stage whereby fundamental rights loose their constitutional force. Under neoliberalism, structural exclusion is the paramount feature of a sovereign regime where the divisions between democracy and fascism are progressively blurred.\textsuperscript{46}

Thus it is defined a ‘state of law’ in which, on the one hand, the [legal] rule is in force but not effectively applied [it does not have any ‘force’] and, on the other hand,

\textsuperscript{39} All recent Spanish governments have resorted to urgent reforms through executive orders without any parliamentary discussion. Decree-laws on labour matters are especially significant, although the Spanish constitution (86 article) affirms that they ‘cannot affect [among others] the rights, duties or liberties of the citizens’. The constitutional reform of 2011 concludes this antidemocratic trend.

\textsuperscript{40} ‘The EU democratic deficit is mainly due to the Council of Ministers’ (Balanyà et al. 2002, 282).

\textsuperscript{41} Transatlantic EU-US Treaty on Trade and Investments – see Hernández Zubizarreta (2014).

\textsuperscript{42} Ammended by the Treaty of Amsterdam (1997-99) – then in turn by that of Niza (2001-03).

\textsuperscript{43} Royal decree-law 5/2006 for growth and jobs; Royal decree-law 3/2012 on urgent measures to reform the labour market. Unemployment rate in 2006: 12\%; unemployment rate in 2013: 26\%.

\textsuperscript{44} On the historical expansion of proletarisation, see Guerrero (2006, 54 et seq.). ‘The number of salaried and unemployed people, as a proportion of a country’s active population, tends to grow either in absolute and relative terms’ (ibid. 55).

\textsuperscript{45} S. Alba quotes B. Stiegler on ‘proletarisation of consumption’ as a result of unbridled capitalism: ‘this process destituting a post-neolitic society through which work has colonised everything to the point that consumption itself is has also become work […] a in which we have not only been dispossessed of our savoir-faire and our means of production, but also of our savoir-vivre and our means of self-fulfilment’ (Alba 2011b, 30).

\textsuperscript{46} ‘Under democracy, nobody knows how next government will be. Under fascims there is no next government’ (Kalecki 1943, 100). This thesis was updated by the soft coups d’état perpetrated in 2011 around Southern Europe.
some acts do not have the value of a law but do gain its ‘strength’ [Agamben 2003, 59].

Here ends the analysis of the most relevant features of neoliberal globalisation: a geoeconomic process supported by rapid technological change. Government from the market was established through financial coups and permanent war, thus increasing inequality to historical levels47. ‘Markets perceive quite clearly the signals emitted by their participants, thus rewarding the most productive and inflicting severe punishments on the others’ (Cabo 2004, 276). In short, ‘the concept of globalisation seems to be nothing but a synonym of Westernization or [North] Americanization’ (Held & McGrew 2003, 15), realised through economic, social, political and cultural principles and mechanisms and occupying ‘all lines of intervention of the new neoliberal regime’ (López & Rodríguez 2010, 277). Hence, many references in the study of the Spanish case (chapter III) will come from USA.

As an EU member, Spain developed a neoliberal accumulation regime and joined wars of aggression and projects of expropriation.

II.1. When Economy Governs. On the criminal spirit of economics

The transition from plan-state to war-state corresponds with the passage from capital-power unit to capital-power co-belonging [López Petit 2009, 35].

Economic power protected itself from society in a particular world where capital is ‘more than capital’ (ibid. 30): an absolute power whose vocation, ‘similarly unlike absolutism (which is universal but lacks global dimension), is global but not universal’ (Žižek 2009, 33). In constant search of spaces to colonize through ‘expropriating common goods (natural resources or public services), privatizing knowledge (prerequisite for the development of cognitive capitalism) or redirecting public property to the process of accumulation’ (López & Rodriguez 2010, 80-1), every common good is considered a potential niche business – included those that are managed under the heading of public services48.

In the 1970s, the crisis was blamed on the ‘worsening of global monetary problems’ and ‘the rise of the oil prices, which threatens to reintroduce protectionism’ (Tamames 1992, 399). Is that so-called threat an evil in itself? What for? Why? What is the cause exacerbating those problems? Where and how is protectionism reintroduced? Both the neoliberal counter-revolution and the ongoing global depression share the same theoretical framework and a common ideological ground: in both periods, the same problem of ‘instability’ was diagnosed and the same ‘solutions’ were prescribed.

Instead of turning a sum of individual interests into collective welfare, governments assume the elementary premises of so-called development through

47 The richest 2% of adults in the world owns more than half households’ global wealth. 10% of humans owns 85% of wealth. ‘In contrast [or better: consequently], the poorest half of adult population in the world owns only 1% of global wealth’ (World Institute for Development. Helsinki, 5.12.06 – www.wider.unu.edu).

48 As noted by the General Agreement on Trade in Services, with the aim to ‘achieve the complete liberalization of the services market’ (OMC 1995) – see European Commission communication and report on internal services market (2000, 2002, 2004 – better known as Bolkenstein Directive).
false arguments. Classical premises on unlimited needs and limited resources have always been pointless, but economist assumptions resort to vague conceptual categories in order to ‘produce reality’ (López Petit 2003) with a double goal: rates of profit and wealth accumulation (Santos Castroviejo 2008b). Thus, it is often ignored that the notion of ‘development’ has a social dimension – by contrast, ‘growth’ is a purely economic term – and ‘production is a misleading category: it does not account for destruction, while some included activities (i.e. extraction) are not productive but just acquisitive’ (Lorente & Capella 2009, 14).

The current so-called ‘crisis’ is essentially the consequence of a violent acceleration in the strategies of accumulation by dispossession. ‘GDP growth exceeded 4% during the European reconstruction of the fifties and sixties, but late 20th century recorded annual levels around 2-3% – overshadowed by some short cycle recessions’ (Cabo 2004, 270). ‘During the expansive cycle of 1995-2005, GDP growth has been slightly better than late 1980s in OECD countries, worse than 1970s and far below previous decades’ (López & Rodríguez 2010, 66). Neither investment nor productivity can compare to Fordist sustained growth.

Once the crisis was officially declared, capitalists kept claiming for state actions to moderate wages – against the famous wage-price ‘spiral’ – to reduce taxes on business profits, and to cut public budgets. Macroeconomic parameters provide the ‘scientific’ rationale. In the first instance, the collapse of real wages reduced the general purchasing power of the working class. In the same vein, social budgets – education, health care, housing and social pprotection lost relative weight in favor of military and punitive control policies (Chomsky 2003, 8). The pretext of controlling inflation allowed a massive transfer of incomes from labour to capital, given the allegedly ‘direct’ relationship between inflation and unemployment.

‘Neoclassical theory does not have this kind of problem, since the capitalist system is supposed to tend to full employment in an automatic and efficient way’ (Shaikh 2000, 13). This discourages state intervention on the demand side, because it is said that a change in the money supply would distort unemployment and inflation.

Economic ‘orthodoxy’ also prevent us from understanding exploitation: Keynesian and neoclassical theories – like monetarism or neoliberalism – share an ‘ideological core based on individual freedom of action, scarcity, surplus, maximization, and some other counterfeit concepts, which pervade all of their analyses’ (Cabo 2004, 211). Paradoxically, since the seventies, ‘liberal economic theory occupied a central place since Keynesian theory was unable to give an adequate explanation to stagflation due to the crisis of 1929. This is quite ironic, since Keynesian theory became dominant once neoclassical theory – which is the main support of neoliberal economy – was unable to explain the huge and persistent unemployment rates in the last great depression’ (ibid.).

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49 This implies subduing the priorities of a social majority to ‘sustained growth through sustained gain rate’ (Husson 2009, 1).
50 ‘The increase of productivity per salaried person has been higher than the rise in salaries, thus feeding value appropriation by capital. […] But this has been systematically ignored in sectorial negotiations, given the acceptance of a phallacy assumed by most of the labour movement: that wage moderation leads to employment creation’ (Albarracín 2010, 14).
This redistributive struggle resolved against wages (i.e. on overexploitation) reveals the deepest expression of the conflict. Inflation may be due to multiple causes – raw materials, energy, financial costs, false competition, market concentration, monetary circulation, international imbalances –, but the obsession with salaries showed the some elites’ obsession to keep on improving their wealth share. However, this problem shows two main symptoms: on one hand, worse exchanges between ‘developed’ and ‘developing’ countries – since the first failed to load all effects of the inflation on the latter – and on the other, changes in the income distribution – which reduced the profit/wages rate in the GDP share. Although this did not mean any threat to power structures, these two phenomena encouraged a temporary reduction of social inequality – a sort of system failure. Neoliberal counter-reform would come to fix it soon.

The end of dollar-gold convertibility imposed by the USA to resolve its crisis produced some serious effects: obstacles to create liquidity were removed, reserves increased eightfold between 1970 and 1984, and a new currency market was created. Banks and private companies could then compete as international liquidity-makers. The general trend to indebtedness affected debtors through their exposure to changes in the price of money. This is the last step on the way to permanent crisis. Once the field was expanded and the rules were common, the US Federal Reserve Bank raised interest rates, worsened credit conditions and left many countries in ruin. Debtcocracy was imposed as an effective colonial weapon. Global financial markets would become the new hegemonic power subduing all governments. This eventually contributed to the arbitrary design of trade barriers to protect rich countries against those economic theories they advocated for: ‘inflationary pressure caused by third world attempts to enjoy some additional piece of the cake is finally eliminated’ (Torres 2000, 87).

Until 1989, nobody in Europe used to talk about free movement of capital. Everything happened after the Single Act. In other words, the idea of globalisation as an unstoppable reality is not true. It was a political decision taken in USA, some other states followed it, and then the Washington Consensus – IMF, Wall Street and the US administration – forced free movement of capital into other countries. Free movement of capital is not a divine gift but rather a conscious decision taken by international leaders [Martín Seco 2010].

In addition to ruining countries and impoverishing millions of people, neoliberal policies ‘protect the wealthy from the discipline of the market’ (Chomsky 2003, 34): since 1994, capital gains [dividends] have been the hegemonic source of financial profit in all OECD countries’ (López & Rodríguez 2010, 54). 52

Contemporary capitalism is globalised monopoly. By this I mean that monopolies are no longer large islands in a sea of relatively autonomous companies, but parts of an integrated system with absolutely control on every production system. Small and medium-sized companies, even large corporations which are not strict oligopolies, operate under the control of a network that replaces monopolies. Their autonomy has been reduced to the point of becoming subcontractors of monopolies. This

52 ‘Private indebtedness is a key factor in the analysis of the Spanish case, the paradigm of the generation of ‘gradually favourable contexts for an extension of indebtedness to domestic economies’ though a profuse ‘uptake of financial assets in the ways families save and consume’ (López & Rodriguez 2010, 56).
generalized monopoly system is due to a new phase of capital centralisation during 1980s-90s in the countries joining the Triad – USA, Europe and Japan [Amin 2011].

Only the doctrinal influence of theorists like Von Mises (1881-1973)\(^{53}\) can push us to accept an axiom that equals democracy to market as ‘transparent price system’ (Bilbao 2007, 241). Perfect competition theory is perfectly incompetent; markets are neither free nor transparent; there are no rational consumers either. Competition projects its political vocation to extend across the whole society, and ‘this is why neoliberal governments govern societies rather than economies’ (López Petit 2009, 60): In the meantime, the signifier freedom bonds ‘the existence of the individual to the universalisation of private property’ (Bilbao 2007, 241). The authentic double slope of ‘free’ markets is ‘state protection and public subsidy for the rich and market discipline for the poor’ (Chomsky 2003, 31). There lies the effective redistribution of a social crisis that is permanent and not cyclical. Only minority elites can decide freely and ‘rationally’, thus consolidating structural corruption\(^{54}\) – whereby corporate-state symbiosis gets closer and closer, while theorists affirm that ‘prices are the point of reference for transparent and peaceful governability’ (Bilbao 2007, 243).

The optimal exchange price produced by demand-supply balance only exists in those equations and figures through which markets justify their sovereign power. Enough consumption goods are produced every year to cover the needs of the world population; hence unfairness imposed by global market is contradictory and incompatible with its own existence. ‘How to explain the weird obsession of academic economics to prove its mathematical models, regardless if the model can contribute to a plausible representation of experience?’ (Cabo 2004, 19). Labour markets are another example of these paradoxes and fictions. Average annual growth rate (GDP per capita) in the OECD in 1973-89 was 2.1%, half compared to 1950-73, but unemployment also rose disproportionately at the end of the Fordist period (Arrizabalo 1997, 78).

Economic recipes legitimized a productive restructuring aimed to recover the ‘natural flexibility’ of the system – readjusting staff structures, specialisation and contracts, as well as providing labour force to the tertiary sector. From 1973 to now, tertiary activities have grown: 80% OECD workers belong to this sector. Spain is an example: from 33% in 1970 to more than 70% in 2009. This process adds complexity to the sectoral analysis, since much of tertiarisation is due to detaching ‘functions and departments that used to be vertically integrated in the same management unit’ (López & Rodríguez 2010, 63-4). Except for some

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\(^{54}\) In Spain, two examples among hundreds are Rodolfo Martín Villa o Francisco Pizarro. The first was a franquist civil governor, minister of Labour Relations and Government, Interior, and Territorial Administration, vice-president, MP, president of the Congress Budget Comission, president of the Congress Justice and Interior Comission, president of the board of directors of Sogecable, president of Endesa Italia, vice-president of Enersis (Chile) and Agbar, president of the Control Comission of Caja Madrid, president of Endesa Foundation and member of FAES thinktank. The latter was president of Ibercaja and the Spanish Confederation of Savings Banks, vice-president of Madrid Stock Market and Endesa, candidate to minister of Economy in the elections of 2008, enjoyed a pay rise up to 85% in 2011-13 and a 550.000 euro contribution to his pension plan and life insurance, then honorary president of Endesa and vice-president of Spanish Stocks and Markets. The number of cases of nepotism along Spanish recent history is countless.
privileged workers in the so-called knowledge economy, the progressive reduction of labour conditions and rights extended precariousness and insecurity – Spanish unemployment and precarisation rates are amongst the highest ones in the West. Thus, high and permanent unemployment rates have proved to be ‘a perfectly suitable instrument to contain wage pressure, to increase docility in the productive processes, to improve productivity and, finally, to relocate profitable capitals as freely as possible’ (ibid.). The contradiction between working class interests and the property of relocated capitals gets bigger: ‘a process of re-concentration of the control of resources, goods and incomes is in the hands of a small minority of humanity (currently not more than 20%).

Private business does not schedule production according to the needs of the population. Instead, it looks for new market niches and a sustained deployment of the cycle, no matter if a phase is linked to positive or negative excess demand (Shaikh 2000, 20). No matter if new commodified goods or services have something to do with any fundamental rights. According to marginal utilitarianism (19th century), ‘consumer sovereignty rules. In this fictitious context, owners of any factor (mainly work and capital) obtain in the market something equivalent to what each of them contributed to produce’ (Guerrero 2006, 11). Not even Marx’s labour theory of value and the concept of surplus value are necessary to expose the obvious fallacy here. On top of that, ‘nobody has ever said how to measure the marginal utility of the consumer’ (ibid. 52). Nobody knows how a commodity is defined as useful by economic theory. The hegemonic theory of value assumes that useless goods disappear because no work is dedicated to produce them – according to the principle of marginal utility. But ‘talking about the derivative of utility has the same sense as speaking of the derivative of boredom or love. No sense. Because all of them are real things, really important things, but things you cannot quantify’ (ibid.).

In the most widespread models of economic science, existing conditions of property and forms of wealth distribution, access to goods and services, and participation in collective decisions are just constant parts of the equation. The historical formation of theoretical models is systematically ignored. Their origins ‘should not be revealed by the economist’ (Cabo 2004, 51), because they are taken as god-given (or natural) for the purpose of every formulation. ‘Thus, the reasons why a certain way of distribution exists are partially hidden [...]’. The historical reference is only useful inasmuch as it determines the apparent certainties of a theory’ (ibid.). In the eyes of economic rationale, ‘if social order is a projection of human nature, its constitution is equally universal’ (Bilbao 2007, 210). In its neoliberal phase, capitalism honestly admits a change of paradigm towards supranational sovereignty and geoeconomics, again, as if it was the effect of a natural and universal cause.

In a similar vein, if technocratic constitution of social order imposes such a dubious projection of human nature, the concept of science – especially within social or human disciplines – is being perverted by a ‘cult religion, maybe the most extreme and absolute ever. [...] Anything in it has no meaning except when concerning the performance of a cult, not any dogma or idea’ (Agamben 2012, 2). This is why we may deem capitalism as a ‘religious apotheosis’ (Delgado 2011) or pure ideology. As argued by Agamben, that is also why the ‘moment of purification’ (2012, 4) of capitalism occurred on August 15 in 1971, when Richard
Nixon suspended dollar-gold convertibility. ‘From the point of view of faith, capitalism does not have any object: it believes in the pure fact of belief, in pure credit, i.e. in money. Hence capitalism is a religion whereby faith (credit) has replaced God. In other words, while the pure form of credit is money, capitalism is a religion whose God is money’ (ibid. 3).

It is therefore necessary to ‘question that economy has anything to do with what we call science, so the border between the cultural and the economic starts becoming very blurred and, instead, another field appears – which could be politics. In fact, if we want to designate this field with some accuracy, we should better talk about political economy’ (López 2012, 77).

To sum up, economic knowledge translates numerically the consequences of a process that can never be reduced to mathematical models. Economics ignores the essential features of social processes. Moreover, its widespread acceptance as the key discipline assumes some theoretical premises which are radically incompatible with any definition of democracy (Roitman 2003, 110). We cannot depict the neoliberal globalisation as the founding moment, but as the episode through which economist premises and values turned into fundamental principles. The financialisation of economic global order reinforces supranational capacities of decision and limits governmental scopes for action, and this takes place mainly in the field of fiscal policies. In a formal sense, managing production, incomes and employment levels through state revenues and expenditures – as it happened through fiscal policies between 1950 and 1970 – is much more ‘democratic’ than resorting to monetary regulations. However, since the argument of supply side policies determines the false neutrality of the state in order to promote economic growth in Europe, ‘the idea of the collapse of fiscal policies’ (Niño & Martínez 2004, 19) has become widespread.

In the seventies, the rise of prices was caused by companies that took advantage of their power and extraordinary profits. In the long ‘second crisis’ (Amin 2010, 38) of globalisation, as it happened in the first (1873-1945), dominant capitals imposed three major transformations: monopolisation, globalisation and financialisation.

Growth vs. accumulation

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55 M. Friedman won the Nobel Prize of economy in 1976 for his contribution to monetarist theory.

56 Today, ‘while they raise awareness on us to accept cheaper salaries, dismissals, public budget cuts or bank bailouts with public money, El País publishes on 15 October that JP Morgan closed the third quarter with a total of €2.41 billion profits, 580% better than 2008. El Roto [Spanish cartoonist] was right: ‘The operation has proved a success: we’ve managed to make a looting look like a crisis!’ (Serrano 2009-11).

57 ‘Wall Street and the City of London are centres of financialization since 1900. The discourses of the first crisis are strangely similar to those in the second belle époque (1990 to 2008): end of history, eternal capitalism, endless peace and democracy... The second big depression starts in 1971, with the end of dollar-gold convertibility. Since middle seventies, growth rates in capitalist countries (imperialist Triad: USA, Europe and Japan) fall to 50% of that in the previous 30 years – from WWII to 1975; those growth rates have never been recovered. This is a structural, long, lasting and ancient crisis. The three measures together have created the democratic illusion of capitalism with human face from the nineties to 2008. Meanwhile, social erosion was being reinforced by deregulation of labour regimes and the persistence of chronic unemployment’ (Amin 2010, 38-9).
Growth is the sovereign signifier of a narrative justifying accumulation. One of the most redundant arguments to depict the crisis is that capital incomes are not enough to sustain the growth of economic activity, because the idea of (social) development is limited to (economic) parameters of growth (Lorente & Capella 2009, 15-7). Labour incomes are seen here as an obstacle for profit rates, and when the objective of exponential, permanent and sustained growth is pursued through financialisation, everything explodes.

**Productivity vs. exploitation**

Productivity (output/input ratio) is another important and contentious concept. Given that ‘unit cost of commodities and labour productivity are in inverse proportion [...] then if labour productivity increases – which happens in the long term –, production cost in work – and also in money if there is no inflation – lowers’ (Guerrero 2006, 14-5). Although the final costs of production depend not only on labour price, but also on many other elements related to technological efficiency or capital productivity, the crisis of accumulation imposes a ‘permanent adjustment policy aimed to increase exploitation rates’ (Albarracín 2010, 2) thus dumping all the weight on labour input.

Exploitation and inequality are the two real keys. For many years now, ‘the need of permanent competitive upgrading’ is a red line for all public administrations. This has been the axiom for a range of measures whose impact in Spain will be analysed in chapter III. Let us mention two main ideas here. First: in broad terms, ‘the more developed collective labour productivity in a society, the higher level of exploitation imposed on their workers – however much they can buy more goods’ (Guerrero 2006, 7). Second: in the Spanish particular case, ‘the false idea – assumed by most union movements – that wage moderation helps maintaining job creation’ (Albarracín 2010, 14) has actually contributed to increases in labour productivity above salaries, giving way to growing levels of appropriation of value in favour of capital.

**Sustainability vs. deployment**

As a means to calculate the total production in an economy/year, Gross Domestic Product only focuses on material production. Living standards are not listed as factors in GDP growth – instead, they are seen as external elements influencing chances and expectations of growth. Increases in added value are always celebrated, even when directly producing harm. Given this, GDP is an indicator of material growth, but a useless and misleading indicator of social development. Hence, rather than producing anything ‘good for the people’, setting the *sine qua non* condition for sustained annual growth at a certain rate implies the foundations of a state-corporate criminal scenario (Ruggiero 2013, Tombs & Whyte 2015).

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58 ‘The president explained that economic growth based on productivity favours the simultaneous growth of salaries and employment, improves business competitiveness and cheaper consumption goods, moderates inflation, strengthens the pension system, welfare state and protection policies. [...] As a second axis of his economic policy, Rodriguez Zapatero opted for dynamising and liberalising the economy’ (Europa Press 17.02.08).

59 J. Stiglitz, Nobel Prize of economy and ex-chief economist of BM (France-Press 10.01.08).
The seventies were also the years of environmentalist speeches and political reactions towards ‘a development that meets the needs of the present without compromising the ability of future generations to meet their own needs’ – definition of sustainable development coined by the World Commission on the Environment and Development (1987). After three decades of institutional declarations, the results give rise to serious doubts. In the trends of previous summits, two points in the Johannesburg Declaration\(^6^0\) (2002) include: ‘11. We recognize that poverty eradication, changing consumption and production patterns and protecting and managing the natural resource base for economic and social development are overarching objectives of and essential requirements for sustainable development’. ‘12. The deep fault line that divides human society between the rich and the poor and the ever-increasing gap between the developed and developing worlds pose a major threat to global prosperity, security and stability’. Supranational institutions and certain UN instances promoted by transnational corporations drove ‘a global marketing operation regarding the new paradigm of sustainable development, at the time that new instruments for social intervention (development NGOs) were promoted to prop up a new social consensus around the myth of development – under a sustainable label’ (Fernández Durán 2003, 82). However, ‘sustainable development is a test for our distributive will: Development and improvement of our Western lifestyle; while they sustain our growth’ (Cabo 2004, 278).

**Intervention vs. justice**

The minimal state is another great signifier in the neoliberal mythology. ‘They want central banks to be independent. They preach the subordination of national states to requirements of economic freedom for the markets, bans on deficits and inflation, broad privatization of public services and cuts in public and social expenditure’ (Bourdieu 1998). Beyond Keynesian assumptions or other moderate sustainability-minded formulas, states must ensure a framework of legal certainty to redistribute wealth ‘in favor of the rich, and power in favour of the most powerful’ (Solow 1987, 182). There is nothing further from the theoretical principles that founded the function of modern states:

> The end of security in the modern state lies in protecting the citizens from private power [Lösing 2002, 279].

European post-war growth was based on ‘a growing intervention by public administrations, which ruled macroeconomic equilibrium with demand policies and facilitated the provision of public goods’ (Torres 2000, 37). A certain state control on aggregate demand helped deal with social conflict in favor of wages. The state could influence the macroeconomic balance because of sustained growth, and the (social and geopolitical) balance of forces. Welfarism guaranteed a majority their purchasing capacity and certain coverage of the risks generated by the economic system. Even though the concept and practice of planning was widely applied by the politicians of the time, it did not threaten the privilege of economic elites, but rather compensated the successful inertia of capital incomes against labour incomes. The time was not ripe to unleash the ultra-orthodox speech and to start

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\(^6^0\) UN summit that succeeded those celebrated – with similar results – in Rio de Janeiro (1992) and Stockholm (1972). On the concepts development and sustainability, see Cabo (2004), O’Connor (2002), Jackson (2008), Mateos (2008), and OCDE (2011).
‘taming’ the state\textsuperscript{61}. Although the structural dimension of poverty, marginalisation and social exclusion was not going to be eliminated, some state interventions on housing, health, education or minimum income were enabled, thus imposing some basic universal guarantees. Welfarist discourses and practices proved how appropriate and convenient this kind of ‘interventionism’ was.

The global expansion of neoliberalism expelled the welfarist ideology out of the political spectrum. Consumption, by definition an exclusionary factor, became the key for ‘citizen participation’. The industrial model was depleted by excess capacity, and the ideological context became hostile to social protection structures. This panorama of incomplete hegemony and slowed accumulation explains the neoliberal counter-reform and the thesis of ‘excess democracy’ (Huntington et. al. 1975). Structural adjustments became necessary in the seventies, as the economy was presented as a natural environment to which other structures and organizational forms must adapt themselves to. ‘Exclusion and violence are inherent to market economy. Although they are perceived as something negative, the persistent and apparent scientifism of economy seems to place their causes in the beyond’ (Morán 2007, viii).

\textit{Wealth vs. inequality}

Capitalism is a social formation with a permanent tendency to overproduction, where crisis is the normal state of things [Amin 1999, 67].

Every economic crisis reveals a slowdown in profit accumulation. The history of capitalism shows that social crises are never considered as such unless a predictable and significant variation may affect profit rates (Torres 2000, 37-8), thus threatening the class-biased principle of ‘legal certainty’. Economic crises do not necessarily represent an evil, unless their social effects lead to legitimacy crisis of political power.

From there, critical economy claims for the key role of power relations instituting inequality\textsuperscript{62}. Economic figures must be analysed within their socio-political framework. This is why the economic imbalances of the seventies proved to be much more than circumstantial after the (second) crisis of 1979: ‘What we have now is rather a \textit{depressed continuum, which exhibits the features of a chronic, relatively permanent, endemic and cumulative crisis, with the final prospects of a structural crisis that deepens constantly} (Lea 2006, 212). The bases for this permanent crisis (see Mészáros 1995, Amin 1999) were established in the seventies, when political reforms met the needs for economic concentration, sanitation, competitiveness and internationalisation: capitalism started looking for new conditions and transforming the instruments whereby the local and transnational elites deploy their business strategies. A new language naturalised the new rules of game: a government \textit{from the market} was born under a new symbolic domination. ‘In the construction of any social science, as is the case of the economy, there is a shameful trend to leak in its theoretical formulations the ideological slogans that try to change social behaviours and perceptions on the

\textsuperscript{61} ‘First we tamed the savage, and now we must tame the state’ (Hayek 1981).

\textsuperscript{62} ‘The three richest people in the world own a wealth exceeding the GDP pf the 48 poorest states – i.e. 25% total number of states in the world’ (Quijano 2000, 4).
circumstances affecting our lifestyles’ (Cabo 2004, 15) – i.e. ‘entrepreneurs to create wealth and jobs’, ‘the best social policy is about creating jobs’...

This is how the necessary shift to Keynesianism in the era of financial bubbles can be explained. This is why the alleged answer to the crisis had to be the development of as many ‘adjustment programmes’ as necessary. American politics, with Reagan in power since 1980, showed that theoretical shapes and contents imply ‘practical effectiveness with real social consequences’ (Garland 2001, 63-4). The constant and widespread decrease in salaries, the higher remuneration of qualified or executive jobs, and the rise in business profits – even in periods of ‘stagnating sales’ (Chomsky 2003, 16) – are three of those ‘solutions’. ‘The more ambitious program of public expenditure in the history of this country was used to drag the American economy out of the hole. This slow economic suicide’ (Johnson 2008) promoted by Reagan involved increasing the military expenditure up to 6% GDP, and public debt above 50% GDP (López & Rodríguez 2010, 42). ‘Military Keynesianism’ with Reagan and Bush I; ‘asset price Keynesianism’ with Clinton.

In the nineties, the US government encouraged ‘simultaneous growth of aggregate demand and of private profits’ (ibid. 91) without increasing wages or public expenditure. The Reagan period gave way to a 7% reduction in household incomes during the ‘Clinton recovery’ (Chomsky 2003, 50). The formula: financialising the social body through private debt and property bubbles. The consequences: private consumption grew, the upper classes profiteered, the gap between the real and the monetary economy widened, and the cycle extended until the bubble burst. The attempts to redirect investments towards the new sectors of ‘knowledge economy’ did not recover the Fordist levels. Accumulated profits moved further from productive sectors to the financial sector, and money creation shifted ‘from Central Banks to financial markets’ (Fumagalli 2010, 74). In both cases, even though the model failed, a booming sector generated profitable business from nothing: aggregate demand and economic bubbles grew on indebtedness, lower classes got poorer, middle classes got indebted and the upper classes got richer thanks to financial Keynesianism (López & Rodríguez 2010, 117). This wealth-effect process was based in the USA, but Spain is one of its most outstanding pupils.

2008 financial meltdown was not ‘due’ to any financial cataclysm or subprime mortgages or deregulation or uncontrolled excesses. Superficial analyses hide the deep reasons of the collapse. The system can only jump from one bubble to another. ‘Dot com’ companies in 2000, and a previous crash in 1997 preceded the bursting of the subprime bubble in 2008. The next bubble is already being inflated. This system cannot last, we have entered a new phase of development of this crisis, a phase that I would call chaotic, and […] the consequences of the deepening of this crisis are social and political, with an increase of social imbalances [Amin 2010, 39].

Reverse Keynesianism (Ruggiero 2013) has been trying to sustain the pace of income and wealth concentration since the early eighties. Once the thesis of aggregate demand were discredited, the (false) doctrine of deregulation succeeded. The restructuring must be evaluated by its material consequences and not by ideological justifications – some of which are the result of highly biased empirical

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analyses, which in turn might derive from ideological justifications. Two examples can be found in the Phillips curve, holding that ‘we do not need to fear an increase of unemployment to reduce the salaries’ (Shaikh 2000, 13), and the Laffer curve, holding that lower tax pressures favour productivity (Guerrero 2006, 16). Both curves are used to justify an increasingly unequal distribution of incomes.

The ‘Fordist problem’ of a power imbalance in favor of labour force (Brenner 1999, 27), was attacked through the ‘translation of accumulation by dispossession strategies in terms of macroeconomic policy’ (López & Rodríguez 2010, 95), so small economic elites could decide on those parameters and dictate the creed of professional politics.

The permanent increase of military expenditure is a particularly effective form of ‘state intervention’ in the economy. Moving away from its social responsibilities, the state feeds the war economy and treats military industry ‘as an ordinary economic product, although its contributions to production or consumption are null’ (Johnson 2008). In 1990, ‘the value of weapons, equipments and factories under the Department of Defense represented 83% of the value of all factories and equipments in US industry’ (ibid.). In 2008, its military budget outnumbered the aggregate of next 10 countries in the ranking.

Regarding free trade and curbing protectionism, it is often said that ‘the Reagan Administration put the brake on the protectionist aspirations of American industry, in order to prevent inflation through competitiveness’ (Tamames 1992, 410). This is another fallacy, because the protectionist aspirations actually held back by Reagan were those countries dominated through debt. In the name of free trade, structural adjustments recommended by the WB and the IMF were imposed. The subsequent decline in real salaries punished millions around these peripheral countries. In the case of Chile, ‘Pinochet’s dictatorship reduced real wages to 40% the level in the Allende period’ (Vidal 1995, 15). ‘National production was mortgaged across Latin America’ (ibid.). Openness and looting proved that adjustments do not meet any technical criteria but rather a certain correlation of political forces: more poverty and precarious work, wealth concentration, fewer resources for political participation. All adjustment policies were imposed through violence and repression, not due to any inherent superiority of the market, but because ‘liberalism is a system of power and not only an ideology. To grow and to consolidate, it depends fundamentally on the state, and not simply on market principles’ (Petras & Vieux 1995, 18). Neoliberalism refunded economic exceptionalism.

64 ‘In the early eighties, Reagan and Thatcher’s policies introduced an unprecedented contraction of credit and boosted interest rates. This forced a broad redistribution of social product from labour to capital, especially to the financial sector, precluded upon an abrupt stop in public spending, [...] based on two principles: controlling inflation through monetary restrictions (monetarism) and prioritising supply, i.e. business profit as the engine of wealth creation. However, in the economic realm, these policies produced a so hard shock in international demand that its effects can be considered as dramatic as those due to debt crisis’ (ibid. 96).

65 Although US spending fell under 40% for the first time since 1991, it is still 69% higher than that of 2001 (Deutsche Welle, 15.04.13). ‘One year of the US military budget is equal to more than $20,000 per hour since Jesus Christ was born’ (Blum 2006). Spending in 2012 was $682,000 million, despite a 6% reduction – the first time in 15 years. Nowadays, global business of crime is ‘recovering’.
The tradition of the oppressed teaches us that the ‘state of emergency’ in which we live is the rule. We must attain a concept of history which corresponds to this. Then it will become clear that the task before us is the introduction of a real state of emergency; and our position in the struggle against Fascism will thereby improve. One reason why Fascism has a chance is that its opponents, in the name of progress, treat it as a historical norm [Benjamin 1942, 23 – thesis VIII].
II.2. Neoliberalism and (In)Security. Through Crime or Criminal?

Organized state crime is still the order of the day, but the ‘world market’ appears more and more clearly as a superior and anonymous instance, which declares bigger sectors of humanity to be superfluous; not because of any political instigation, not due to the order of any chieftain or through any party agreement but, so to speak, spontaneously, through its own rationale. This means that an increasingly higher number of individuals is ‘bounced out’ of the scheme. The result is not less criminal, but it is more and more difficult to pinpoint the decision-maker. With the language of economy: a strong boost in the supply of labour force is opposed to a decline in demand. Even in rich societies, anybody may be redundant tomorrow [Enzensberger 1992, 32].

‘Tomorrow’ came long ago. Under the government from the economy, the relationship between (dis)order and control has two major fronts. In the transnational front, ‘debtfare’ (Soederberg 2014, cf. Ellis 2017) and warfare draw the framework of ‘new imperialism’ (Harvey 2004). In the intra-state front, ‘government through crime’ (Simon 2007) manages insecurity against the victims and not against the decision makers. The expression government through crime underlines the prevalence of punitive practices and discourses, along with the political instrumentalisation of ‘war on crime’ – or better: on certain groups of failed criminals. Beyond any legal category of offence, a second meaning of governing through crime may also reveal the criminogenic dimension of state-corporate symbiosis as a ‘global problem’ (Mercado 2003, 319).

Government through crime may therefore be understood as a penal tool of market-state criminality. First, all neoliberal democratic governments abandon their constitutional duties and systematically ignore any international standards subscribed to by them. Second, these irresponsible states obsessively resort to penal devices to deal with petty crime and other minor security threats. It is astonishing how the idea of security could experience such a shift from its law-based inclusion in the welfare state to its repressive oversizing within prisonfare – which produces social insecurity and governs its consequences against fundamental rights. Nobody seems to care about the fact that neither delinquency rates nor penal-penitentiary trends can empirically confirm the neoliberal common sense on security and punishment. Wacquant’s studies show how ‘the police, courts and prison are not simple technical equipment through which the authorities respond to crime (as presented it by a commonsense enshrined by law and criminology), but basic political skills through which Leviathan produces and manages inequality, marginality and identity... as well as giving a meaning to sovereignty’ (Wacquant 2012, 227) in an ‘actually existing neoliberalism that articulates four institutional logics: commodification, supervisory workfare, a proactive penal state and the cultural trope of individual responsibility’ (ibid. 226).

The theoretical battle around the object of criminology is part of a broader struggle for security and justice – i.e. against legal crime and regulated injustice – and its starting point should consist in describing criminology as an instrument to politically manage inequality.

We call an elite a social minority which accumulates ‘the main means to exert power, to acquire and preserve wealth, and to hold the highest pretensions for prestige’ (Wright Mills 1956, 4). At the other end of the bio(necro)political
spectrum, global naked labour (Whyte 2009) embodies the marginalist paradigm of the last and optimal unit of labour factor (Ruggiero 2013, c.8). Post-fordism reduced classic productive regimes, colonised reproductive dynamics, and created a miserable reserve army at a global level – thus building a docile and passive subject of humanitarian assistance against the fundamental right ‘to be heard and recognized as equals in the discussion’ (Žižek 2009, 26-7).

It is not irrelevant that the concept of citizenship is a key factor in the critique of post-politics as the ideological basis of post-Fordist governmentality: this is embodied in the permanent conflict between economist tales speaking of bailouts as ‘therapies’, and the practical implementation of the adjustments. Under the effects of this dystopic dynamic, who is a citizen; who is a non-citizen; who deserves to be ‘rescued’? The contribution of the state to the naturalisation of the market as the absolute organizer of life redefines a flexible and arbitrary form of sovereignty that combines regulated permission (Whyte 2014b) for wealth concentration and authoritarian control of the social surplus. Sovereign power shifts towards main capitalist decision-making centres, thus reshaping the functions of the nation-state to reproducing power-knowledge (discursive task) and institutionalising the mechanisms of neoliberal ban (executive task).

During the last three decades, the expansion of penal law (Silva 2001) helped legitimise this shift. In turn, the global warfarist turn promoted by anti-terrorist policies, the reforms on juvenile justice, ‘hyper-incarceration’ (Wacquant 2008, 2009), and the punitive management of immigration are four pillars of that expansion – which threaten all constitutional guarantees on the protection of fundamental rights and the mere definition of security. Freedom and security are two inseparable principles in the construction of a peaceful coexistence, while security, ‘as an essential condition to exert any other fundamental right, is not only threatened but rather suspended’ (Manzanos 2011, 33). The debate remains in ‘social contexts whereby fear and risk have become a key element in the analysis of social institutions and policies’ (Bernuz 2006, 21). The hypersensitive perception of risks and the political abuse of the notion of security lead to assigning the status of non-citizen to those who appear to threaten ‘the well-being of the other’ or ‘the security of the state’. This fake dilemma hides a dramatic contradiction between raison d’état and constitutional rights.

If the official figures are reliable, delinquency rates barely changed throughout the last twenty years [1975-95], and recently decreased [...]. But the proportion of punishments grew much more, as indicated by the rate of incarceration – pointing to the most vulnerable sectors, especially black and Latino [Chomsky 2003, 60].

Chomsky’s quote was written in the midst of a process that would reach its climax in the 21st century. This process has led to almost forty years of prison prosperity in the USA and three decades in Europe. Since the main objective of this book is to study the structural conditions of hyper-incarceration under Spanish...
neoliberalism\textsuperscript{68}, the analysis that follows is not about the delinquency-punishment bond but rather about ‘the re-engineering of the state to promote and respond to economic and socio-moral conditions that join under hegemonic neoliberalism’ (Wacquant: 2012; 207) – which depicts the poor as ‘problems’ or ‘threats’ in order to govern the ‘citizens’ through ‘fear of crime and not crime itself’ (Simon 2007, 37).

According to the golden rule of neoliberal penology, the cost of a rise in ‘prices’ (punishment) to reduce the ‘mass’ of offences should not overcome the ‘cost’ of its social impact (Foucault 1975, 297 et seq.)\textsuperscript{69}. As shown by Harcourt (2011, 56 et seq./125), Beccaria and Bentham’s utilitarian calculations are now back to optimize penal intervention and to exploit the supply-demand calculation through negative (law) inhibitions of the ‘marginal deterrence’ (Harcourt 2011, 41/105). The penal sphere widens the gap between types of offences and criminal profiles: reactions against ‘white collar’ crimes cannot compare to those on ‘street crime’ (ibid. 147-8), because the ‘social impact’ of a crime is always measured in terms of ‘moral panic’ (Cohen 1972). This is why government through crime may be seen as condition of possibility for criminal governments under the current accumulation regime. Social alarms emphasize the opportunity cost of so-called ‘benevolent punishments’, thus paving the ground for a consensus around punitive cruelty.

The commodification of penal control implies some internal aporias (Harcourt 2011, 132-9). First: the definition of ‘offence’ inherits some non-penal normative notions. Second: although its goals are supposed to lead to social wellbeing, the punitive ethos only focuses on some specific realities. Third: Law and Economics\textsuperscript{70} imposes systemic efficiency as the key element, thus disregarding the social harm generated by the penal system. Fourth: the economist rationale reinforces the punitive ethos through slogans like nothing works (Martinson 1974, 48), thus impoverishing the production of sociological knowledge and subsequent political interventions. Finally, the discourses on ‘opportunity, deterrence, and calculating profits in the short term’ (De Giorgi 2002; 54) replace classic ethiological paradigms\textsuperscript{71}. Welcome to actuarial policies and situational strategies.

We govern through crime inasmuch as crime and punishment become the chances and institutional contexts that we use to guide the conduct of others – and even ours [Simon 2007, 78].

The crisis of mature capitalism led to the oversizing of punitive governmentality (ibid.). The crises of institutional abduction – once predicted by some authors or currently announced by a widespread decline of imprisonment – should not be interpreted as such, but rather in terms of a modulation of punitive control and a

\textsuperscript{68} A mix of what Wacquant depicts as ‘periphery of the Old World’ and ‘Second-World countries’ (2012, 211).


\textsuperscript{70} L&E – Economic Analysis of Law. ‘Penal regulation should not focus on evil individuals or deviated acts, but rather on a demand-supply game of offences whose relevant elements are individual risk, profit opportunities through crime, penalties as a source of economic loss, opportunity costs, etc. while the general goal for the society is to minimize negative externalities or social costs produced by delinquent behaviours’ (Vila 2012, 208) – see also Becker (1968), Garland (2001: 200), Harcourt (2007 168-71; 2011, 121 et seq.).

\textsuperscript{71} Not to mention the cornering of structural approaches and Marxist/conflictual theories.
reorganization of penal devices in the context of a new induced fiscal crisis (see Forero & Jiménez, 2013b). The criminal justice system must ‘manage differentially the illegalities, and not –by any means – suppress them all’ (Foucault 1975, 93). This function increases its effects on normalised groups and their productivity (Simon 2007, 18-21). Hence the crisis of welfare state paved the ground to face induced crisis through tough action – in the name of ‘public safety’. This is part of a ‘new common punitive sense wrought in the US under the attack against welfarism’, which ‘quickly crosses the Atlantic to branch out across Western Europe’ (Wacquant 2009, 345 et seq.; 2011, 206).

II.2.a. On Hyper-Incarceration in the US

What makes the racial intercession of the prison system different today is that [...] it serves only as a container for the precarious and de-proletarized fractions of the black working class, either because they cannot find employment [...] or because they refuse to submit to the humiliation of a job that lacks the minimum conditions in the peripheral areas of the service economy, systems which are often depicted by the residents of the ghettos as ‘slave jobs’ [...] Putting the majority of prisoners to work would contribute to lowering the prison divide of the country and efficiently extending to imprisoned poors the requirements of workfare now imposed on the free poor as a condition for citizenship [Wacquant 1998, 50].

The first initiative of the three strikes and you’re out was submitted to a vote and was approved in the state of Washington by 76% votes in 1993. Since then, the punitive spiral has migrated to those states whose economic and political structures have been previously weakened and redesigned through neoliberal counter-reforms. However, the process started much earlier: so-called ‘expert knowledge’ on delinquency started being exploited72 by ‘populist domination’ (Zimring 1996, 253) in the early seventies, as soon as street disorders became unbearable in the eyes of government. Since then, the same propaganda machine that had taken decades to to anti-communism into the national religion, took much less to ‘instill irrational fear to crime among the American masses’ (Pens & Wright 1988, 22). Government through crime does not usually find any help among empirical data on crime, but rather among mass media (Simon 2006, 80).

‘It is not that state power has expanded through crime, but that the relevance the state has conferred on crime leaves out other kinds of opportunities’ (Simon 2007, 38). State makes war through other means, hence rhetorics on security have been reinforced in successive episodes of the same downward spiral (Pens & Wright 1998, 97) whereby legal guarantees collapse and living conditions of prisoners worsen. The trend to manage social problems through state violence has led to an even more random relationship between delinquency and punishment.

The war on crime launched in the 1960s strengthened to state level in the late seventies, generating and hardening laws aimed at imprisoning a wider variety of offenders for longer periods, often without the possibility of anticipating their departure through probation [Simon 2010, 328].

72 Simon describes the Omnibus Safe Streets and Crime Control Act (1968) as the ‘mother of contemporary penal regulation’ (Simon 2007, 19).
1974 is a key milestone. The growing skepticism about the sense of imprisonment (‘nothing works’) opened the way to economicism (‘prisoners are too expensive’) and devalued the ideal of rehabilitation, thus leading to more severe punishment, more seclusion, worse treatments and death penalties (Aller 2010, 8). Paradoxically, all US governments would feed the budget to help a new industry. The ‘Western’ gulag (Christie 1993, 24) was about to be born.

The figures are overwhelming. With 380,000 prisoners in 1975, the prison population in the US grew to 1 million in 1990, 1.8 million in 2000 and 2.3 in 2008, thus becoming the world leader of mass imprisonment ahead of post-Communist Russia. One out of four prisoners in the world lives in the USA, and the over-representation of US imprisonment ratio within the world prison population approaches 500%. Since 1971, the growth of prison population in USA reached 708% – the paradigm of neoliberal incarceration. After the financial crash, this trend has slowed: the total prison population in the USA fell from 2.31 million in 2008 to 2.24 million in 2011 (BJS 2012 – cf. Brandariz 2013).

Between 1926 and 2006, the US black prison population grew from 20% to 40%, while the white proportion fell from 80% to 30% – see Holleman et al. (2009, figs. 1/7). The growth of the population under parole or probation also aggravated the racist character of this phenomenon: ‘5% of all adults, one out of ten black men, and one out of three young black men’ (Wacquant 1998b, 10) were living under penal control out of prison. One in three young Afro-Americans lives under penal control. Five years after the three strikes laws were enacted in the State of Washington, 77% of the accused under this law in Seattle were black – thus members of a 5% minority (Wright 1996, 33-4). In California, blacks were (and are) sent to prison 13 times more often than whites (Wisely 1996, 48) under this law. Black overrepresentation among these sentences is 600%.

Due to the adoption in the US of mass imprisonment as a strange social policy designed to discipline the poor and to contain the disgraced, lower class Afro Americans do not live in a society with prisons like their white compatriots, but rather ‘the first actual prison society’ in history [Wacquant 1998, 57-8].

This is how the prosperous prison industry expanded: the number of employees in the criminal justice system doubled in 20 years to reach 2 million, including 700,000 prison officials, which makes the prison system the third highest employer in the country – ‘just behind Manpower Incorporated and the national retail chain Wal-Mart’ (Wacquant 2002b, 10-1). The relationship between private businesses and punitive control turned to the prison population ‘into a source of profits’ (ibid. 13): penal policies proved to be business friendly, under an incoherent speech claiming for severe (effective) and economic (efficient) punishment. In the

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74 Another 5 million people are submitted to various forms of penal control. 2008 recorded the maximum level with 7.311.600 individuals (BJS 2012).
75 Incarceration rates doubled in the Russian Federation after the collapse of the Soviet Union (Wacquant: 1998b; 10), a trend which has been replied in most ex-soviet republics.
76 Wacquant replaces mass incarceration with hyper-incarceration in 2005, underlining a triple segregation (class, race, territory) which is ‘exclusive to this phenomenon and excludes masses (middle class families)’ (González 2012, 254).
metropolis of privatization, the prison labour force was given to the corporations77, but that is neither the most remarkable economic dimension of American prisons, nor the only way to turn them into a source of private profit. The number of prisoners in private prisons grew by 1,664% between 1990 and 2009 – from a total of 7,771 to 129,336 people (Shapiro 2011, 12).

Reagan reduced public investment on health, welfare and education to feed the budgets of police, courts and prisons (Wright 1998, 10). This huge budgetary transfer shows the actual goal of inverse redistribution policies (Harcourt 2011)78. Most politicians explained the decrease of delinquency rates as a consequence of these policies, but the over-representation of certain social groups in prison does not allow such a simplistic conclusion. On the one hand, the public audience followed the political project (Beckett 1997), which justifies the substitution of the term ‘public opinion’ by ‘published opinion’ – namely manufactured and published by the media. On the other hand, the case of California – where 85% of sentences under this law during the nineties were due to non-violent crimes – refutes the hypothesis of ‘social danger’. The facts confirm that ‘tough sentences are only useful for politicians to be elected; they are never a deterrent for offenders’ (Wisely 1996, 48-9). This has been happening since the sixties through criminalizing Afro Americans, taming claims for racial justice and producing a ‘political will of power, particularly the will to kill’ (Simon 2007, 90).

Thus the US became the central nerve system of a bipartisan (democrat-republican) convergence that Europe came to describe as ‘left-wing neo-criminalisation’ or ‘right-wing populism’. In parallel, ‘African American urban youth have suffered massive detention, perhaps the greatest on a social group in times of peace’ (Simon 2007, 35).

After the ongoing financial crash, 2010 marked the beginning of a certain recovery in the fiscal balance of the state. The incomes of the two main prison companies in US amounted to $2.97 billion – $1.7 billion for Corrections Corporation of America and $1.27 billion for GEO Group (Shapiro 2011, 14). CCA and GEO were founded in 1983 and 1984, at the start of two decades in the rise of public expenditure in the prison system (BJS 2012). Since then, neither of those corporations has stopped growing.

Another particular condition of the American prison system is the extreme severity of its regime, since it is based on a security doctrine which produces disciplinary regulations and performance protocols against human rights. As stated by a number of international institutions, torture is routine practice. ‘Harsh conditions of confinement in maximum-security facilities are justified as necessary for certain prisoners for security reasons. But security cannot excuse those harmful or repugnant conditions that constitute torture or cruel, inhuman or degrading treatment’ (HRW 1997, 16), which reissues the classic principle of less eligibility

77 ‘IBM, Boeing, Motorola, Microsoft, AT&T, Wireless, Texas Instrument, Dell, Compaq, Honeywell, Hewlett-Packard, Nortel, Lucent Technologies, 3Com, Intel, Northern Telecom, TWA, Nordstrom’s, Revlon, Macy’s, Pierre Cardin, Target Stores […]. Only from 1980 to 1994, profits increased from $392 million to 1.31 billion. Prisoners in state facilities usually perceive the legal minimum, wage, but not all; in Colorado they earn $2/hour. In some private prisons they earn 17 cents/hour for a maximum of 6 hours a day, which equals $20/month […]’ (Peláez 2008).

The history of neoliberalism is the history of an ideological framework built on the pretext of a so-called conflict between desirable freedom and imperative security.

The private prisons industry reaps profits through more and more public funds, at the expense of social protection – aka actual public safety. For-profit prisons constitute a ‘paramount contribution to bloated public budgets, and mass incarceration is not a viable solution to urgent problems’ (Shapiro 2011, 42). Markets propose (impose) policies and plans. States dispose (execute) subsequent measures while preventing any expected consequence. Social bodies decompose under the effects of those measures. In the specific penal sphere, the abandonment of rehabilitation approaches and the criminalisation of poverty are two complementary key factors of neoliberal governmentality. As a result of this complementarity, the American accumulation regime has turned the prison system into a market which, as such, has to remain open to business initiatives that maximize their turnovers through more and more productive inputs. The carceral market is, thus, another area released by the state on behalf of private corporations that absorb public money through exploiting human life (Hollemann et al. 2009, 8).

Although a similar reasoning could be applied to other activities – i.e. offences against property, life, public treasury, even some against public health –, the ‘drug problem’ shows how big the gap between two dimensions of criminality is. In USA, ‘although there are more white than black consumers of illegal drugs and 80% of the population is white, black people amount to two thirds of the prisoners condemned for drug-related offences – and 40% in state prisons. In 1992, 39% of all state prisoners and 55% of federal inmates had been sentenced for drug possession, not for trafficking or manufacturing’ (Chomsky 2003, 62). The possession of a small amount of crack (the most consumed drug in the ghettos) carries a prison sentence of five years without parole; instead, there is no fixed sentence for possessing an amount of cocaine powder a hundred times larger – the favorite drug of the white middle classes (ibid. 66). This is a good example of how a sort of social division of delinquency is applied at the local level.

During the seventies and eighties, this selective criminalisation – along with mandatory minimum sentences – was the main trigger of the penitentiary inflation: the number of sentences for drug-related offences in 2009 was about 1,200% greater than in 1980 (Hollemann et al. 2009, 5). The lowest stratum of global drug business provides most of human inputs of a penal state whose budget is closer to the military sphere than to any social area, thus revealing the ‘domestic face of a militarized society and an empire in decline’ (ibid. 3).

Inequality and imprisonment are two chapters of the same social tragedy, especially when the neoliberalism ‘takes off its gloves’ (ibid. 5) to glorify the interests of capital while demolishing and demonizing those of the working class.

79 ‘Properly laundered and transferred to honorable trade exchanges, annual profits from drug trafficking – in perfectly legal actions – amount to more than $300 trillions, which makes a mockery of the myth depicting a business managed by third-world drug lords hidden in some in Colombian or Afgan bunker’ (Carrera 2008). ‘About $200 or 250 billion (0.3-0.4% of world GDP) would be need to pay the total medical costs related to drugs around the world’ (UNODC 2012, 6). ‘World production of opium amounted to 7.000 tones in 2011’ (ibid. iii), the amount of cocaine was 992 tones en 2007, marihuana amounted 41.400 and amphetamine was 494.000.
II.2.b. On Hyper-Incarceration in Europe

Nearly all societies in Western Europe have witnessed a remarkable rise in their prison populations from the outset of de-industrialisation and mass unemployment two decades ago [...]; and this population is mostly and increasingly composed of unskilled or unemployed workers, homeless and non-EU citizens [Wacquant 2002b, 14].

Society needs to condemn a little more and understand a little less [John Major, UK PM, 1993].

The period evoked by Wacquant is one of the collapse of social democratic ideology, the beginning of the end of welfare states, and the global expansion of neoliberalism in a ‘socio-economic and anthropological mutation’ (Brandariz & Faraldo 2006, 15) – a civilizing change that, thirty years later, turns John Major’s quote into the dominant slogan across many states. The contract (the norm) replaced law: social life was then deemed to be a market. Like any other consumer good, security is a purchased product – not a matter of general interest. Citizenship is not a feature of every human being as an alleged subject of rights, but a condition for social exclusion. Work-consumption asserts itself as a prerequisite for citizenship. Although the welfare state would be compelled to gradual extinction, allusions to ‘welfarism’ remained orwellianly relevant in the public debate. Meanwhile, a society organized around labour hardened its criminal politics to the pace of precarization and expulsion: ‘even welfare programs created to help the most needy are reorganized according to a panoptic and punitive rationale based in workfare’ (Wacquant 2002b, 14).

All this happened under fiscal restructuring: the budgets for security, justice and penal institutions increased. The budgets of the 33 administrations that joined the Space I survey of the European Commission amount to more than €17 billion in 2010. Their average prisoner-day spending ranges from €5 in Croatia to €330 in Norway (Aebi & Delgrande 2013, 141 et seq.).

Despite some exceptions and local singularities, the increase in the prison population became a general trend – see Aebi & Delgrande (2013), Communication Directorate of the European Council (3.05.13). The high density of prison populations led the European Commission to show redundant concern through its recommendation R(99)22 and some other studies carried out in recent years. But this trend has remained upward and its policies have disproved almost all proposals included in the R(99)22 – including the decriminalisation or reclassification of certain offences. Although the total prison population in the EU states slightly decreased from 2010 (1,861.246 in 2010 to 1,825.356 in September 2011), the unequal distribution by countries led to a permanent increase in 2011 – from 149 to 154 prisoners per 100,000 inhabitants.

80 Excluding maximum (€750 in San Marino) and minimum (€3 in Bulgaria).
81 More than 100% in half the countries and an average occupancy of 95.5%.
83 According to available data in 2011, the amount of people under parole or probation increased 29.6% up to 1,525,544 people, due to longer periods under penal control out of prison. Electronic
Hyper-incarceration did not affect only the ex-welfarist states (including the UK), but also the Mediterranean area and the new demo-liberal states of Eastern Europe and the Balkans. At the other end of the spectrum/scale, most Scandinavian states are the exceptions to this general trend. During the decades of neoliberal deployment, the Scandinavian countries were consistently the black swans in a general trend to harsher sentences and lower delinquency rates. While the latter increased in Scandinavia more than any other European area, incarceration rates decreased (Finland) or remained stable (Norway, Sweden, Iceland or Denmark).

Between 1983 and 2000, the average length of imprisonment increased in most countries, as well as the prison population, with two exceptions: Greece and Ireland, where the increase in the number of convictions was offset by stable or even shorter stays. Already in the 21st century, this trend is mainly due to the sustained increase of prison sentences, along with the amount of pre-trial foreign prisoners. Both issues reveal the progressive collapse of social policies and the import of hyper-incarceration under neoliberal deployment.

The rise in the prison population is therefore an obscene symptom of the neoliberal project and those policies, since the relationship between punitivism and crime rates is null – and the correlation between imprisonment and social indicators is dramatically clear (as we will see in the next section). In a similar vein to the American case, Lappi-Seppälä studied how incarceration in Europe evolved inversely to reported offences, maintained a ‘zero correlation’ with rates of victimization, and only correlated with the hardcore of serious – and most spectacular – crimes (2011, 308-9). As shown in the Spanish case, mass incarceration actually indicates a form of government that exploits social alarm through ‘ritualized revenge and anger’ (Simon 2007, 149).

Whilst being careful not to read official statistics unproblematically, we must analyse the volume and length imprisonment along with other indexes of social protection. Smaller gaps in wellbeing, higher levels of social security, and higher public provisions would contribute to lower levels of punitivity and repression – and we will return to this later.

The proportion of police officers out of the total population is another indicator of punitivism: the vast majority of states exceeding the average imprisonment rate in Europe also exceed the average level of police officers per 100,000 inhabitants (Eurostat 2012, UN Department of Economic and Social Affairs 2010). In 2009, Spain was ranked first and Finland was last on this measure.

Finally, the management of migration and the punitive treatment of poor foreigners has become one of the keys to study the penal sphere in the European post-Fordism (Brandariz 2007, 126 et seq.; De Giorgi 2002, 2012). In the Spanish case, it is the factor of the 21st century. In 2010, 13% of prisoners in Europe were surveillance (electronic bracelets are the most common tool) is applied in 60% of the states included in the report (Aebi & Marguet 2013, 1).

84 Average lengths kept on growing in 2000-09 at a slower pace (Lappi-Seppälä 2011, 304).
85 Gini index synthetizes income unequality through three different calculations, thus comparing how efficient is every mechanism to meet the basic needs: inequality between labour incomes, inequality between salaries and other transfers, and salaries plus transfers plus health and education services provided by the state (Babones 2012).
foreigners (5% of them were women) and most of them could be found across the southern border and the ex-welfarist West. Non-EU foreigners are overrepresented in most of these countries (Delgrande & Aebi 2012, 3).

Legitimacy and trust in the institutions, subjective perceptions of danger, punitive attitudes among the population, and some factors regarding the democratic condition of the government are other factors at stake. The item ‘confidence in the state institutions’ is lower in more severe penal states, or rather: punitivism is a governmental resource under institutional instability or illegitimacy, since ‘legitimate political systems need less coercion’ (Lappi-S. 2011, 312). Trust in institutions and normative legitimacy are usually linked to democratic ‘health’, and, with them, trust in people, police or justice (ibid. 314). The key question is not any calculation of legitimacy or cohesion, but rather a tense search for institutional legitimacy and peaceful consensus.

In a nutshell: less formal democracy and poorer participatory mechanisms ‘coincided’ with a greater resort to the penal system as a governmental tool. We cannot conclude that the former led to the latter. It is undeniable that such concepts as consensus, confrontation, coalition, bipartisanship, electoral proportionality or participation, provide very relevant information when analysed together and compared to the other factors. The categories used by Lappi-Seppälä build a framework to study the growing tension between economic growth and social development, which is in turn a key feature of financialization and neoliberal imperialism. The following section includes some elements that will converge in the analysis of the political economy of punishment in the Spanish neoliberalism (see ch. III below).

II.2.c. Political Projects and Carceral Societies

The new management approach is capillarity, extension and survival of control. Individuals are not confined anymore; they are anywhere they are normally locked up: out of the factory, on the ground. The structure of propaganda and mass media, a new and more efficient police and social welfare network, are the signs of neo-capitalist social control [Melossi & Pavarini 1977, 26].

Melossi & Pavarini’s prediction on a future emptying of the prison was a supine error, but their forecast on a culture of control was right: The decline of the prison & factory paradigm was clear, given the restructuring of economic order and its new segregative ways. Fordist (productive-rehabilitative) inclusion failed under the discourses on zero tolerance and deterrence. While massive incarceration and privatization policies were gaining momentum in the USA, Western Europe was still waiting for the neoliberal project to degrade its public protection apparatus.

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86 Overrepresented in Spain (9%), Netherlands (8), Portugal (7) or UK (7), among other countries.
88 Lappi-S. bases this on Lijphart’s contentious classification, although ‘the question could be the kind and quality of democracy, and the broad political culture, rather than the (undefined) democratic degree’ (2011, 318) – see Suárez-Iníguez (2010) on Lijphart’s ‘implausible mistakes’.
89 Offences, social indexes, trust in institutions/people, fear/punitivism and political/economic keys.
Neoliberalism is not an economic regime but a political project of state-crafting that puts disciplinary ‘workfare’, neutralising ‘prisonfare’ and the trope of individual responsibility at the service of commodification [Wacquant 2011, thesis 1]. Neoliberalism entails a rightward tilting of the space of bureaucratic agencies that define and distribute public goods and spawns a Centaur-state that practises liberalism at the top of the class structure and punitive paternalism at the bottom [ibid. th. 2]. The growth and glorification of the penal wing of the state is an integral component of the neoliberal Leviathan [th. 3].

The consolidation of the penal system as the ground zero of social exclusion showed how ‘any attempt to cure the symptoms is a dubious procedure: firstly, because every method that fails in going beyond the actual manifestations of deviant behavior without reaching its origins has a reduced efficiency; secondly, because the inconsistencies and contradictions inherent to its practical methods represent a denial of its alleged purposes’ (R&K 1939, 196). No program for penal reform has ever improved the life standards out of prison, nor has given priority to the goal of ‘re-education and social reintegration’ (Spanish Constitution, Art. 25.2) over deterrent and retributive purposes. The effects of imprisonment on a majority of prisoners are characterized by a reduction in the possibility of rehabilitation and reintegration. Failure and denial are two inherent features of confinement. The explicit purposes of imprisonment (correction, re-socialisation) are substituted by ‘simple incapacitation, i.e. neutralisation of specific individual profiles’ (De Giorgi 2000, 140). Since the notion of welfare lost its political centrality, the disciplinary dynamics connecting social structures and punishment were dissolved in a new productive framework.

If the world of the sixties was a world of economic control and social freedom, the world of the nineties became the world of economic freedom and social control [Lappi-Seppälä 2002b, 43].

No retributive penal doctrine has ever explained the role of penal practices in the construction of social order. Its function has never been to conceive punishment as related to others areas or institutions of the social structure, since ‘every analysis is conditioned by the social needs of the time, especially by the need to defend the ideological integrity of the punitive institution’ (R&K 1939, 2). The analysis cannot focus on the explicit purposes of punishment, precisely because the changes in the productive system imply subsequent changes in the punitive system. ‘It is evident, for example, that slavery as a punitive means is impractical without a certain kind of economy; prison work is impossible without factories or industries; fines are not possible without a monetary economy’ (ibid. 4). If demographic changes and labour force availability determine state priorities to ensure the development of the accumulation regime, the current context of market intervention by the state turns such conditions into a threat for those who are less and less able to join the labour market – thus more and more exposed to dispossession and exploitation.

In the image and likeness of postmodern wars – where mercenary agencies are hired to outsource war crimes, while civilians provide 90% of the victims under the guise of ‘humanitarian and liberating’ intervention. The neoliberal state thus...

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90 In WWI, 10% of casualties were civilian. In WWII, the rate jumped to 50%. In Vietnam, it grew to 70%. In Iraq (2003), civilian bodies amounted more than 90% of all deaths – see Pilger & Lowery (2010).
limits its liability to formal regulations and commodified control practices. States retain some responsibilities as tactical managers of a geo-economic strategy ruled by corporate powers. To some extent the image and likeness of war strategies can be moved back and forth to reflect the same dynamic within the penal system. Hence, governments formally maintain the only not-officially-privatized task of legal-executive production – in its double shed of minimum social state and expansive penal state. The first is meant to meet corporate pressures for stability, solvency, confidence, security... The latter promotes punitive inflation through the rhetorics of ‘public security’, immediacy, expressiveness (Brandariz & Faraldo 2006, 30; De Giorgi 2000, 43), neutralization and dramatisation (Brown 2010).

Look at the Floud Report (1981), a sort of Magna Carta of the Thatcherite reaction against the ‘horrible’ seventies. This report is intended to, and even imposes, that courts and authorities hold preventive powers to protect their citizens from the dangers caused by the social transformation – from welfare state to a globally integrated neoliberal state. The Floud Report is, according to the penal law, the equivalent of the Trilateral report (1976) on the ‘limits of democracy’. This involves the introduction of a new paradigm, the translation of the new ‘political’ and ‘economic’ cycle into a new ‘criminal’ or ‘punitive’ cycle. Not content with depriving citizens of any participation in the production, and with allowing (when not building them directly) wider spaces of exclusion, the neoliberal state produces an adequate social taxonomy, armed with a consequential punitive logic. The new penal law must produce subjectivity, and the execution of this production entails the miserable existence of the excluded, repressed, and poor [Negri 2006, 29-30].

In the same vein, Mike Davis locates in Losing Ground, by Charles Murray, published in 1984, the main manifesto of the Reagan era on ‘confinement of communities’ (2001, 19 et seq.). Regarding the conditions and consequences of this process, we must review Wacquant’s triple analytical rupture for a ‘diagnosis of the invention of a new government of social insecurity’ (Wacquant 2011b). The first rupture confirms that the rise of the penal state faces a wave of social insecurity due to economic factors, thus refuting a crime-punishment binomial ‘which keeps on limiting the academic and political debates on imprisonment, even when the divorce of this couple is increasingly evident’ (id. 2009, 407). In addition to a zero correlation with the evolution of delinquency, the hypertrophy of penal devices exerts a harmful influence on the degradation of security – for the prisoners and their families (Manzanos 1992, 2011). Thus, the crime-prison neoliberal link was embodied in the concurrent increase of imprisonment and state-corporate crime. In the USA, the dissolution of salaried labour in new outsourced formulas adds to some hierarchical-ethnic changes due to the implosion of the black ghetto. Government through crime applies punitive management methods on the victims of criminal governments: in Europe, widespread labour insecurity and harsher penal policies light up growing pockets of exclusion and postcolonial migrant settlements; Spain, as a peculiar neoliberal post-dictatorship, suffers from a mixture of typically ‘Mediterranean’ and ‘Anglo-Saxon’ handicaps (Lappi-S. 2007, 12). This is why we cannot describe a proper welfare-prisonfare paradigm shift in Spain, but rather a ‘ghost transition’ to neoliberalism.91

91 A weak protection structure, high levels of inequality, the rigid legacy of social hierarchies, the speculative nature of financialisation, a hypertrophic housing market, an oversized migration process managed through overexploitation and punitive expansion... – see chapter III.
The second rupture refers to a *neo-behaviorist* philosophy shared by weakened social policies and rising penal trends. Based on ‘deterrence, surveillance, stigma and sanctions graduated to change behavior’ (Wacquant 2009, 408), a shrinking welfare apparatus and growing penal confinement\(^{92}\) ‘collude to normalize, monitor and/or neutralize the indigent and disturbing fractions of the post-industrial proletariat, which melts under the new economic conditions of capital hypermobility and labour degradation’ (ibid.). As a first stage of a double potential punishment, workfare retains the function of managing the division between the ‘deserving’ and ‘undeserving’ poor.

The third rupture aims to overcome a classic material-symbolic duality, in order to combine two perspectives: the connection between both expressive and instrumental functions of the penal system which reinforces its communicative power and thus its ability to control and dominate. Such are the two main ‘concerns’ of the prisonfare, according to Wacquant (2009, 408). Imprisoned bare life is a profitable scapegoat, as well as an input for the industries of political consensus. This feature of neoliberal sovereignty is represented by the terms *negative surplus* and *manufactured consensus*. On the one hand, negative surplus cannot be fully absorbed and/or recycled through workfare. On the other hand, ideological hegemony disguises itself as ‘public demand’ – fuelled by fear and produced in power-knowledge centres (think-tanks).

The structural limits of this triple dynamic contain the economic factors referred to in the first rupture. The differences and similarities between the US and Europe in the following graphic synthesize what has been said regarding social inequality. This will be taken as a reference for the Spanish case (see ch. III).

Firstly, unemployment rates in Europe showed a general upward trend between 2000 and 2010 (with two parentheses in 2000-01 and 2005-07), alongside a similar trend in imprisonment. Even so, unemployment boosted from the crash of 2008 – led by the PIGS: Portugal-Italy-Greece-Spain. This relationship between unemployment and prison was different in the USA, where the financial crisis started earlier: the pace of incarceration remained quite constant, and evolved inversely in relation to unemployment from 2002 to 2010. Then imprisonment started to level out in 2007, and unemployment rates decreased in 2009-10.

Secondly, the triple Gini index may allow us to compare incarceration rates with social inequality in 15 European countries and USA, along with the effect of public policies. The following table shows three different ways of measuring Gini index, thus reflecting the corrective efficacy of certain public policies on a primary level of economic inequality. The first value (Gini-1) shows the gross level of income inequality. In the second value (Gini-2), the compensation by fiscal and welfare policies (namely direct redistribution) is subtracted from Gini-1. The third (Gini-3) adds the countervailing effect of ‘public’ health and education. We may define Gini-1 as the ‘raw inequality in incomes earned from work’, hence Gini-2 would refer to ‘raw income inequality partially compensated by cash transfers’, and Gini-3

\(^{92}\) Note the following specific feature of the *Spanish anomaly*: Post-Francoist punitive and protection institutions are substantially different to those in the European *post-welfare* because their departure points are also different. The years of the Spanish *penal bubble* were also those when productive sectors and labour markets were restructured, poverty was redefined and the ‘third sector’ built a *market of social intervention* (Manzanos 2013).
would describe ‘income inequality compensated by cash transfers and public policies on health and education’. Let us look at what this means, and then observe how these figures relate with imprisonment rates.

<table>
<thead>
<tr>
<th>Country</th>
<th>Inequality in Wages Earned from Work</th>
<th>Income Inequality (Wages plus Other Cash Transfers)</th>
<th>Wages, Transfers, and Government-Provided Health &amp; Education</th>
</tr>
</thead>
<tbody>
<tr>
<td>Australia</td>
<td>41.8</td>
<td>32.4</td>
<td>26.0</td>
</tr>
<tr>
<td>Austria</td>
<td>40.6</td>
<td>26.1</td>
<td>21.9</td>
</tr>
<tr>
<td>Belgium</td>
<td>40.8</td>
<td>25.6</td>
<td>20.9</td>
</tr>
<tr>
<td>Canada</td>
<td>41.6</td>
<td>32.8</td>
<td>25.9</td>
</tr>
<tr>
<td>Denmark</td>
<td>37.4</td>
<td>24.3</td>
<td>19.4</td>
</tr>
<tr>
<td>Finland</td>
<td>40.3</td>
<td>25.8</td>
<td>21.8</td>
</tr>
<tr>
<td>France</td>
<td>43.1</td>
<td>29.2</td>
<td>20.9</td>
</tr>
<tr>
<td>Germany</td>
<td>42.0</td>
<td>36.0</td>
<td>24.9</td>
</tr>
<tr>
<td>Italy</td>
<td>46.5</td>
<td>33.4</td>
<td>26.2</td>
</tr>
<tr>
<td>Luxembourg</td>
<td>43.6</td>
<td>29.2</td>
<td>22.9</td>
</tr>
<tr>
<td>Netherlands</td>
<td>39.1</td>
<td>29.7</td>
<td>22.9</td>
</tr>
<tr>
<td>Norway</td>
<td>37.6</td>
<td>25.6</td>
<td>19.3</td>
</tr>
<tr>
<td>Poland</td>
<td>43.5</td>
<td>31.0</td>
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<td>Spain</td>
<td>40.5</td>
<td>31.3</td>
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</tr>
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<td>United Kingdom</td>
<td>45.6</td>
<td>34.5</td>
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</tr>
<tr>
<td>United States</td>
<td>45.3</td>
<td>37.0</td>
<td>30.3</td>
</tr>
</tbody>
</table>

Gini 1, 2, 3 in Europe, Australia, Canada and USA (2011)

The first column (A) of the following table shows the values of Gini-1 from lower to higher income concentration. The redistributive effects of direct (cash transfers) intervention are ordered in the second column (B), from higher to lower percentages of reduction in Gini-1). The result of this first redistributive filter (Gini-2) is ordered in the third column from higher to lower effects (C). By adding the effect of the second filter, the fifth column (E) sets the values of Gini-3. The fourth (D) shows the percentages of reduction of inequality through public education and health services (Gini-2 to Gini-3). The last column (F) ranks the total effects from Gini-1 to Gini-3 – in descending order: highest to lowest effective intervention of redistributive public policies.

<table>
<thead>
<tr>
<th>Country</th>
<th>A / Gini-1</th>
<th>B / 1-2 direct</th>
<th>C / Gini-2</th>
<th>D / 2-3 indirect</th>
<th>E / Gini-3</th>
<th>F / 1-3 total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sweden</td>
<td>36.8</td>
<td>Belgium 37%</td>
<td>Denmark 24%</td>
<td>Sweden 26%</td>
<td>Sweden 18%</td>
<td>Sweden 15%</td>
</tr>
<tr>
<td>Denmark</td>
<td>37.4</td>
<td>Finland 36%</td>
<td>Norway 26%</td>
<td>Denmark 16%</td>
<td>Norway 13%</td>
<td>Denmark 12%</td>
</tr>
<tr>
<td>Norway</td>
<td>39.1</td>
<td>Austria 33%</td>
<td>Sweden 25%</td>
<td>Sweden 16%</td>
<td>Sweden 12%</td>
<td>Sweden 11%</td>
</tr>
<tr>
<td>Nederlands</td>
<td>40.1</td>
<td>Denmark 31%</td>
<td>Nederlands 26%</td>
<td>Finland 19%</td>
<td>Finland 12%</td>
<td>Florida 10%</td>
</tr>
<tr>
<td>Finland</td>
<td>43.3</td>
<td>Luxembourg 33%</td>
<td>Sweden 25%</td>
<td>Norway 26%</td>
<td>Belgium 20%</td>
<td>Norway 19%</td>
</tr>
<tr>
<td>SPAIN</td>
<td>41.1</td>
<td>France 32%</td>
<td>Austria 26%</td>
<td>Luxembourg 21%</td>
<td>Finland 15%</td>
<td>Belgium 13%</td>
</tr>
<tr>
<td>Nederlands</td>
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Gini index – three stages. Wealth concentration and redistributive effects in Western Europe and USA (2011)
Own figures based on data from Babones (2012) – source: OECD (2011)
As we have seen, the effects of punishment are an essential matter of political economy under the ‘global homogenization of penal policies and practices’ (Cavadino & Dignan 2006, 435). Having said that, if we combine the values obtained for each Gini index and the imprisonment rates (IR) in every country, the link between economic inequality, social policies and penal severity (Lappi-Seppälä 2011, 321 et seq.) may be even easier to guess.

In the following table, we see that in case of the Netherlands, Gini-1 is not particularly high but Gini-3 is comparatively worse. Germany, from a worse starting position in the list, loses two positions in terms of inequality. Both countries are often mentioned as two examples of how centre-leftist parties welcomed the approach of ‘tough on crime, tough on the causes’ – applied by Tony Blair and New Labour in the UK (ibid. 439). This approach can be also extended to all considered countries – including Scandinavian countries to a lesser extent.

<table>
<thead>
<tr>
<th>Gini-1 (gross)</th>
<th>IR</th>
<th>Gini-2 (net direct)</th>
<th>IR</th>
<th>Gini-3 (net indirect)</th>
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<th>Gini 1-2 Direct correction</th>
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Wealth Concentration – Gini (2011) and imprisonment rates - IR (2010) in Europe and USA
In general terms it is easy to confirm that, as we move towards the right-hand columns – taking in account that the reduction in income inequality is shown in descending order along the list of countries –, high imprisonment rates tend to slide down: broadly speaking, weak redistributive effects of public policies may converge with higher punitive efforts. This seems to be even clearer if we divide the table in two parts: the top half gives an average of 48.75% for Gini 1-3 total correction, and a total incarceration rate of 81.37 prisoners per 100,000 inhabitants. By contrast, the bottom half gives an average of 34.75% for Gini 1-3 total correction (40.71% if we exclude USA), and a total incarceration rate of 214.75 (136.85 excluding USA). This means that the redistributive effect of cash transfers and health&education policies in the eight ‘first’ countries is 40% more effective than in the bottom half (20% better if we exclude USA). In turn, the average incarceration rate in the eight ‘last’ countries is 163% higher than in the top half (68% higher if we exclude USA).

To sum up: although no principles of causation can be inferred from the above data, it would seem obvious that one of the key factors affecting punitivism is the survival of welfare structures. This makes Spain an especially adequate territory for ‘punitive convergence acceleration’ (ibid. 438). One of the main symptoms is the potential degree of social polarisation, namely the tendency to social dualism beyond the ‘classic three thirds model’, thus simplifying social divisions between a dispossessed class and a privileged elite that parasitizes work and poverty – on the basis of the so-called South African paradigm (ibid. 443).

As the core of neoliberal regime, prisons function against the violent backdrop of political consensus on punitive control. Neoliberal governments tend to make ‘generous’ use of their punitive means, in order to conceal the effects of inequality, labour exploitation and ‘widespread distribution of poverty’ (Brandariz 2009, 17). The analysis included in this chapter will be then transferred to the Spanish context to discuss how the government from the market came to develop its criminal plans and punitive control policies under post-Francoist neoliberalism.
To study the Spanish geography of power requires a structural approach to its socio-economic order, its structures of domination and its discourses on order and control. All these elements build the framework for some political and penal institutions to preserve production and reproduction of inequality and exploitation (Wacquant 2014, 1689-10).

Neoliberalisation, its social impact and its strategies of political legitimacy will be studied in this third chapter to analyse ‘the history of creative destruction (with all manner of deleterious social and environmental consequences) written into the evolution of the physical and social landscape of capitalism’ (Harvey 2004, 66). Within these legitimating strategies, penal policies have played a fundamental role in the deployment of neoliberalism and the management of its social effects.

As an anomalous paradigm of the ongoing civilizing change, the turn to hyper-incarceration was sustained on the bases of over-accumulation and social underdevelopment, thus confirming Wacquant’s quote in the Spanish case: ‘Foucault is right when advising us to take penal practices less as a result of theories legal than as a chapter of political anatomy’ (2009, 428). Let us examine this in greater detail.

III.1. Underdevelopment and Pseudo-Fordism in the Spanish XXth Century

Still in the 20th century, absolute monarchy survives in Spain, with the aristocracy and the clergy as its powerful social classes, and Alfonso XIII as its political head [Brendel & Simon 1979, 10].

The Spanish economy experienced three broad cycles through the 20th century. Moderate growth (from the end of 19th century) and incipient industrialisation continued during Alfonso XIII’s reign (1902-31), but endemic problems and deep class divides remained intact. Illiteracy rates exceed 60%, 70% of the population was overexploited in latifundia. Industries were concentrated in Catalonia, Basque country, Madrid and Asturias. The working class migrated massively from rural to urban areas (García & Jiménez 2001, 37-9). Per capita incomes grew 1.1% in the first third of the century, and decreased 0.9% between 1935 and 1950. In the second half of the century, real output per capita grew 3.8% (ibid. 16) – an irregular evolution, always below their Northern neighbours.

It should be stressed here that growth itself does not mean any sign of social development without a significant reduction of inequality, as it does not give any relevant information on the levels of labour exploitation or social exclusion. First, an increase in GDP per capita does not imply a better share of incomes or wealth. Indeed, the inherent trend of capitalism is a permanent increase of inequality regarding that ‘share’. Second, domestic product can plummet while the prison population soars (as seen in Spain in several periods of the 20th century), or even grow with the imprisonment rate – as seen in Spain during the neoliberal decades. There is no steady link between both phenomena which would suggest a solid conclusion beyond every juncture. In a nutshell: too much ‘objective’ macroeconomic information can blur the dynamic analysis of inequality and the underlying management of
the conflict. Both elements delimit the portrait of modern sovereignty – included in next two sections: the first, on the causes for a Spanish anomaly in the short 20th century; the second, on its reflection in the penal-carceral sphere.

The outbreak of the Russian Revolution and the entry of the USA into WWI (1917) are two events contextualising social crises in Spain. In WWI, ‘neutrality was maintained, but the cost of living and the important role of industrial working classes led to a serious depression in 1917, the first episode of contemporary disorders’ (Vilar 1963, 90). The government established 8-hour working days in 1919, but police repression increased along with military and political movements – the parties of order joined around General Primo de Rivera (Vilar 1963, 125). Power united to restore order. The last monarchic decade started (1923) with a ‘ruling but not transforming’ (ibid.) dictatorship, and concluded in 1931 without any substantial changes. Its policies were nationalist, protectionist, interventionist, and corrupt. The public sector promoted road and hydraulic infrastructures, private banking expanded and the State fiscal crisis worsened (García & Jiménez 2001, 62-70). Inverse redistribution of income and wealth would be first reinforced by Francoism, and later by the ‘opening’ period of industrial restructuring and liberalisation.

Political changes did not produce a consistent socioeconomic transformation in the thirties. The crisis paralysed all public works undertaken under the dictatorship of Primo de Rivera, and the Spanish economy lost much of its export incomes, foreign investments (flight of capital) and migrant workers (ibid. 88). Between 1900 and 1930, 2.5 million people left the country (Brendel & Simon 1979, 33). Wealthy classes were to used to maintaining their privileged position under monarchical feudalism. Impoverished classes acted as a ‘hit force’ in a revolution that was ‘rather a struggle against a pre-capitalist situation than against capital’ (ibid. 37)93. The consequence was but one step in the slow race towards capitalist modernization.

If the dictatorship had governed with no transformative effects, ‘the Republic wanted to transform but found it difficult to govern’ (Vilar 1963, 125). The progressive blueprint of the Reformist Biennium (1931-33) turned into a relatively ambitious Constitutional Proclamation. Labour policies improved, but agrarian reforms were insufficient – hence, in two years, the rural labour mass joined urban revolutionary movements. Education policies were, too, subject to the Catholic hierarchy. Problems related to the Army and the Guardia Civil were difficult to deal with, and president Azaña created a new security force: the Fuerzas de Asalto – Assault Forces. Death tolls caused by security forces (therefore by the Republican government) in popular mobilisations grew rapidly: Casas Viejas massacre (January 1933) came to be the epitaph of the Reformist Biennium. The confrontation between popular organizations and para-institutional swing to the right grew as the coup d’état of 1936 – and subsequent Civil War – approached.94

93 ‘While the total average of industrial labour force among the active population in Spain was about 25%, Catalonia had 45%. Such a grouped proletariat can think and organise itself’ (Vilar 1986, 17). Although class spirit was even stronger than nationalism, the reversal of this reality would turn soon into the main tool for a political management of the social conflict: right-wing parties denounced separatism through ‘the same passionate vocabulary than would be then used by the military rebellion of 1936’ (ibid. 26) – for a broad study of class-identity relationship during the decay of nation-states; see Hobsbawm (1994, 426-9).

94 With the birth of CNT (National Labour Confederation with 1.5 million members) in 1910, and CEDA (Spanish Confederation of Autonomus Right-Wing Groups) in 1933, as the two main examples.
III.1.a. Francoism

From 18 to 20 July 1936, Spain suffered such a shock that evokes 19th century: the interests of landowners, soldiers and priests [followed, in some regions, by masses used to obeying them] clashed with those of a bourgeoisie seduced by the principles of the French Revolution, and also with a very poor people inclined to dream about revolution according to the utopian Socialists models [Vilar 1986, 173]. The democratic project claimed to be ‘able to reform Spain without giving any immediate satisfactions to the agrarian masses and to openly fight the strongest labour sector’ (ibid. 131). A frustrated military uprising (1932) and the rise of the far right announced a violent clash. The 1933 elections gave the power to the union of ‘doctrinaire Liberals and the holders of a conservative Republic’ (ibid.), hence the subsequent ‘Black Biennium’ aggravated the conflict. In 1934, 400,000 unemployed people lived in rural areas (ibid. 13). The Republican reforms were abolished, peasants were expelled from occupied lands, and the expropriation of lands to the aristocracy was cancelled, as well as any another regulation on lands or wages. Catalonia and Asturias stand out for their labour movements’ combativeness: in 1934, a general strike ended up with General Franco’s troops killing 4,000 people. Political scandals were also a reason for the new electoral spin in 1936, while the conflict expanded through demonstrations and street riots. The national-catholic elites were defeated; lands were recovered; many prisoners of the conservative repression were released; at the same time, armed gangs were trained in the fascist band – the criminal military authorities remained out of control.

The tension resulting from the Republican pendulum would finish just as Spanish tradition dictates: the army ‘intervened’ to put things in order⁹⁶. Once the political crisis was undeniable in the vital parts of the country, a frustrated military rebellion led to civil war. This war ‘could not be understood without measuring the deep crisis of conscience in the Spain of 19th century after its failure as a nation-state before its neighbours, or without considering the complex relationship between collective and class consciousnesses’ (ibid. 26-7). On one side, a wide range of revolutionary experiences, mostly local and ephemeral – but exemplary in many cases; on the other side, a totalitarian and destructive institutional apparatus. Capitalism won, in its most archaic version⁹⁷. The support for Spanish Fascism was virtually unanimous among the Western bloc states. ‘Private companies quickly showed their preferences for order’ (ibid. 121) to enjoy their privileged status, as creditors of the new regime or as beneficiaries of the war. The bombing of Gernika (Basque Country) illustrates this relationship of forces, and opens the post-neolitic era (Alba 2004): extreme violence, ‘war on civilians; unfair and disproportionate attack. Unqualified horror’ (Rodrigo 2006, 1).

The Spanish War has often been described as ‘the first battle of WWII’ (London 2010), but the Spanish 20th century diverted from the European historical path. According to Hobsbawm – who denies this connection between the Spanish War and the WWII –,

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⁹⁵ The aforementioned CEDA (Gil Robles), the Juntas de Ofensiva Nacional Sindicalista (Committees of the National Syndicalist Offensive, with R. Ledesma y O. Redondo, 1931), Falange Española (Spanish Phalanx, JA. Primo de Rivera, 1933), and the union of the latter: FE de las JONS (1934).
⁹⁶ ‘If we think this country has experienced 52 attempts of military coups in the 122 years […]’ (Vilar 1986, 38-9).
⁹⁷ ‘Fascism presents itself as what it is – a violent resurrection of myth calling for participation in a community defined by archaic pseudovalues: race, blood, leader. Fascism is a technologically equipped primitivism’ (Débord 1967, ch.109).
‘general Franco’s victory […] only served to keep to Spain isolated from the rest of the world by up to thirty years’ (1994, 162).

The winners imposed one of the bloodiest dictatorships in European history. Spain was sent to prison in ‘a war marked by politicide’ (Rodrigo 2006, 2). Francoism imposed order through generalized terror. Between 1939 and 1941, the Francoist dictatorial regime committed more murders (in a 10.000/1 proportion) than the Italian Fascist regime and sent more people to prison than the Nazi regime in ‘peacetime’. According to the State yearbook of Statistics, 192,684 people died or were killed in prison between 1939 and 1944, along with the deaths in concentration camps and other detention spaces. ‘In 1937, Franco had already (successfully) asked for help to the German government so that Gestapo and SS would help him organise a political police in the likeness of Nazi institutions’ (Navarro 2006, 151). No thorough review of the Spanish Civil War will be included in these pages, but its most relevant aspects can help us underline how deep social inequality was and how important was the influence of the international interests at stake. All issues related to penal-penitentiary practices, from formal regulations to concentration camps, will be treated later. Let us acknowledge here that the demographic superiority of the losing side was beaten by two main factors: the difficulties to organize their groups in a unique front, and the support by Mussolini and Hitler for the nationalists. This is the portrait of power relations featuring the Spanish social conflict in the thirties, where P. Vilar found ‘villages and people whose culture, in the ethnological sense of the word, was of the 13th century’ (1986, 33), or fascist groups ‘turning Catholicism into one of the bases of Hispanity, celebrating counter-Reform as a historical glory, using the word crusade and taking their symbols from those created by the Catholic kingdom’ (ibid. 37).

Two opposing realities coexisted in the same territory. Both in the countryside and the cities, ‘the need for a deep change in the Spanish social structure had been affirmed’ (Vilar 1963, 156), and a great number of valuable anti-capitalist experiences allow us to talk of revolution. Facing them, fascism appeals to atavistic principles of national unity and religious-military spirit, while feeding the poor with charity and demagogic references to justice. ‘The ruling classes (clergy, army, wealthy youth associated with the party, military officers and social assistance) remained in power and safe from new economic formulas’ (ibid. 158). Justifying it as state policy, generals Queipo de Llano or Mola resorted to terror ‘to overcome the resistance of the majority of the population’ (Navarro 2004, 155). ‘It was not a half of Spain against the other half, but a minority against most of the population’ (ibid. 2006, 159). Some other famous quotes by general Mola: ‘action must be extremely violent in order to reduce the enemy as soon as possible, because it is strong and well organised. All leaders of political parties, societies or unions that are not with the [national] movement will be imprisoned, and exemplary punishments will be applied to strangle any strike or rebel movement’ – cf. Rilova (1989, 39). ‘We must create a terrific atmosphere,

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99 ‘Peasant exploitation came to be as enormous that this social category became a revolutionary source. The task of Spanish Revolution focused on ousting the monarchy, thus removing the power position of aristocracy. The political and social task of this revolution was the same than that in the French Revolution of 1789’ (Brendel & Simon 1979, 10). See Taibo (2012) on anarco-sindicalism and its ‘unfinished revolution’.
we must impose our domination through eliminating unscrupulously and without hesitation everyone who does not think like us. We must cause a great commotion, everyone who openly or secretly supports the Popular Front must be shot’ – see Sierra (2011, 35).

The military rebellion was justified by ‘latent disorders’ and the ‘fragmentation of power in the Republican field’ (Vilar 1986, 93). The new Caudillo of Spain by the Grace of God – who would only respond before God and history – imposed a stable hegemony. The ‘Saving Movement’ delivered brutal levels of violence, retrieved the pre-republican flag, suppressed all political parties, promoted paramilitary groups, ensured the privileges of big landowners, and promised ‘restoration to monarchists, crusade to the clergy, and corporate state to the Falange’ (ibid. 117).

All too often, these criminals pretend to be destined to overcome the ‘crisis of values’, to reaffirm national values, to defend ‘public morals and family’, to ‘clean the traditions’, etc. The state criminal is always presented as a moralist and as a true moral leader. […] They destroy republics, usually in the name of its strengthening or restoration [Zaffaroni 2008, 26].

Zaffaroni’s thesis, as Agamben’s, sheds light on a key question – that of the sovereign continuum – in the analysis of punishment. Caudillismo (chieftainship), organic democracy, military dictatorship, fascism, national-catolicism, authoritarian regime: some of those labels have a purely descriptive sense; some are due to Francoist creative propaganda; some others seek to differentiate Franco’s regime from the German or Italian systems. In any case, their common totalitarian discourses weigh more than their aesthetic differences. The vertical and totalitarian dimension of the national-catholic discourse is stronger than the alleged ‘Francoist-not-fascist’ condition of the Spanish regime, since it lacked political legitimation and majority social support from the working classes. ‘National-socialist propaganda used to smartly call upon the feelings of a human mass, and to prevent any objective reasoning. Hitler repeatedly underlined in Mein Kampf that a good tactic for mass psicology lies in avoiding any rationale and focusing exclusively on the great final goal’ (Reich 1973, 21). This evokes the famous definition of Spain as a ‘unity of destiny within the Universal’. San Martin retakes the ‘warning’ on propaganda made by A. Robin 70 years ago in the The False Word: ‘a mantle of words devoid of event, a gigantic ellipsis behind which silence itself rests’ (2013, 2). Fascism is a ‘formal principle of deformation of social antagonism’ (Žižek 2009, 22-3), no matter if the notion of class is dissolved through ultra-religious, militaristic, medieval or imperial patriotism. In a brief but fascinating transition, social antagonism has been deformed and adapted to the rhetorics of neoliberal constitutionalism, thus connecting both – Francoist and post-Francoist – regimes as two expressions of sovereign power.

The isolation in which the Spanish state plunged during the fourties led to extreme poverty and mass labour exploitation. Many achievements recognized years ago by the International Labour Organisation were still unknown in an autarchic state which ‘in 1945 is practically in the same situation than before WWI, with the same economic development, the same power relationships and the same problems for the national bourgeoisie’ (Brendel & Simon 1979, 24). Between 1940 and the early fifties, ‘the plundering of the working classes produced a massive accumulation of capital which would then be invested by the banks’ (Vilar 1963, 165). ‘In the industrial sector, stagnation led to depression: the maximum productive level per capita of pre-war (1930) would not be recovered until 1952’ (García & Jiménez 2001, 120). Fiscal fraud and black markets grew. Franco’s regime granted more and more monopoly privileges to business groups. Most
consortia – Banca March, BBVA, Banco Santander, Abengoa, Iberdrola and Union Fenosa – that would dominate the Spanish economy in the 21st century were born or strengthened under early Francoism. ‘The essence of Francoism was to get back to the golden century of bourgeoisie (19th century), which in a global framework came back since 1980, with the neoliberal counter-revolution’ (Malló 2011). In a peculiar and anachronistic phase of primitive accumulation, ‘rigid labour discipline and drastic wage setting coexisted with large increases in prices’ (ibid. 125). Once the regime was institutionalised and violence cleaned all Republican trails of the past (Lorenzo 2011, 7), the Francoist tabula rasa took a productive momentum through tourism, currencies sent by Spanish migrants and foreign investment.

On the institutional plane, unlike the parliamentarian regimes based on liberal-conservative bipartisanship, the Francoist duality differentiates between Falangists and Catholics. In 1947, the Law of Succession to the State Leadership defined the Spanish state as a Kingdom and gave the Caudillo – of Spain and the Crusade, Supreme Commander of the Armies – the power to choose and name his successor to the title of King or Regent100. Before the Allied victory in the WWII, ‘the UN had to condemn Franco’s regime and France had to close its border for a while’ (Vilar 1963, 159). But the ghost of the Communist threat would start helping Franco once the Cold War started, hence we can speak of a second Francoist period (1950s) whereby the Spanish geo-strategic virtues were integrated in a political, economic and military global planning. As stated by a memorandum of 5 October 1960, the US government forged closer relations with the Francoist regime to plan its influence while minimizing political costs.101

The so-called international community – and its main power, the USA – has never prioritised the defense of democracy above its own economic and military interests. Spain is another example of this paradox between declarations of rights and geo-strategic expansion. Spain’s isolation was solved since 1951, once negotiations for the installation of American military bases started. In 1953, Spain and USA signed a ‘Treaty for military aid, according to which the US paid $141 million and $85 more million to strengthen the basis of the military cooperation program’ (ibid. 160). Bilateral agreements represented an ‘international accolade to Francoism after the insulation period of post-WWII’ (Grimaldos 2006, 49), and the Concordat with the Vatican provided the confessional consecration of the regime (Navarro 2006, 153).

Shortly after (1955), the UN welcomed Spain as a member. 1956 was a historical year for the student struggle, within a broad context of important changes in economic governability: 1957 would be the year when economists entered political life, a key episode ‘for the profession of economists to exert a decisive influence at the service of economic development’ (Fuentes Quintana 2005, 45). Spain joined the Organization for European Economic Cooperation (OEEC) and the International Monetary Fund (IMF) in 1958, and the Plan of Stabilisation and Liberalisation started in 1959 under control of both agencies. Spain also joined OECD in 1961, and GATT in 1963, the WTO since 1995 (Varela & Varela 2005). ‘In 1958, the $12 million for the entry of Spain in the IMF came from a Chase Manhattan Bank credit’ (García & Jiménez 2001, 134). In 1949, the credit

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100 In 1948, one year after, 10 year-old Prince Juan Carlos was hosted by Franco in El Pardo palace and started being trained for the succession – this would be named Lolita Operation. Two decades after, the Organic Law of the State (1967), one of the eight fundamental laws of the regime, would secure the conditions for the return of the monarchic institution.

101 See Grimaldos (2006, 258). ‘The political designers […] find indispensable to support a social democrat party and a neo-francoist party to get the type of democracy that must be imposed in Spain’ (ibid. 26).
had grown up to $25 million, added to which there are $62.5 million in 1951 and $226 million in 1953 – in exchange for some logistic facilities for US military operations (Brendel & Simon 1979, 45). Here a specially symbolic figure: ‘1959 comienza con la inauguración del Valle de los Caídos y termina con la visita de Eisenhower a Madrid’ (García & Jiménez 2001, 136). En 1963 se inicia el Primer Plan de Desarrollo; en 1968, el Segundo.

Economic restructuring produced large social impacts, but industrialisation did not assuage social conflicts. Aristocrats and landowners were only interested in the monarchical restoration ‘inasmuch it could guarantee order through liberal or authoritarian means, depending on the conjuncture’ (Vilar 1963, 168). The main objective of big investors was, as always, sustained accumulation in a stable and secure order. To achieve it under dictatorship or under democracy is a minor question. While ‘Franco forged its image of *Sentinel of the West*’ (García & Jiménez 2001, 128), the Marshall Plan came in exchange for reducing protectionism. The application of the free market principles and the consensus around the need to ‘adjust economic policies to the new conditions of the international economy’ (Fuentes Q. 2005, 48) were inevitable. ‘The public soon believed that these policy changes were the only alternative for the Spanish economy to ensure its growth’ (ibid. 46). Conditionality was imposed and legitimised. Thus, since 1959, ‘foreign capital played an increasing role, but closely linked to the interests of the Spanish oligarchy’ (Vilar 1963, 165). The Economic Stabilisation Plan was drafted by the IMF Mission head and the Bank of Spain Studies Service director.

In this context of openness to foreign capital, the ‘rescue’ reactived social conflicts. Both internally – from the countryside to major industrial hubs in the North, East coast and Madrid – and externally – to France, Germany or Switzerland – migrations multiplied, and the landscapes in the main cities were distorted by industrial concentration and overpopulation. ‘Rural misery gives place to urban miseries’ (Brendel & Simon 1979, 46). The bourgeoisie did not use its increasing strength to remove Francoist order. Technocrats – ‘the cavalry of middle classes turned into managers’ (ibid. 47) – and their modernizing discourse gained power over the Falangist sector. The Opus Dei promoted the free development of private entrepreneurship through keeping the collusion between big landowners and the dome of the regime. ‘Political decisions were taken not only for the rich, but by the rich’. A ‘first surge of strikes’ (ibid. 49) arose autonomously in the Northern industries – to a lesser extent in Madrid, Catalonia and Valencia – and demands were intended to improve labour conditions. Before the conversion of overexploited proletariat into pseudo-Fordist proletariat, the need to sustain an orderly exploitation required a certain improvement in working conditions. Between 1951 and 1959, the increase of real income per capita was four times higher than the previous decade (García & Jiménez 2001, 127). Labour movements and political opposition did not abandon their roles – in the streets or from exile – while a peculiar juncture of growth was starting: the educational level of the population increased; industrial development and foreign trade were promoted; the volume of foreign currency generated by migrations increased and tourism multiplied (Guisán & Aguayo 2008, 105).

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102 Political strikes would not be massive until 1970 (Mandel 1971, 86).
103 In France, ‘men and women from Spain came to be 90% of seasonal workers in the seventies’ (Romero 2010, 56). Until 2004, the volume of Spanish migrants’ remittances was higher than those sent by immigrants in Spain to their countries of origin – source: Banco de España.
Far from reaching the pacification desired by the business elites, the sixties brought more demonstrations, strikes – mostly in Basque Country and Asturias\(^{104}\) – and repression. Economic activity flourished, but conflicts also multiplied. ‘Spain was turning into a paradise for investors […]’ between 1960 and 1966, the GDP grew up to 138% in Spain, compared to 128% in Japan, 81% in Italy, or 69% in France’ (Brendel & Simon 1979, 49). ‘At the moment when social struggles left no doubt, the government decreed the state of emergency in the North of Spain, on 5 May 1962, with special police rights’ (ibid. 77). The state could not keep on enforcing the criminalisation of strikes ‘for breaching public order’ (ibid. 80).

After WWII, capitalism was rebuilt in Western Europe. Those were the years of a \textit{low-fi war for civilisation}, in which Spain occupied a special role. The sixties provide an example: within a powerful cycle of global expansion, the Spanish reserve army was big enough to cover the internal displacements to the industries, to meet the tertiarisation process, and to expell two million workers abroad. ‘An intense development modified the production function […] and transformed radically the habits of consumption’ (García & Jiménez 2001, 138). ‘Between 1960 and 1975, with a yearly population growth at 1%, the average growth of income per capita reached 6.7%’ (ibid. 141). Furthermore, ‘Spanish GDP per capita – measured in purchasing power parity dollars – grew at a yearly rate of 5.2% throughout 1950-73’ (Catalán 1991, 97), with Barcelona, Madrid, Valencia-Alicante, Vizcaya, Asturias as the main centers. In the countryside, the restructuring – in supplies, capitalisation, technical advances and property concentration – favoured the wealthy elites, swept smallholdings and optimized the conditions to exploit a weakened labour mass.

None of these elements should be overlooked when discussing the concepts of progress or justice and analysing governmental vices and virtues in Spain. Injustice, inequality and exploitation are three basic keys to analysing the relationships between economic structure, governance and punishment.

III.1.b. Spain in Prison

Violence was an inherent condition to Francoist dictatorship. No one should think about it without the memory of 30,000 ‘missing people’, around 150,000 shot by political reasons, 500,000 prisoners in concentration camps, thousands of war prisoners and political prisoners exploited to death as forced labour for reconstructions and public works, tens of thousands pushed to exile, the absurd and overwhelmed prison constellation of Spanish post-war [with more than 300,000 inmates] or the shameful gendered repression, which went so far as to steal children in female prisons [Rodrigo 2006, 1-2].

The Republican reform of prison regulation introduced some improvements in the living conditions of the prisoners. As soon as the II Republic was declared (1931), the Penal Code of 1928 was abolished\(^{105}\) – along with any other penal rule of the dictatorship. The Penal Code of 1932 reformed the law of 1870, adapted it to the new Constitution, extended the judicial discretion in sentencing, and humanised some penalties. The death penalty was abolished. Although the improvement in terms of rights and guarantees – despite the ephemeral nature of the project and its budgetary weakness – is undeniable, the Vagrancy

\(^{104}\) The Workers Commissions were founded in 1960.

\(^{105}\) Less than five years after, the step back resulting from the fascist reaction dashed ‘the potential effects of those plans’ (Rivera 2006, 135).
Act (Law against Vagrants and Crooks, 1933) introduced a greater severity regarding recidivism and consolidated the dual conception of punishment – in the sentence and during its implementation (Rivera 2006, 128). The idea of a ‘good prisoner’ who must adapt to the institution was, along with regulatory escalation, a fundamental element for order and discipline. The General Direction of Prisons tried to improve life conditions, both regarding specific aspects and for the will to ‘effectively debug and train the prison wardens corps’ (ibid. 131), but no law enactment can change such a solid structure by itself. The prison system moved between the Second Republic and Primo de Rivera’s dictatorship, turning the ‘reformist period of Victoria Kent [Director General of Prisons between 1931 and 1934] into a mere hiatus. After Kent’s resignation, this progressive period would give way to a counter-reformation by right-wing governments’ (Gargallo 2010, 300). Although prison population figures were lower during the Republic than in the previous dictatorship, the humanitarian rehabilitation discourse would be soon forgotten. The new government reimposed purely punitive-segregative approaches, and hid real data on the repression against peasant strikes or the frustrated revolts of October (ibid.).

At the end of 1936, the Technical Board Justice Commission named a Delegate Inspection of Prisons to ‘collaborate in the education of prisoners’ (Rodríguez Teijeiro 2011, 32), and reimposed the Organic Regulation for Prison Services of 1930, thus abolishing all Republican reforms. The inspection assumed the custody of prisoners and war prisoners, along with the Army Officers’ heads. The Francoist regime would address prison overcrowding through legislation, modernisation, and centralisation of the prison system. Military discipline was supposed to rescue prisoners for religion and homeland, differentiating those who were still ‘redeemable for Spain’ (ibid. 101).

‘On February 13, 1939, Franco published his Law of Political Responsibilities to prosecute all those who had participated in Republican politics – since October 1934 – or those who had opposed the national movement – since February 1936 – by specific acts or serious inaction’ (Vilar 1986, 91-2). The Spanish penal and penitentiary situation was closely linked to war in the 1940s. Militarisation of the justice system was a constant feature: ‘Summary trials were imposed and executions were conducted mostly in the vicinity of prisons’ (Rivera 2006, 138), although the cleansing did not prevent prison population to grow. Overcrowding exacerbated misery and internal order became a priority. Most directors appointed by the Republic were arrested and replaced. Most prisons, including external surveillance, relied on military jurisdiction (ibid. 139). Prison population under military jurisdiction received that same status. Labour – either forced or conditioned to redemption and probation – was a means to reduce the number of prisoners without having to speak of amnesty. All these factors made camps and prisons the ground zero of Spanish sovereignty.

Early in 1939 – Franco’s ‘year of victory’ – the total amount of prisoners under the ICCP [Inspection of Concentration Camps] command was 277,103 in concentration camps, and 90,000 non-convicted prisoners in work battalions [Rodrigo 2006, 13].

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106 The Institute for Penal Studies was created in 1932, then replaced in 1935 by the School of Criminology (after the right-wing parties took up office), retaken in 1936 (as a reaction to positivist dogmas), and finally replaced in 1940 by the School of Penitentiary Studies.

107 A revolutionary general strike of 1934 all around the country. Asturias, Catalunya, and some mining areas of Castilla-León were the most important centers of the conflict. 1,500-2,000 people died and 15,000-30,000 were arrested. In Barcelona, the Catalan government presided by Lluís Companys proclaimed ‘the Catalan state within a Spanish Federal Republic’. Spain declared state of war and took control in 24 hours.
More than 180 concentration camps were placed in operation from November 1936 to January 1947, as the pace of executions halted and repressive regulations flourished. From the first war prisoners to the closure of Miranda de Ebro camp, more than 500,000 people were sent to Francoist camps and/or died there. Their size, organization, and regulation sought correction and punishment for the enemies of the nation, thus classifying the prisoners ‘who could be reintegrated in the army, and those who deserved imprisonment or death sentences’ (ibid. 3-4). The expansion of this criminal apparatus implied serious moral and material effects, while one only ideological pillar justified exploitation and cleansing: the need to save and rebuild the nation, embodied by the National Prison Service in 1938 through this motto, ‘the discipline of a barracks, the seriousness of a bank, the charity of a convent’ (Rodríguez T. 2011, 100). The three axes of Francoist prisons were connected to each other and submitted to sovereign order: extremely violent repression, extolling the leader’s redemptive role and criminalising internal enemies. The military regime spoke of moral values, distinguished redeemable prisoners from those who were ‘irrecoverable for Spain’, and exploited their bare lives with rational criteria.

The list of orders, decrees and laws that seem to correct and amend each other [...] contribute to an alleged vague image of the system, although detailed analyses prove that this does not mean any chaos, improvisation or arbitrariness [Rodríguez T. 2011, 21].

Repression and patriotic consensus resorted to physical elimination, ideological annihilation, and daily torture. Within and outside the walls, a pattern of identity and society was imposed, while daily organization remained focused on managing the misery. ‘A whole paradigm of social reorganization developed by the victors (Rodrigo 2006, 14) was imposed within and outside all prisons and camps. This dynamics of classification, repression and exploitation was born in 1937 and lasted for years, defining Francoist violence as ‘not reactive but preventive, not cyclical but structural’ (ibid. 18). Indiscriminate violence came to be organised and normalised through such agencies as the Mobilisation, Instruction and Recovering Headquarters or (some months later) the Concentration Camps Inspectorate. A different debate seems to juxtapose two visions: on the one hand – in terms of institutional modernisation – the so-called rationalisation and organizing effort of the penal justice system; on the other hand, the complaint – from historical and political rather than legal studies – against a process of extermination and exploitation of internal enemies. Any banalisation on the alleged chaotic or improvised condition of Francoist criminality must be prevented. There was no lack of rationality, in

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108 On the functioning and legitimisation of the concentrationary universe, see Agamben (1995), Lorenzo (2011), Mir (2000), Molinero et al. (2003), Payne (1997), Rivera (2006), Rodrigo (2006), Rodriguez T. (2011), Saz (2004), Vinyes (2002). The Spanish army had the dubious honour of having resorted to the concentration camp in the Cuban colony during 1896-97: ‘The new General Captain, Mr. Valeriano Weyler y Nicolau, Marqués de Tenerife, issued an edict on 16 March 1896, only six days after taking the mandate, first for the jurisdiction of Sancti Spíritus and the provinces of Puerto Príncipe and Santiago de Cuba, and later, on 21 October, for the province of Pinar del Río due to Maceo’s military successes; then it was progressively extended to the whole country. The edict stated: in the next eight days, all of those who live in the countryside or in rural areas out of the fortification lines, will be reconcentrated in the villages occupied by the Spanish forces. Food cannot be taken from the villages and transported along any route without the command’s permission in the place of departure. Cattle will be taken to the villages or their vicinity. Those who violate these rules will be deemed as rebels, and as such they will be judged’ (Rivero 2011).

109 ‘From the 16th century to the new imperial resurgence represented by the victory, this discipline had only been maintained within two institutions: barracks and churches’ (Rodriguez T. 2011, 101). In addition to being Christian, discipline must also be national, and this implies ‘maximum respect and worshipfulness to the notions of motherland and Spain’ (ibid. 104). In 1946, before abolishing the state of war, the Justice Ministry published a Brief summary of the work of the Justice Ministry for a spiritual pacification of Spain.
the most bureaucratic sense. Moreover, some of the current keys explaining the Spanish punitive anomaly can be found among the causes, reasonings, and effects of the Francoist penal policies.

The Spanish prison population amounted to 100,262 people in April 1929, and up to more than 362,000 in 1940 – with just one third of them being convicted. In 1945 the number of prisoners decreased to 59,000 (Rodríguez T. 2011, 27/45). As it is inferred from overcrowding, unhealthy conditions, and systematic torture, Francoist prisons were also characterized mainly during those five years (1940-45) by high rates of disease and death. Urgent management of overcrowding, prison reform, the opening of new prisons or debugging, replacement and recruitment are key needs in the first post-war years.

The victory of the National Front created prison colonies. The post-war penitentiary discourse was made up by officials ‘from the corps of ex-combatants’ (Rivera 2006, 145). Disciplinary control was in hands of the Juntas of Regime and Administration. The militarization of justice extended to any act, with war councils used for common offences: ‘Fifteen or twenty years in prison for stealing hens, potato sacks, beans… entirely served in the worst living conditions’ (Martí 1977, 38). Conditions of imprisonment and prison work unfailing correlate with domination established outside the walls, even under exceptionalism established from 1936 to 1948 – when state of war was cancelled. ‘Hundreds of companies linked to the regime obtained huge profits from the exploitation of forced labour of prisoners. Amongst them were Dragados y Construcciones (currently ACS), Duró Felguera, Banus, Iberia and Portland Asland. Prisoners built the Valle de los Caídos [fascist memorial], dams, roads, and many other infrastructures, in addition to industrial jobs’ (VVAA 2007). Concentration camps and forced labour were essential in the early years of the ‘national reorganization’.

The redemption system was also systematised and adjusted ‘to changing circumstances of the post-war prison universe’ (Rodríguez T. 2011, 53). The Penal Code of 1944 was basically retributive, included some ‘special prevention features focused on the personality of offenders’ (Rivera 2006, 149), maintained the gradual system, and included a progressive use of redemption through the ‘recognition of the right to work’ (Rodrigo 2006, 6; Rodriguez T. 2011, 34) – which meant the right to be exploited to death. It is no coincidence that the Fuero del Trabajo (1938) was the first of the eight fundamental laws of the regime, designed in the image and likeness of Mussolini’s Carta di Lavoro. The simile is clear: Arbeit macht frei. The Board for Sentence Reduction through Work (Patronato para la Redención de Penas por el Trabajo, 1938) was in charge of this ultra-productive tool, as part of a process completed by the reorganization of the Directorate General of Prisons (successor of the Delegate Inspection) in 1942. On the other hand, while the requirements for selection and promotion of security staff were coded, nuns and chaplains – whose role became more and more important for daily life in prison – joined discipline boards and administrative services until 1945. Their moralizing function coexisted without with the extreme cruelty of exploitation and extermination practices. ‘Hundreds literally died in nausea, pushed beyond the limits of human endurance’ (Gómez Bravo 2009, 41).

Among the elements above, those associated with patriotism, hymns, greetings, rituals exalting the national spirit, religious disciplinary practices, discourses of repentance, the

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notion of *enemy* all reflect a strong ideological order whose deep roots are still dominant within the Spanish socio-cultural background.

In a similar vein, some other factors related to the execution of penalties are still relevant within contemporary prisons: banning visits and communications (except for lawyers and priests, especially in 1938 and 1940); benefits subject to ‘good behaviour’; rewards to informers; ‘exceptional measures of control and surveillance’ (as those of 1942 and 1944); arbitrary transfers; separation between political and governmental prisoners (since 1941); specific departments for ‘political defense’ (Rodríguez T. 2011, 108-18); indefinite isolation and other common forms of torture (ibid. 125-33).

It can be concluded that, under the fascist apology and its rhetoric ‘to reconquer the prisoner for Spain’ (ibid. 208), the labour force was over-exploited and obstacles were removed to the imposition of a national project for *pacification* through social and political cleansing. The main inflection point to understand later episodes is located in the most active years of the repressive machine – until the late forties. After this bloody period – during the decades of openness and modernization – socioeconomic changes were remarkable. Both the working classes and the economic realm experienced very relevant changes. The relationship of forces changed, hence the role of the prison was also transformed. The relative moderation of punitive control had much to do with the momentum of Francoist pseudo-Fordism and its standardized forms of productive control. Rather than any dubious improvement of the living conditions of prisoners or other legalistic changes, the key advance of the fifties was ‘a reduction of the prison population to pre-war figures’ (Lorenzo 2011, 8): from 50,000 in 1946 to 36,000 in 1950, around 30,000 in 1952, 21,000 in 1955, 15,000 in 1960 and a record low of 10,000 in 1976 – for an incarceration rate of 30/100,000 at the end of the dictatorship. During the fifties and sixties, labour struggles revived the conflict. The (quasi-medieval) post-war context fed the potential for economic growth, and repression would re-focus on the social effects of that growth.

It looks like the only evolution of the regime leads to tougher repression, or to more liberalisation, or to a combination of both trends (Mandel 1971, 91).

As the twilight of Francoism approached, the opening of the regime also affected the prison system. A new reform of the Penal Code of 1944 was promulgated in 1963, amended in 1965 and 1967 – including a redraft on punishable strikes. On the streets, the conflict worsened until a state of emergency was declared in January (throughout Spain) and August (in the Basque Country) 1969. The weakness of the regime’s repressive apparatus could not be hidden anymore, and this is precisely why state violence worsened: from the Burgos Process (six death penalties and 752 years in prison sentences) in 1970, the executions of Salvador Puig Antich y Georg Michael Welzel in 1974, or the five last shootings in 1975, to the Vitoria (five killed and more than 150 wounded by gunshot) and Montejurra (two murdered and some wounded) incidents after Franco’s death. ‘The capital

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111 The cause can be found in shorter sentences – and mainly in a decrease of pre-trial detention – rather than in a less severe repression.

112 Between 1948 and 1977, we find an ‘actual desert which, until now […] has not attracted the attention of most researchers’ (Lorenzo 2011, 3).

113 ‘First inflection point in the moderation of repression’, confirmed in 1948 ‘through the approval of the Prisons Regulation as the official end of exceptionality ruling from the Civil War’ (Lorenzo 2011, 2).

114 The transfer of strike crimes under civil courts would not be effective until 1971 – on labour conflicts, see Brendel & Simon (1979, 65-89).
fact in Francoist history is the failure of repression and the declaration of the state of exception in 1970. Less than two years after this declaration, Spain showed the biggest amount of strikes in its history. And after the Burgos Process, these strikes were more and more political’ (Mandel 1971, 91). This was a period of contrasts and imbalances: openness versus dictatorship; formal modernization versus rigid power structures; economic growth versus social inequality. Under the watchful eye of the international community, a Lampedusian penal-penitentiary reform relied on allegedly scientific accuracies, principles of Christian charity, and a so-called transformative and redemptive task (ibid. 3-4).

The Vagrancy Act was replaced in 1970 by a Social Danger and Rehabilitation Act (LPRS). While its preamble spoke of rehabilitating people who lived far from an ‘orderly and normal’ life, its result was a preventive system based on the alleged social dangerousness of those who, without having committed any crime, could not manage avoiding any contact with the penal system. Any subjective manifestation of poverty was criminalized. It is logical – if not obvious – that to consider life conditions as pre-criminal conditions is to violate the principle of legality. Preventive confinement claims to defend society against individual behaviors which, although not strictly criminal, involve some risks for the community, and therefore require some ‘social defense’ – no matter the legal consequences.

Inside the prisons, the progressive system still involved three levels: re-education, social rehabilitation and pre-release. Prisoners’ access to every level depended on disciplinary assessments made by the newly created treatment teams. In addition to reinforcing the double dimension of punishment – before and after entering prison – this novelty is a major contribution to scientifically legitimate the penal system. In the sixties, sciences – psychology, psychiatry, medicine, biology, education, moral, sociology, criminology – found themselves on fertile ground thanks to psycho-biologist etiologies (Caballero 1981, 144), hand in hand with Vallejo Nájera’s Lombrosian manure. Other changes introduced progressive rhetoric on reintegration in the penal reform of 1968, although the structural basis of the system was going to survive the transition to democracy. The new rehabilitative discourse replaced redemption with treatment, prisoners with inmates, Prisons General Directorate with Penitentiary Institutions. A new reform of the Penal Code (1973) – focused on fighting terrorism and protecting of the head of state and his successor – encouraged judicial arbitrariness and identified a list of crimes of ‘illegal propaganda’. The purpose of rehabilitation adapted to new formal guarantee-based discourses. Indeed, before the dictator’s death, two new reforms were enacted. The penal Code of 1974 introduced the concept of ‘double recidivism’, and the Decree-Law 10/1975 against terrorism increased sentences. The new Directorate General of Prisons (1968) and the Technical Corps (1970) again encountered a ‘permanent obstacle in the history of penal institutions’ (Gudín 2007, 31): the lack of material resources.

115 Generally established by Royal Decree 3 June 1901 – including the ‘4th degree’ of probation.
116 Coordinated under a Central Supervisory Agency – in turn created in 1967 to study ‘the criminal personality of those cases which, due to their complexity, could not be solved by the technical teams within the prison, along with those of psychopaths, homosexuals, or mentally disabled’ (Lorenzo 2011, 14). The School for Penitentiary Studies (1940) had been renewed in 1961.
117 Vallejo Nájera was Chief of the Military Psychiatric Services under Francoism and responsible, among other aberrations, for studying the mental inferiority of marxists, proving the existence of a ‘red gene’, or advocating the creation of a National Body of Inquisitors – see Pons (2004).
Although actual living conditions do not match the modern language of prison treatment, some have described it as a symptom of the changing context under late dictatorship. It seems clear that, at least, ‘inmates were more likely to organize’ in prison (Rivera 2004, 153). This change had much to do with the emerging activity of advocacy, a new political profile of prisoners, the relationship between the latter and so-called ‘common prisoners’, and increasing political activity – which was reflected in the growing amount of complaints, hunger strikes and conflicts between prisoners and prison authorities. A crucial time was coming on both sides of the prison walls: the Transition was the episode through which the penal system of dictatorship was re-shaped and turned into ‘democratic’.

III.1.c. Transition

Capital is invariable because its success relies in its sameness. Instead, power is built to face a challenge that is always different. This is why power must necessarily change [López Petit 2009, 34].

Under late Francoism, political transition became essential to ensure a sustainable and peaceful order. The Spanish state entered the last third of the 20th century too late but so fast, in the midst of a growth period but without the background of its welfarist European neighbours. It is difficult to analyse the formation of a Spanish state of social control over the – especially abrupt and irregular – historical bases of disciplinary power. Francoist violence distorted this perspective. Military courts kept on killing until the last days of Franco. The state’s response to organized opposition cannot surprise anyone, since this was driven by ‘the tightening of penal law and social dangerousness’ (Rivera 2006, 156): ‘throughout 13 years (1963-76), the Public Order Court initiated 22,660 procedures and held 3,835 trials’ (Grimaldos 2013, 82)\textsuperscript{119}. ‘60% of its sentences was issued between 1974 and 1976. Spain is the European country where more political strikes were declared during this period’ (Navarro 2006, 154).

The Spanish political transition took place within the framework of a Stabilisation Plan. Following an old tradition, Spain had followed the lead set by the European welfare during the post-WWII to jump from Fordist welfare to post-Fordist neoliberalism. Francoism had kept Spain apart form that, but productive growth marked a milestone in the 1965-75 decade – thus establishing a reference and macro-economic limit to further democratic transformations, along with an inflection point for the division of labour and business. The average real wage in the companies grew by 85%, GDP per capita increased by 57%, and average labour productivity rised up 65% (Guisán & Aguayo 2008, 105)\textsuperscript{120}. It should be noted that the Spanish industry ‘could not take advantage of the war as other neutral countries’ (Brendel & Simon 1979, 43). Even social cleansing – one million dead and


\textsuperscript{119} The POC (\textit{Tribunal de Orden Público}) inherited its repressive tasks from the Military Courts and the Special Court for Freemasonry and Comunism. The POC was created through \textit{Law 154/1963} in order to ‘prosecute offences related to the trend, in varying severity, to subvert the basic principles of the state, disturb public order or terrorise national consciousness’. The day this court was supressed (5.01.77), a Law for Political Reform was approved and the National Court was created by law decree, which represent an illegal practice – either before the Francoist regulation and its constitutional successor – see Grimaldos (2013, 82 et seq.) on the Francoist continuum within the Spanish judicial system.

\textsuperscript{120} None of those figures would be reached anymore. In fact, according to the most relevant index, average real wage has shown a downward trend in during the last 40 years.
Hundreds of thousands of repressed or exiled – could not improve the economic balance per capita (ibid.), i.e. the standard of living of the survivors.

Given the acquiescence of all allied governments regarding Franco’s regime, it must be noted that its valuable geographical position made Spain the main focus of US influence. ‘US capitals sought to profit under military cover, and saved the regime from a sure economic collapse whose social consequences could have at least neutralised the strategic position of Spain’ (ibid. 45).

Finally, it should be noted that there is a particular harmony between the geo-strategic – economic, political and military – interests placed in the Iberian Peninsula, the social and political outcome of forty years of repression under Francoism, and the promising departure point that the new Spanish market represented for foreign investors and local elites. In the seventies, the Trilateral Commission and its claims for ‘democratic moderation’ seemed to hope that Spain would ‘modernise’ its policies – although economic growth remained under severe structural deficits. If we include the aforementioned assumption of the supreme value of the country by a national-Catholic state (Vilar 1986, 127) among those factors, then we can limit the framework to analyse post-Francoism under four main features: first, a mix of totalitarian legacy and class-biased monarchy; second, the return of the Catholic church to a de facto governmental role; third, the claims for a progressive inclusion of Spain into the gears of Western capitalism; fourth, a continuist vocation focused on stability, order, trying to formally ‘democratise’ the structures of a 40 year old fascist regime. The penitentiary realm provides a paradigmatic example of this anomaly – see III.2.a below.

The historical configuration of sovereign power in the Spanish state counted on the monarchy, the Catholic church and the army as its founding pillars. Patriotism, God’s grace, and territorial indivisibility remain three essential conditions of contemporary state order (since 1978), hence the permanent contradiction between new demo-liberal rhetoric principles and authoritarian methods of ‘law enforcement’ under democratic constitutionalism. Four decades of dictatorship had installed a logic of exception-exclusion that remains safe and sound in post-Francoism. Thus, if unequal pacification has been presented to the public as a democratic success, rising levels of exploitation and punitive inflation can be seen as two inevitable effects of pseudo-democracy – whose contemporary victims are now located among the surplus population, also known as victims of exclusion and targets of exception.

That the past does not pass entirely
and who forgets its step, its presence,
is not banished, but buried
[Adolfo Sánchez Vázquez].

The examples of a ‘bad post-political joke’ are recurrent throughout the country. On 18 December 2011 (as every year), the Spanish Falangist Movement held a tribute to Carrero Blanco in his hometown. The Mayor of Santoña, who had pronounced his speech surrounded by Francoist flags at the memorial ‘to those who died for God and Spain’.

121 Exiled in México (1939). Author of Recuerdos y reflexiones del exilio (1997). His death, on 8.07.11, was absolutely ignored by the Spanish diplomatic post.
claimed for ‘respect for all opinions’, and described Carrero Blanco as ‘one more victim of ETA terrorist group’. In 2010, responding to the controversy, the organizer of the event – a councillor of Falange party – had warned: ‘I have a five-shot gun at home with which I promise to defend Franco’s ex-president statue, threatened by the Historical Memory Act’ (Público 18.12.11) – a peculiar way to defend the democratic right to exalt the memory of a fascist ruler. Perhaps the strange way how Spain was ‘democratised’ had something to do with this. As argued by Campabadal (2012, 70) 32 years later, a letter by king Juan Carlos I to A. Suárez, F. González, M. Fraga, L. Calvo Sotelo and S. Carrillo was published in El País three days after the frustrated coup d’état of 1981:

Once democratic order has been maintained, I invite you all to think and reconsider any positions leading to greater unity and harmony of Spain and Spanish people.

Taking the thesis of ‘democratic order’ at face value, the obvious answer to this empty obsession with ‘unity and harmony’ is:

So the transition was very difficult, right? What about South Africa? And Chile? And Argentina? […] Those who made and wrote the transition applauded ‘full stop’ laws, for example in Argentina, where at least, full of dignity, they said ‘no, we do not want any full stop laws’. Of course, they are ‘banana republics’ and we are Europeans. But they held their murderers to account, and we put them to draft constitutions [Monedero 2013].

We also ‘maintained’ them in the institutional domes123 of judiciary, legislatival, and executive powers, along with police, army, corporate or bureaucratic posts. ‘The transition from what the Organic Law of the State (1967) defined as Spanish state, constituted as Kingdom, to the Constitutional Monarchy of 1978 […] was stabilised by 23 February’ (Campabadal 2012, 70). The conversion of political amnesty into ‘political amnesia’ (Navarro 2006, 160) managed to determine the present through a particular vision of the past124: ‘I am a Francoist who admires the memory of General Franco. I was a colonel of his regiment for eight years. I wear this military medal I won in Russia, and I made Civil War. But the Caudillo gave me the order to obey his successor and the King gave me the order to stop the coup d’état on 23-F. And I stopped it. If I had been told to assault the parliament, I would have done it’ (G. Quintana Lacacci, 23-F 1981).125

More than three decades after 23-F, the most relevant step taken by a Spanish democratic government against amnesia (the controverted and limited Historical Memory Act126), has been criticised from the right – for being ‘a serious error that eliminates pact democratic transition’ (J.M. Aznar, in 2007) – and from the left – for not assuming the demands for recognition and repair (Saz 2009). According to the winners and their successors, the Civil War saw a confrontation between ‘two Spains’, one half against the other127, rather than a

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123 See Grimaldos (2013) for an always incomplete but much relevant list of such continuities.
124 On the need of a critique through the experience of the ‘actual protagonists’ (Grimaldos 2013, 10), see Reyes Mate (2009), Rivera (2011), Forero et al. (2012).
125 Quintana Lacacci joined the uprising in 1936. Member of the Blue Division. One of the General Captains who supported constitutional legality against the coup d’état on 23 February 1981.
126 Law 52/2007, acknowledging and broadening rights and laying down measures in favour of those who suffered persecution or violence during the Civil War and under dictatorship.
127 ‘The bishops were the ones who presented the Civil War to the world as a new version of the tragic and fatal clash between the two cities of Saint Augustine. Trying to show the Vatican and the Catholic world that an international mediation could never lead to a peace agreement under the auspices of the European powers, the bishops deemed the war as the enormous shock of two irreconcilable ideologies: the Spanish, which embodied national spirit; and a foreign one, inoculated from abroad in the life of the state. The only Spanish nation, racial and genuine, mother of nations, against an alien, secular Spain, that was not, in truth, Spain:
minority – supported by the army and blessed by the Catholic church – attacking the majority, suspending democratic regulations, and imposing dictatorship. ‘Franco laid the foundation for a more orderly nation’, Manuel Fraga declared to El Faro de Vigo (30.12.07). Tales of denial impose the collective duty to ‘turn the page’ or ‘not to reopen old wounds’, thus omitting any condemnation of the fascist regime. The same patriotic discourse was useful to justify a military coup and four decades of dictatorship, and then to suggest that ‘the past should not be shaken’, thus thwarting any recognition of the rights of those who were kidnapped, tortured, murdered, buried in mass graves or confined in Spanish, French and German concentration camps. The Journal of Sessions of the Congress of Deputies includes many examples of this denial discourse. Let us just mention one of them: ‘What you call mass grave in the Valle de Cuelgamuros is actually a basilic-cemetery and a cemetery-basilic. In other places like, for example, the United States, we find Arlington memorial; in Omaha Beach… or in the French Normandy, they have the memorial for those who fell in the landing during WWII […]’ (J. Fernández Díaz, Partido Popular M.P., in the parliamentary debate on the Non-legislative Motion 161/000297, 30.09.09).

By legalizing consensual amnesia, Spain became ‘a country where you can be democratic without being anti-fascist’ (Monedero 2013). Although the Amnesty Act (46/1977) has been repeatedly denounced by several UN agencies, none of these resolutions – not binding but supported by international jurisprudence – has pushed any democratic government to deepen the recognition of crimes against humanity and the material or symbolic compensation to the victims. Quite the reverse, the right-wing distorted version of history has naturalized a serious contradiction: rather than ‘reinforcing democracy’, this story forgets any reference to the II Republic (1931-36), while avoiding outright condemnation of the fascist regime.

The democratic system consolidated through its own deficit – i.e. the censorship of any official condemnations of – or apologies for, Francoism. The democratic reform of the state also ignored the constitutional symbols of the Second Republic, along with the memory of the victims of forty years of fascism. Dead in 2012, Manuel Fraga was an example of political longevity among those who drove and designed the regime change. Many political leaders expressed the same arguments in the next generation. According to

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128 On ‘belligerent liberal nationalism’ and its core institution (the Foundation for the Defense of the Spanish Nation – DENAES), see Carmona et al. (2012, 118-9).


130 National delegate for Associations (1957); minister of Information and Tourism (1962); ambassador in London (1973); vice-president and Governance minister (1975); M.P. and parliamentary spokesman (1977); constitutional rapporteur (1978); president of the Galician government (1990-05).
J. Mayor Oreja\textsuperscript{131}: ‘Why should I condemn Franco’s regime, if there were many families who lived it with simplicity and normality? [...] Let us leave any disquisition on Francoism to historians’.

On 19 March 2012, the 200\textsuperscript{th} anniversary of the Constitution of Cádiz (1812) was sponsored by El Corte Inglés and Cadena Ser among other firms. Three months earlier (9.12.11), the 80\textsuperscript{th} anniversary of the Republican Constitution (1931) had barely deserved a timid mention in some media. In its 33\textsuperscript{rd} anniversary, the Constitution of 1978 was described by the Spanish president as ‘the way to progress, welfare and prosperity for our country’\textsuperscript{132}. Just one year before, Congress president J. Bono stated: ‘the constitution is alive and fully vigorous. [...] The idea of a country of free and equal citizens proclaimed by the Constitution of 1812 has an irresistible beat in the hearts of millions of Spaniards who rebelled against tyranny during last two hundred years. [...] The future is a vital task for millions of people who do not want to go back’ (RNE 6.12.10). Two days before this anniversary, for the first time in thirty-seven years of democracy, the government had declared state of alarm\textsuperscript{133} after a strike was declared by air traffic controllers. J. Bono used the expression ‘state of alert’ repeatedly, and accused the ‘enemies of the state’: ‘blackmailers will lose [...] traffic safety and tranquility of Spanish citizens who travel by plane are more valuable than the salaries or working conditions of these individuals’ (Cadena Ser 5.12.10). Any alleged defense of constitutional legitimacy\textsuperscript{134} becomes obscene, mostly if we compare the effectiveness of fundamental rights included in Title I with the rest of chapters of the Constitution – especially those updating the Francoist slogan ‘one, great and free’ in articles 1, 2 and 8. This is how the Spanish Constitution came to be a sovereign totem to produce consensus, rather than a legal framework for the principles governing state responsibility. The Spanish democratic-constitutional spirit does not need to condemn or prevent any state crimes. This is the political and ideological context in which criminologists and penologists usually ignore large-scale crimes, while demonizing petty offences and political dissent.

Schmitt’s distinction between curatorial dictatorship and sovereign dictatorship is represented here as an opposition between constitutional dictatorship, which aims to safeguard the constitutional order, and unconstitutional dictatorship, leading to its deletion [...] Constitutional dictatorship [ie. state of exception] has become, de facto, a paradigm of government [Agamben 2003, 18-9].

According to the Spanish Constitution: the King is the head of State, symbol of its unity and permanence, arbitrates and moderates the regular functioning of the institutions, assumes the highest representation of the Spanish State for international relations, especially with the Nations of its historical community [...] (art. 56.1). The person of the King is inviolable and is not subject to liability. Their acts will be always incorporated in the way established by article 64, lacking validity without that endorsement [...] (art. 56.3). The acts of the King will be endorsed by the President of the Government and, when appropriate, by competent Ministers [...]. Those who may endorse the acts of the King shall be responsible for them (art. 64).

\textsuperscript{131} Ex-minister of Interior (1996-01), in La Voz de Galicia (14.10.07).
\textsuperscript{132} Congress of Deputies, 6.12.11.
\textsuperscript{133} In Spanish Constitution’s Article 116: An organic law will regulate the states of alarm [116.2], exception [116.3] and siege [116.4], and the proper competences and limitations.
\textsuperscript{134} ‘According to its constituent’s nature, the Spanish political system is genuinely focused on legitimacy’ (Capella 2003, 31). The Constitution of 1978 enshrines ‘a political system immune to formal political accountability [...] a parliamentary system without parliamentary liability’ (ibid. 38).
‘Diotógenes explains this with unmistakable clarity: Since the king has an irresponsible power [arkan anypeuthynon] and he is himself a living law, he is like a god among men. However, precisely because he is identified with the law, he remains linked to it, and he even appears as the anomic foundation of legal order’ (Agamben 2003, 103). Hence a secularized footprint of the sovereign’s unexpendable life still survives in modern constitutions, ‘through the principle according to which the head of a state cannot be subjected to a regular judicial process’ (id. 1995, 133).

The Spanish constitutional delay also affects some contents through a fragile and partial normative dimension. Among other examples, Article 9.2 is a symbolic sample collected from the Italian Constitution of 1947, while 67.2 – ‘members of Parliament shall not be bound by imperative mandate’ – embodies the liberal tradition of 18th century: suffrage is linked to a despotic idea of representation and a conception of freedom. A Constitution is, by definition, a meta-normative body based on the interests of popular sovereignty – whose representation lies in the Parliament135. But this condition’s effectiveness can be limited when institutional discourses describe it as an immutable framework. Such is the case of the Spanish Constitution of 1978, which explains some issues discussed throughout this section. Rather than overcoming the totalitarian legacy, the consensus of the transition remains subject to the tale of the two Spains. However, we could speak of three or four Spains, according to the right-wing discourse on ‘national disintegration’. This idea of a breakable Spain136 is often used to cancel other arguments through ‘generic accusations, inadequate to basic principles of penal law [that] show a political use of the judiciary in a more than dubious constitutionality’ (Revuelta 2001)137. The accusations of unconstitutionality are more fervently raised against any proposal for radical democracy. The taboo of self-determination is the most dramatic example. High tolerance with the Francoist regime – promoted from the highest levels of the political system – dominates this Spanish anomalous relationship between law and politics.

Spain became prosperous thanks to Franco, people could buy their cars and houses, democracy was possible thanks to Franco. Maybe life was better [Á. Pombo, 31.03.11].

In his critique of Rossiter’s theory – who, to save democracy, justifies its temporary sacrifice – Agamben (2003, 20) places dictatorship within Benjamin’s framework of permanent and widespread exception. This is basically how forty years of dictatorship have been democratically legitimised as ‘necessary’ to build the current parliamentary-monarchical138 order: Material advances of late Francoism came to enable a peculiar conception of liberal pseudo-welfare. This is, in turn, due to the historical gap that characterizes the economic and political evolution of Spanish capitalism.

‘I swear by God and the Holy Gospels I will comply with and enforce fundamental laws of the Kingdom, and save loyalty to the principles of the national movement [...] I want to

135 ‘National sovereignty lies with the Spanish people, from whom emanate the powers of the State’ (SC Art.1.2). ‘The Constitution is based on the indissoluble unity of the Spanish Nation, common and indivisible mother land of all Spaniards, and recognises and and guarantees the right to autonomy of Spanish nationalities and regions that integrate it and the solidarity among them all’ (Art.2).

136 ‘The national recognition of Catalonia and the Basque Country is a process of disintegration of Spain’ (J.M. Aznar, Efe 28.01.06).

137 ‘We cannot and will no longer put off the moment to come together and publicly denounce the immeasurable degree of politicization and loss of independence of the Judicial Power in our country’ (1,091 Spanish judges and magistrates, in 2010 – more than 1,500 signatures shortly after this statement was released). On the politicisation of the Judicial Power, see Nieto (2005) & Villegas (2011).

138 SC 1978, Art. 1.3.
express, first, that I receive from His Excellency the Head of State and Generalísimo Franco the political legitimacy arising on July 18, 1936 [...] An exceptional figure enters the story. The name of Francisco Franco will be a milestone in Spanish history, a milestone to which we cannot stop referring to understand our contemporary political life. With respect and gratitude, I recall the figure who assumed the heavy responsibility of leading the state government for so many years' [Juan C. de Borbón, 22.11.75].

All these elements are essential features of Spanish constitutionalism. Let us remember a crucial premise in the history of modern states: ‘governing as if it was at the service of the governed, and as if security was the state’s purpose’. In the Spanish case, monarchy embodies one of the least contestable symbols of this fact: without delving into formal distinctions between the symbolism of republican citizenship and the monarchical culture of vassalage, it must be noted that current Spanish monarchy ‘is the direct beneficiary of dictatorship’. The first expressed its esteem and respect for the latter, and ‘the democratic vocation of certain sectors of the nomenclature as the monarchy was actually an attempt to adapt and ensure its maintenance within the new institutional framework’ (Navarro 2006, 181). This is a basic piece of the Spanish socio-economic puzzle, along with historical power relations operating within its transformation. The Spanish crown, its economic activities, its political function, and its immune acts must be taken into account to analyse the background of structural inequality and social injustice. The symbolic power of the Spanish crown has given shape to a paradox through which sovereign power ‘maintains a relationship of ban with the rule of law’ (Agamben 1995, 58). This position of indifference between constituent and constituted power dissolves the meaning of both signifiers through electoral marketing. As a result of the development of mass media and the flourishment of a Spanish society of spectacle, political marketing transforms most formal mechanisms of participation into free consumption dynamics (Bauman 1998, 52-3). According to the statistical Barometer published by CIS (Sociological Research Center) in October 2011, 90.1% Spaniards have never joined a political party, 77.8% have never joined a union (95.1% have never been actively involved) and 94.6% never joined any ‘activity regarding social support or human rights’. The figures turn up to 97.1% for ‘youth or student associations’. 84.2% have never been to any demonstration during the last year and 48.5% stated that ‘it is better not to get into politics’. The Francoist legacy has been managed through neoliberal rules (Carmona et al. 2012, 17 et seq.), instead of being radically corrected through democratic means.

The state structure works in two main directions: as a power agency constituted on alleged popular sovereignty (vertical legitimacy), and as a weapon of the new sovereign – the government from the market, which imposes accumulation by dispossession at all costs. Trying to protect economic sustainability, the political regime becomes the main distortion factor of the rule of law. This contradiction is irresolvable: ‘Spain is constituted in a social and democratic state of law, which advocates freedom, justice, equality and political pluralism as the highest values of its legal system’ (Art.1.1 SC). State of exception renews, expands and extends its effects on the pretext of preventing chaos (Agamben 2003, 40). Fascist exception turns into exceptional prevention. The government decides and acts in the name of, for the sake of and against the governed.


‘When politics dissapears, I mean politics in capital letters, which is working for what belongs to all of us, there are only two options: either populism appears or generals turn up, [and I say this] with the greatest of affection’ (M.D. Cospedal, The Economist 12.02.13).
Another example of the gap that distinguishes the Spanish political regime is the fake separation of three powers – judiciary, legislative and executive – connected around the same electoral dispute. ‘Montesquieu is dead’, said Alfonso Guerra (Spanish vice-president in 1982-91), and the primacy of the parliament over the government is nothing but a myth (Chaves & Monedero 2003, 136 et seq.). ‘The vote is assumed as the sole defining institution of democracy’ (Quijano 2000, 17). More competition, less consensual practices, greater symbolic value of voting, and weaker public control of institutions. In Spain, ‘the conjunction of electoral and financial regimes encourages the freezing of the party system [...] through visible features of cartelisation’ (Ramiro 2003, 110/126); a system with no effective control over some parties that are ‘judge and jury’ (ibid. 126); a democracy with more than 2,000 indictees and 180 convicts in more than 130 processes – 100 of them joining the elections in 2011. To this day, around 850 members of the Popular Party have been charged and/or convicted (Jiménez 2017, 6).

In formal terms, the parliament is no longer the ‘sovereign body with exclusive power to force citizens under the law’. Instead, its real function is often limited ‘to ratify the decrees from the executive’ (Agamben 2003, 32). This reconfiguration is thus another analytical key. ‘It is significant that a similar transformation of the constitutional apparatus – what is happening today in some way to all Western democracies – is going totally unnoticed for citizens, although it is well known for lawyers and politicians’ (ibid.). This shift ignores almost all electoral commitments by the executive142 – the 2011-15 Spanish legislature provides a good example. Political parties ‘act as a bureaucratized extension of the state apparatus, that is, as ravenous electoral machines colonized by countless private interests, and linked to society almost exclusively through the leader’s charisma’ (Pisarello 2003, 134). Fundamental rights are their first victim.

The final document of the Moncloa Pacts – an instrument of economic policy agreed by the parliamentary forces to address the impact of the economic crisis – was approved on 27 October 1977. Nine months later, the Royal House published the following statement: ‘today we commemorate the anniversary of the National Uprising that gave Spain the victory against hatred and misery; the victory against anarchy; the victory to bring peace and welfare to all Spaniards. The Army emerged, School of national virtues, and Generalísimo Franco in charge, to forge his great work of regeneration’. One year after (not before!) the Moncloa Pacts, only two months after the royal public homage to Francoism, the Spanish Constitution was approved in the plenary sessions of the Congress and the Senate. Its ratification by referendum came on 6 December 1978 – 58.97% of the surveyed people voted ‘yes’143. Three weeks later, the king Juan Carlos sanctioned and

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142 ‘Basic rights and liberties are the main target of a constitution because they are essential conditions to enable the democratic coexistence of the demos [...] The Spanish Constitution bans imperative mandate (Art. 67), prevents any popular legislative initiative (Art. 87.3), and above all undermines the parliamentary system through the constructive vote of no confidence (Art. 113), [...] which turns parliamentary control on government into something purely theatrical and rhetoric, devoid of public legal consequences’ (Capella 2003, 10-1).
143 Voter turnout was 67.11%. 88.54% voted in favour. 7.89% voted against and 3.57% votes were blank. One in three registered people abstained and four in ten endorsed a ‘given’ constitution (a magna carta) that had bypassed an actual constituent process (Capella 2003, 40), replacing it by a mere constitutive negociation under non-negotiable issues imported from the previous regime – among them, those imposed by the army were these: ‘national unity, monarchy, the flag of the Civil War winners, the ‘good name’ of the armed forces and the military tutelage of the whole process’ (Gordillo 2003, 61). As stated in a famous quote made by Adolfo Suárez in 1984, submitting the monarchy to a referendum implied a breach that put at risk any chance
promulgated the democratic Constitution, thus laying the foundations of ‘incomplete democracy’ (Navarro 2002): a precarious rule of law ensuring *social underdevelopment* and serious structural deficits (id. 2004/ 2006).

The mission of the Army [...] is to guarantee the sovereignty and independence of Spain, to defend its territorial integrity and constitutional order [art.8.1 SC, 1978].

The Spanish Constitution has two articles, and only two. The rest of it is just literature [J.M. García Margallo, Foreign Affairs minister, El Plural 12.09.13].

Spanish nationalism celebrates its feast on 12 October – called ‘Day of the Race’ by the dictatorship, then ‘Day of Hispanity’ under democracy. Spain holds ‘the dubious privilege of having inaugurated colonial modernity and having coined the notion of *purity of blood*, an amalgam of religion, racism and biological ethnocentrism’ (Martín-Cabrera 2010).

The current role of the Catholic church is to perpetuate the same ideology that used to dictate the fundamental principles of dictatorship. The ‘unity of Spain’ summarizes the essence of this ideology. The ‘danger of rupture’ of national unity is one of the most recurrent springs of Spanish political debate, hence political consensus is dangerously affirmed around cultural, ethnic and territorial identity. The contradiction between this rigid premise and the theoretical principles of democracy is obvious. Unity must ‘hide an important reality, barely visible in our media and political culture, where political correction excludes the notions of *social class* and *class power*’. Nationalist antagonisms hide the ‘communion of class interests’ (Navarro 2006, 204).

When governing, majorities or surveys cannot be the ultimate criteria to decide what is good and bad, but only objective moral criteria, accepted and applied by right conscience, as well as the prudent weighing of social circumstances [F. Sebastián, former vice-president of the Episcopal Conference, La Vanguardia 13.11.04].

The simple fact is that the Catholic church ‘still has not condemned Franco’s regime installed in Spain by a military with the help of Hitler and Mussolini’s troops, and with active participation and support by the Vatican and the Spanish Catholic church, who blessed the military coup and called war *crusade*’ (Navarro 2006, 185), portrays Spain as an exception in the history of European totalitarianism. ‘The Spanish church played an active role in the military conflict, and later in the fascist regime – bishops were elected by the dictator, and paid through public budgets – its ideology […] paid homage to Francoist forces, honoured their dead as fallen for God and the homeland’ (Navarro 2006, 186). Moreover, both the church and the state would maintain some Francoist principles and practices under democracy, which implies a patent tension with article 16.3 of the Spanish Constitution – *No religious confession will be adopted by the state*. ‘Zapatero [president in

| 144 | ‘There are no similar examples among European constitutionalism, due to the simple reason that article 8 updates article 38 of Organic Law of the [Francoist] State without any relevant change’ (Capella 2003, 11). |
| 145 | ‘[…] that, after forty years of Francoist promotion, still lives in Spanish society. It is true that Spanish migrant workers were racialized along with their Southern European peers in the sixties and seventies, but it is also true that, for centuries, the presence of Gipsy people in Spain, and the brutal conditions of exclusion and racism they have been (and they are being) subjected to, have contributed to our affirmation as white Europeans. Gipsies are perceived as gipsies, among other reasons, so that we remain white, *payos* [non-gipsies]’ (Martín-Cabrera 2010). |
| 146 | ‘Monarchic restoration imposed by Franco […] supports a bureaucracy with the same number of priests than all Latin America, always funded by the public purse, through access to many allocations in several ministerial budgets’ (Grimaldos 2013, 143). |
2004-11] has given more money than anyone [in the history of Spain] the Church and, vice-president De la Vega has made decisions to give them new privileges without consulting anyone’ (Puente Ojea 2009). On the one hand, the relationship between state and church has been mostly kept around the business of education. On the other hand, the way social exclusion is conceived influences institutions and practices. Neither Franco’s charitable vision of care for the poor, nor the duality between ‘decent Spaniards and enemies of the country’ disappeared in democracy, but rather adapted themselves to welfarist modernization. Social democratic approaches integrated a weak notion of social justice, which contributed to degrade mutual support community networks, thus promoting new trends in public management – such as public-private partnership, outsourcing, privatization. In line with the state’s awkward left hand, technocracy imposed a sort of ‘realistic governance’ (ibid. 36-44). The hard core of the neoliberal doctrine was warmly welcome by the Spanish ‘ñecon’ (Carmona et al. 2012). Managerialism and privatizations started being executed in a carefree and confident way.

As social organization decomposed at a neighbourhood level, heroin arrived to the most depressed urban areas, and the security industry flourished in the eighties. The ‘poor but honest’ of the seventies would become ‘poor at risk’, and then ‘dangerous poor’. These changes in the representations of social conflict combined national-catholic ideology, neoliberal additives and legalistic discourses on equality – thus legitimising wider polarization between ‘good poor and bad poor’ (Morán 2005/ 2007).

A democratic totem appears in the form of an alleged tolerance to poverty and otherness that proved perfectly compatible with exploitation and exclusion: some poor people are just Others of our same color. Most of Others are a different color, and always poor. ‘I am ready to love my neighbours... provided they don’t smell too bad’ (Žižek 2009b, 198). A different scenario is that of the ongoing mass production of the poor-who-are-not-Others, poor who smell like us (following Žižek) or (hegelian) flowers never thrown by the wayside before. Tolerance is a democratic tool for domination. Spanish policies move between rhetoric tolerance and structural segregation, at the pace of economic junctures and electoral calendars.

The ‘train’ of progress consensus

As seen above, the proto-liberal stage of the Spanish economy experienced a significant boost in late Francoism (1960-75). All economic and political processes across Western Nations have been subjected, determined or influenced by US geo-strategic interests and local capitalist elites, and Spain is not different here. Democratization was conditioned by the geo-political role assigned to Spain in the European scene, along with the peculiar anachronism of the fascist regime, some of its pre-neoliberal and pseudo-Keynesian

147 The debate has polarized under recent conservative legislatures. Reforms on education, euthanasia, abortion or LGTB rights, are clear examples – as well as strategic spots for ideological theatricalisation of the difference. For a chronology of the link between the government and the Episcopal Conference, see Carmona et al. (2012, 92 et seq.).

148 On political changes in the image of poverty and institutional-economic management of the poor, see Martínez R. (1982/ 2001/ 2003); a structural analysis on the first Spanish period of that process in Iglesias (1991); for the specific case of immigration in Spain, see Martínez Veiga (1999/ 2004), OSPDH (2005), Romero (2007); see a descriptive study in INE (2005); on the poverty-exclusion link, see Wenceslao (2008); a broader proposal in Bauman (1998).


150 ‘As far as we know, the first time the word transition was applied to Spain was found in a report by the US Secret Services in 1945’ (Capella 2003, 17 et seq.).
technocratic elements (López 2012, 81), the influence of local capital on the economic reforms, and the dominant discourses for political legitimacy. Many post-Francoist elements remain in the new regime’s social, cultural, economic, or penal institutions. Indeed, the country ‘moved from dictatorship to parliamentary monarchy without removing any authority’ (Chaves & Monedero 2003, 78). The penal-penitentiary sphere is also a product and a symptom of the Spanish political anomaly.

We are approaching the central object of a study whose approach puts exclusion in the centre. Neoliberalism landed through budget adjustments, industrial restructuring, and punitive control. Imprisonment is a cultural key (Garland 1990/2001) of this new reason, a political tool (Simon 2007) for this new socio-economic order, and the penal sump of social waste (Wacquant 2000/2009). Let us remind ourselves of some notes on the neoliberal rationale that may help us identify the tension between the Spanish social structure and the alleged ‘modernization’ that had been proclaimed since the sixties. The evolution of post-Keynesian conditions under post-Francoist neoliberalism will be our focus on the following pages.

III.2. Visible Hands. Market, State

The neoliberal assault on welfare determines the demise of social guarantees, thus inciting the spread of uncertainty, absolute exposure to flexibility, and new slavery, which will become the existential, structural and paradigmatic feature of the new labour force [De Giorgi 2002, 92].

States created markets. Markets require states [Graeber 2012, 71].

The so-called ‘minimum state’ (Lazzarato 2013) is a weapon in the hands of the market. Neoliberalism does not require ‘smaller’ governments but ‘efficient’ political managers who act ‘responsibly’. Local political conjunctures and comprehensive economic strategies can lead to different tracks and rates of policy-making in each jurisdiction, but administrations are always actively involved. Nation-states – in a geo-political world – have become province-states – in a geo-economic world (Karmy 2017).

Thus, in the new post-Fordist scenario, neoliberalism imposes a particular market-state bond. Markets act as ‘permanent economic courts against governments’ (Foucault 1979, 280 et seq.), while most of the necessary conditions to deploy a ‘regulated game of companies within an institutional legal framework guaranteed by the state’ (ibid. 209) were provided – well under control – by the outgoing regime. The relationship of forces was solid, and the productive scaffolding was weak. Within a properly uneven and static social structure, economic reforms made Spain an interesting economic area in the eyes of the markets.

151 Which, in the Spanish case, succeed a model that cannot be depicted as such. This is why I proposed the term pseudo-Fordism.

152 ‘When, through the law of nature, my Captaincy is absent, which inexorably will happen some day, the decision we are making today is advisable, because it will largely contribute to leave everything tied up and well tied up in the future’ – Franco’s speech in 1969, dictating the appointment of Juan C. de Borbón as his successor to the title of King (cf. Grimaldos 2013, 23). A ‘peaceful and ordered transition’, according to Nixon – see Walters (1978); cf. Grimaldos (2006, 8), Capella (2003, 17).
The government from the market challenges elected governments, while state institutions attack any act or behaviour against order. We saw this in the second chapter: the neoliberal ban imposes a merciless and systematic reaction against any challenge to natural(ised) economic order. The raison d’État moves from liberal contention – which embodied economic freedom within the state – to neoliberal hyperactivity – which pushes the state to specialise in propaganda and violence. In Spain, the traditional resources of authoritarian sovereignty match the neoliberal ban under a double ‘diffuse supranational sovereignty: ‘the empire and the corporations’ (Capella 2003, 12).

Considering the indisputable evolution of certain data on income and wage distribution, wealth concentration, consumption, unemployment, public expenditure, poverty, etc., we must underline that social realities are often described from a few and particular power-knowledges: ‘legitimacy is often discursive and communicative, and we can assume that legitimated the speech and communication are largely ideological’ (Van Dijk 1992, 7). Moreover, given that ‘speech and communication are the main channels for this mental control’, i.e., for the ‘production of social cognition’, and that ‘the dominant group will maintain its privileged access and control on symbolic means’ (ibid.), criticism must focus on how the ruling class ‘translates their needs to knowledge’ (Bachelard 1948, 16). There is no science without criticism, and criticism must reveal the ideology behind allegedly legitimate principles and axioms – which, in turn, are never neutral, rational, objective, or natural. Neoliberalism fosters inequality and dissolves community networks, hence the benefits of economic modernization and economic growth can only be legitimised through ideology. Executive powers are the political arms of a government from the market. This chapter proposes a critique of the Spanish constitutionalisation of neoliberalism and the consequent growth of its penal sphere. In this connection, penal-penitentiary trends constitute the punitive mirror of a neoliberal governance imposed on pre-existing social formations.

Once the myth of full employment was buried and power re-concentrated in a global financial order (Smith 2002/2011), the crisis of a disciplinary model – which is ‘unable to generate effective control practices over the new subjectivities raised through work’ (De Giorgi 2002, 49) – breaks the marriage between social control and labour force. Post-disciplinary control addresses the gap between productive sectors and social organization under ‘financial assault to global economy’ (Rodríguez & López 2010, 47-57). The increasing failure of control devices over the post-Fordist mass (De Giorgi 2002, 111) is a further consequence of this assault. Needs do not seem to generate collective rights anymore, but rather individual emergencies, responsibilities, duties, blames and risks due to the acceptance of commodification, proletarisation, precarious jobs and degraded living conditions (Brandariz 2009, 10 et seq.).

It is difficult (but essential) to compare Spain with its ex-social democratic environment. As in Greece or Portugal – also part of the PIGS – dictatorship pushed social protection

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153 The term neoliberal ban is applied in the same vein traced by Agamben on the concepts of sovereignty and exception, trying to read the government practices and rationales in Spain over some social realities that are not produced (not even properly managed) within the state realm anymore. For a critique on the origins of liberal-conservative thought in the Spanish 19th century, see Carmona et al. (2012, 20-2).


155 The Spain protraited in the Petras Report (1996) is an excellent example. On its historical precedents, see Brendel & Simon (1979).
structures away from Keynesian welfare in any of its versions. State interventionism had little to do here with the ‘golden years’ (Hobsbawm 1994, 260) of capitalism in Europe. Accordingly, Spanish post-Fordism did not depart from the same point. Moreover, the new order imposed through severe adjustment and restructuring policies (González 1991, 169-72) accelerated the inclusion of its economic structures and institutions in the neoliberal globalisation. The Spanish state declared itself as a ‘social and democratic rule of law’ just when all European welfare systems were starting to decline. It seems logical that the failure of this delayed and incomplete approximation to welfare may reflect in the evolution of its penal and prison systems.

It is, therefore, about defining the Spanish government of social surplus within the transnational deployment of neoliberal ban. The genealogy of this phenomenon has been deciphered in detail in the works of Agamben. Neither neo-sovereignty (power rationale), nor ban (relationship), nor security, segregation, dispossession, and expulsion policies are spontaneous or ‘natural’. The bulk of the analysis lies in the market-state link: government from the market – read transnational power – through general administrations of harm – read governance. Minimum democratic formalisms allow most costs caused by the accumulation model to be passed on the people’s shoulders. Under the hegemony of financial institutions, the distinction between European and US social models has been minimised. Under the intensification of fiscal adjustments, the illegal reform of article 135 of the Spanish Constitution imposed debt repayments as a priority over any social budget. The subsequent loss of fundamental rights and basic resources pushed around 30% of Spanish population under the threshold of poverty. Those territories that used to act as metropolises in the old geo-political map are currently experiencing the ‘paradox of colonization’, thus becoming metropolisless colonies – where transnational companies replaced nation-states – or ‘self-colonised’ (Žižek 2009, 55-6) countries. Spain gives an example of how a potential colony can turn into a colonial focus, and then turn back to self-colonisation, hence Žižek’s idea can also be qualified for the Spanish case. In the current geo-economic framework, the historical center of capitalism – starting from its weaker peripheral areas – is thus being self-colonised by the same powers which were created in its industrialised centre. In turn, ‘coloniality of power’ (Quijano 2000) is being redefined against the people through every self-colonised state: ‘corrupt’ Greeks or ‘lazy’ Spaniards constitute the new ‘barbarians’ in the Western periphery.

The crisis of the seventies (1973-79) gave way to a medium-term phase whereby Europe started turning into a third-world country. ‘Division of labour among nations is that some specialize in winning and others in losing’ (Galeano 1971, 1), hence debtocracy makes the list of winners smaller and smaller. By this definition, capitalist deployment is based on labour exploitation and human surplus production. Spain, a developing country plunged into economic depression and political repression during the second third of the century XX, got on board with ‘capitalist progress’ as fast as possible. Paradoxically, the subsequent ‘wealth effect’ created by financialization – read bubbles, debtfare, marketisation and inequality – should help us analyse neoliberal governance through economic exception and punitive control.

156 ‘Liberal/residual, institutional/social-democrat or labour/conservative-corporate’ (Adelantado & Gomà 2000, 63-5), according to the categories proposed by Titmuss (1974) and Esping-Andersen (1990) on the capitalist regimes of care/welfare in USA, the Anglo-Saxon world, Scandinavia or Western Europe.

157 In a histrionic act of political marketing, Sarkozy proposed a refoundation of capitalism on ‘ethical grounds’ (El País, 26.09.2008) after the crack of 2008.
Let us use an *ad hoc* metaphor. Under neoliberal democracy – since the eighties – the ‘train’ of Spanish progress has run along the rails of economic consensus, pulled by a precarious engine of indebtedness and privatization. The democratic deficit of its operators, along with its passengers’ fascination with the ‘brave new landscape’, came to be the two most valuable assets for dizzying economic growth – and subsequent social unbalance. While in the Europe of 18th century the *middle point* had implied ‘sending the Bourbons to the guillotine’ (Campabadal 2012, 67), the Spanish transition was much different, hence consensus, parliamentary convergence, the approach between both (right and left) hands of the state, class war, penal policies, punitive control of immigration, etc. are their main specific features. To put it with another *ad hoc* metaphor: Spain built its own unproductive accumulation system through with precarious ‘building materials’ on a rigid social structure, hence its life expectancy was so short and its demolition is being so painful (see III.2.c/IV.4 below).

III.2.a. The Spanish Anomaly. Post-francoism, Reconversion and End-of-Cycle

The so-called ‘centaur state’ – ‘liberal head and punitive body’ (Wacquant 2014, 1690) – cannot be studied in Spain as succeeding any sort of *mermaid-state* – interventionist head and redistributive body. Western European welfarism never visited Spain. This anomaly can be analysed in two ways: through the symbolic features of a Spanish ‘bureaucratic [punitive] Theatre’ (ibid.), and through the material relationship between social surplus and penal system. The neoliberal fixing of sovereignty in Spain, i.e. its governmental transformation to deal with political delegitimisation – due to high mobility of capital and economic integration in a supranational order (ibid. 13) – will be examined in the following pages.

Spanish GDP moved up to ninth place in the world list in 2007158, basing its growth on ‘market patriotism’ (Bernat & Camps 2016, Jiménez 2017) and a handful of transnationalised corporations159. In the meantime, Spanish society had experienced a deep change, ‘perhaps faster and stronger than any other process of social modernization and secularization in the Europe of the 20th century’ (García & Jiménez 2001, 157), in its habits and living standards, access to goods and services, labour insecurity, exploitation and inequality, etc. In late 2012, youth unemployment rate was 55% – for an overall rate of 26%160. Unemployment grew with precariousness, while the number of millionaires161 rose from 145,000 people in 2012 to 178,000 in 2014.162

As a matter of fact, neoliberal policies actively transfer wealth and decision power from state administrations to the *markets* – namely private elites. The former are the latter’s instruments of domination, which proves democracy to be incompatible with capitalism as

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158 Although in 2009, Spanish GDP *per capita* fell back to the 23rd. position – according to data from the WB.

159 Among the main *Spanish* companies operating abroad: Telefónica, BBVA, Santander, Repsol, Sacyr, Iberdrola, Endesa, La Caixa, AGBAR, ACS, Unión Fenosa, Gas Natural, Canal de Isabel II, FCC, Ferrovial, Mapfre, Prisa, Prosegur, Sanitas…

160 Official data. More than twice the European average in both cases. The rise of young immigrants since 2008 amounts to 41% – http://epp.eurostat.ec.europa.eu/portal/page/portal/

161 More than $1 million in ‘investible assets’ (Capgemini/RBC 2013).

162 Spain is the 10th country in the world with a higher wealth concentration under control of a millionary elite (Raventós 2011, Efe 22.06.2010, Europa Press 5.05.2012). ‘The number of wealthy people grew up to 5.4% in 2012: 7,400 millionaires joined the list’ (InfoLibre 18.06.2013, cf. Capgemini/RBC 2013).
a ‘domination and exploitation system’ (Roitman 2003, 95). Thus, whatever the effects of modernization on a large sector of the Spanish population, the map of social stratification and inequality remained relatively stable. The rise of a new consumerist middle class was held by indebtedness, while the poverty threshold affected a wide range of population. Reverse Keynesianism weakened state fiscal capacities while consensus was built around the notion of ‘economic progress’. Since ‘common senses reproduce the suitable discourse and ideology to maintain power relations’ (Navarro 2006, 149), the traditional elites reinforced their privileges in the new free market scenario. At the same time, the Spanish Constitution embodied a myth: ‘freedom of business under a market economy (Art.38), a taboo that hinders a social project ruled by big clusters’ (Capella 2003, 11).

Despite the growth experienced during the ‘prodigious decade’ (Guisán & Aguayo 2008, 106) of 1965-75, Spain had to address the crisis of the seventies within a context of social conflict and institutional instability. ‘The year the dictator died [1975], Spain had the lowest economic and social indicators – namely child mortality, per capita social and public expenditure, households’ purchasing power – in Western Europe, along with Greece and Portugal, who had suffered similar dictatorships’ (Navarro 2006, 163). Authoritarianism contrasted with budgetary weakness, hence late Francoism showed some relevant similarities with the functions subsequently assigned to the neoliberal state: ‘The lack of economic policies is a form of economic policy’ (San Martín 2013, 10), or even a political economy. Although ‘the political tension led to wage increases, which benefited the workers’, the absence of state economic policies ‘benefitted large companies of certain strategic sectors, linked to prominent political leaders and big banks’ (Etxezarreta 1991, 38). Institutional instability also marked the context of weak governance while the first restructuring measures were being designed. Some alleged economic solutions were projected in 1977 without considering any social indicators. When organic economists have described the Spanish ‘recovery in the last quarter of the 20th century’ (García & Jiménez 2001, 161), they have basically resorted to platitudes like ‘the consolidation of a democratic regime that leaves the long dictatorial experience behind’ (ibid. 162), from an almost autistic self-reference and ignoring a wide interventionist range of administrative measures. As the dictator used to say: do as I do; don’t meddle with politics. ‘The activity of public companies did not reach the European standards during Francoism, but budgetary differences were even bigger. Public expenditure boosted in other Western European countries to provide public services, while Spain evolved against this progressive trend: its budgetary structure remained stagnant’ (García & Jiménez 2001, 152).

The promotion of private businesses played a key role in the development of supply policies during the eighties and nineties. Neither the doctrine of natural order, nor its heiress of laissez faire, nor its modern version of market efficiency can justify the measures applied. State agencies assumed an active role and focused on specific class interests. In a broad sense, demand is a social product, thus ‘founded by socially constituted and socially maintained schemes of perception and valuation [...]. But its main feature is, to a large extent, produced by the state’ (Bourdieu 2003, 113). As Spanish political and economic institutions strengthened their integration into ‘world economic field, particularly within the financial sphere’ (ibid. 277), the asymmetric unification of all economies needed less and less state ‘active interventions’ in a canonical Keynesian sense.

163 Measures tending to redistribute incomes in favour of wealthy groups – see Ruggiero (2013).
But that does not mean that such unification has to be performed ‘without the states’ – quite the contrary.

Autarchic nationalism was resistant to the proliferation of private businesses and the development of fiscal policies, but this gave way to a growing distrust of public companies in 1964-75. Francoist industrialisation was ruled by the principle of subsidiarity or ‘subordination to private initiative’ (García & Jiménez 2001, 151), whereby the discourse of ‘public inefficiency’ influenced an increasing number of sectors. In this same line, democracy would bring commodification, ‘new ways of management’, and privatization, thus reinforcing the primacy of private capitals against labour rights, social protection and basic needs. Three main axes in the Moncloa Pacts embodied the actual bases of economic modernisation: renunciation of any critique against ‘the mere foundations of the socio-economic system, namely the model of society as a whole’; ‘acceptance of almost all social forces’; and obedience to the adjustment schemes designed by the IMF and the OECD: ‘Continuity, internal consensus, and acceptance of external guidelines’ (Etxezarreta 1991, 39).

Obviously, the effect of the structural adjustments would be much more than economic. The Stability Pacts were presented as a necessary effect – read externality – of the solution to the crisis, but the fact is that ‘employment was ever a real goal’ (ibid. 40). Paradoxically, the economic transformation of the last thirty years led to greater inequalities through a ‘two-thirds labour system’ (Petras 1996, 17). Salary gaps increased by 67% while employment rates fell 7% between 1973 and 1988 (Iglesias 1991, 702). Therefore, sustainable growth should be defined through its material implicit function, i.e. sustained increase of corporate profits. As argued by Fuentes Quintana: ‘the strength and the capacity of an economic society will never go beyond the positive records of its companies’ income statements’ (2005, 42). Such a remarkable statement must be taken into account when analysing the evolution of policy-making, socio-spatial distribution and punitive management (Wacquant 2014) of exploitation, exclusion and expulsion. A critical perspective cannot assume any legitimisation through pseudo-scientific economic artifacts, nor the subsequent naturalisation of social realities submitted to the neoliberal ban.


The so-called ‘structural adjustment policies’ imposed by international institutions such as the IMF [...] try to ensure integration within the subordination of dominated economies [...] at the service of so-called free market, through a set of deregulation and privatisation measures [...] on behalf of the Darwinian principle through which exposure to competition will make companies more efficient [Bourdieu 2003, 280-1].


The global crisis of 1973 disrupted the growth of the ‘prodigious decade’ (1965-75). The phase of adjustment between the signing of the Moncloa Pacts and 1984 destroyed two million jobs. Between 1976 and 1996, activity rates fell by 2% and occupation rates decreased by 10.5% (Rodríguez 1997, 123). The number of unemployed workers increased by more than 3 million, ‘which implies a growth of 455.8%’ (Sánchez 1995, 23). In this context, a culture of concertation ‘nourished the negotiations between social actors’, as well as ‘some institutional reforms, from the fiscal reform to the liberalisation of the financial sector’ (García & Jiménez 2001, 165). ‘The Moncloa pacts gave a political
response to the rising power of workers’ and ‘the focus of these agreements was the involvement of the left-wing parties’ (López 2012, 79). ‘While the right regained some power, the adjustments concentrated increasingly on harsh wage policies, flexible labour markets and high unemployment rates’ (Etxezarreta 1991, 43): from 4.40% in 1977 to 21.5% in 1985 and 24.6% in 1994.

The dilemma: resorting to ‘protection and isolation’ or ‘avoiding that 44% inflation pushed Spain away from the countries of the Atlantic Community’, as well as ‘not assuming an unsustainable level of foreign debt (€12 billion) that may mortgage the near future’ (Fuentes Q. 2005, 40). The ‘sanitation and reform program’ included in the Moncloa Pacts fulfilled their adjustment functions, but also disregarded ‘broader agreements on economic, social and political reforms’ (Etxezarreta 1991, 43). The geo-strategic context of this neglect is the Atlantic (military) Community and its regional representation: the EEC. The decision to join NATO was taken in 1981, a referendum was held in 1986, and the formal entry of Spain took place in 1997. Economic adjustments prevailed over political debates, hence stability imposed severe limits on policy-making. As argued by Fuentes Quintana, the Second Republic ‘did not create but rather seriously deepened the economic problems due to the [1929] depression’ (2005, 40). According to this statement, history teaches us that economic slowdowns prevent democratic transformations, and therefore Spain could not afford a new ‘failure’. This is why the legitimacy of the young democracy had to ‘prove that the new regime could provide efficient and effective solutions to the political problems of the Spanish society’ (ibid.), and show the ‘sense of responsibility’ of a government ‘willing to renounce its own principles for the sake of the necessary solution to the crisis’ (Etxezarreta 1991, 50). All those arguments sound familiar in the 21st century: Some democratic transformations may hinder the basic priority of economic ‘recovery’, as affirmed by the Trilateral Commission in the seventies and confirmed by the increasing gap between rulers and ruled. The dominant discourse is mainly economic, thus imposing consensus on the alleged need of ‘sanitising and stabilising’ the economy. Thus, due to a quasi-mystical relationship (Benjamin 1921), collective wellbeing would flourish. The Spanish neoliberal model filled the vacuum of a ‘limited democracy’ (Gordillo 2003, 67) through post-political dogmas, para-political aesthetics and ultra-political tradition.

On the third ingredient, namely ultra-politics, the ghost threat of a coup d’état has contributed to securing ‘social peace’ in the Spanish democracy. And this social peace is, by definition, violently unequal. Measures taken after the frustrated coup d’état of 1981 favoured capitalist interests with a ‘hard adjustment against workers in defense of higher national interests’ (ibid. 43). Fundamentalists claimed dictatorship as the solution for Republican evils, communism, anarchism, chaos, social crisis, economic collapse, and the risk of a physical, moral and spiritual breakdown of Spain. ‘Too much democracy’ is dangerous, thus totalitarianism updates its slogan: one, big and free under fascism to one, constitutional and democratic under neoliberalism. Socialising harm among the poor – as a consequence of exploitation, corruption, nepotism, tax evasion, fiscal adjustments, budget cuts, decapitalisation, reverse Keynesianism… looting – has been justified by most organic experts as the only valid policy. Miren Etxezarreta (1991, 49) names the ministers

165 ‘Para-politics as the attempt to de-politicise politics (under police logic): political conflict is accepted, although re-defining it as a competition, between parties/political actors within the space of representativeness, for the (temporary) occupancy of executive power’ (Žižek 2009, 28).
166 ‘Polls are dangerous […] Look at Greece and check what happened there’ (I. García Tejerina, minister of Agriculture, Food and Environment, Antena3 30.06.15).
of economy E. Fuentes Quintana (1977-78) and M. Boyer (1982-85) as the two major characters.

Thereafter, debt and budget cuts would govern the government. Monetarist policies assume the control of money supplies, while restraint in public spending, tax enhancement and equity are the three alleged pillars of fiscal policies. The state funding though credits granted by the Bank of Spain implies a shift to market mechanisms as the only feasible means: ‘Although this change came imposed by the need to eliminate the distortions that the monetary funding was causing in the economy [...] the successive reforms imposed over the years were also due to the Spanish integration into the European Communities and the European Monetary System, and the subsequent internationalisation of the public debt market’ (Hernandez 1996).

Some important outcomes of the Moncloa Pacts (1977) in fiscal matters – some were remarkably false, some were seriously dangerous – were these: ‘personal income taxes will be global, personal and progressive’; ‘to achieve a general application, effective tax rates will be moderate, as a parallel response to the extent of the base and the inexorable requirement to comply with the tribute’ (Agreement on the program for economic consolidation and reform, part II: Tax reform). For its part, three reforms in the financial sector can be underlined: ‘Granted credits by banking institutions to joint-stock companies whose capital may have special shares of any senior managers of such banks shall be limited’; ‘Legal and administrative obstacles currently hindering the development of the mortgage markets shall be removed’; ‘The role of brokers in the capital market shall be revised in order to liberalise and expand their mediating role’ (Agreement on the program for economic consolidation and reform, part VII: reform of the financial system, pr. 5, 6, 8). Income policies slowed wage growth through smaller contributions to social security, lower financial costs and wage increases below expected inflation – rather than on historical inflation, as they used to be calculated. The subsequent and permanent downward trend in real wages is a basic principle of economic policy-making. The unity of the trade-union movement officially ruptured in 1979, when the Interconfederal Basic Agreement – to ‘prepare’ the Statute of Workers (ET) – was signed by the General Union of Workers (UGT) and the Spanish Confederation of Business Organisations (CEOE). The latter was accusing the UCD government for ‘sovietising Spain’, but both partners would sign another Interconfederal Framework Agreement for harsher wage ‘moderation’ in 1980 – along with a set of rules on productivity and absenteeism. Workers Commissions union (CCOO) refused to sign it again, since this implied a bigger loss of real wages and collective bargaining power, in addition to the reinforcement of a corporate, bureaucratic and undemocratic labour-market model. The ET was ‘corrected’ by the employers, while the government promoted temporary jobs and made redundancies cheaper. Nevertheless, a National Employment Agreement to reduce wages and to increase temporary hiring received support from all stakeholders in 1981: government, CEOE, UGT and CCOO.

To talk about controlling wage demands in social terms means nothing but demobilising. Hence the Pacts, with the highest consensus, inaugurate this new function of the left-wing parties and unions [López 2012, 80].

The challenge was not easy because ‘cultural liberalism is not an ideology of consensus but a distorted conflict model’ (López 2012, 83). The goal of inverse redistribution complicates the necessary condition of social peace. I. López underlines three basic keys to ‘manufacture consensus in the Spanish economic ideology’ (ibid. 83-4). Firstly, loading the political weight of the industrial restructuring – eighties – on a political party which
presents himself as progressive to the public. Secondly, treating its consequences as necessary evils or as partial-sectoral-corporate problems. Thirdly, framing the new economic discourse within the unquestioned process of European integration, ‘an absolutely desirable goal that would rescue Spain from its everlasting inferiority and raise living standards to Swedish levels’ (ibid.). But reality was quite different. The PSOE-driven process was similar to Thatcher’s in Britain (Petras 1996). The main difference between both processes was not economic: while the Iron Lady demonised public aid beneficiaries, trade unions and government intervention – those scapegoats who ‘parasitize’ good citizens – the Spanish post-Francoist social democracy spoke of democratic unity and European salvation. In the eighties, the wave of dispossession experienced by so many industrial belts was seen with lamentable indifference.\footnote{167}{It is not difficult to trace proper cultural production in this period: social and political conflicts disappear from novels, films and music, thus giving way to a post-modern and breezy vision of the Spain brand\cite{López2012}.}

Thanks to job destruction caused by industrial restructuring, average real wages grew only 4% – half that of the previous decade – and average labour productivity grew by 8% between 1975 and 1985, while GDP (+0.7%) hardly varied (Guisán & Aguayo 2008, 103-4). Unemployment rate boosted from 3-4% to 21.5%, just when public policies were definitely made available to the neoliberal cycle of accumulation. As explained by the Petras Report\footnote{168}{Padres-hijos. Dos generaciones de trabajadores españoles (Parents-children. Two generations of Spanish workers). The report was commissioned – but never published – to James Petras by the Centre for Advanced Scientific Research. Its dissemination was first carried out by Ajoblanco magazine in 1996.}, unemployment rates grew up to double the European average because ‘the strategy of liberalisation was not directed to increase employment, but to enable foreign acquisitions of domestic industries, to reduce wages, and to facilitate capital accumulation’ (Petras 1996, 18). Under a competitive effort to maximize the profit/wage ratio, the restructuring of the eighties led to a relevant paradox: behind the pro-European rhetoric of the F. González government, ‘the argument that liberalisation was the way to become Europeans disguised the fact that the gap between Spain and Europe had actually widened during Gonzalez’s presidency’ (ibid.).

High inflation rates (14.6% in 1981, 4.8% in 1988, 6.7% in 1990), decreasing shares of labour costs in total production costs of the economy, and the threat that both factors might turn inflation into an endemic problem all justified a neoliberal shift that did not represent the only political chance at all. The new wage system came to even more oppose the interests of the working class. In addition to increasing oil prices, social security contributions and (mostly) ‘too high wages’ were – according to hegemonic approaches – the alleged causes of business closure, cancellation of investment projects, replacement of labour by capital, and high rates of unemployment (García & Jiménez 2004, 168).

Regarding foreign relations, imbalances – capital flight and trade balance deficit – were faced through three basic measures, thus leading to progressive dependency\footnote{169}{The right to make war and internal monopoly of violence was transferred to NATO. Political autonomy, decision power and democratic formalism was transferred to the EU. Productive, financial and knowledge capacities were transferred to ECB, WTO, IMF, WB... state sovereignty was gradually lost. See Estévez (2003, 175) for a complete analysis of this process. See González Calvet (1991) on the transformations within the public sector and its participation in the economy.}: a free exchange rate, internal price stability and double positive adjustments policy, agreed in the Moncloa Pacts, guided the action of the social democrat governments since 1982, when ‘different circumstances would allow economic policy to regain initiative and a firmer

After the 1982 elections, PSOE’s Keynesian speech gave way to flexibility, insecure jobs and cheaper dismissals. In 1983, another Interconfederal Agreement – by government, CEOE, CCOO and UGT – set the scene for generalisation of temporary contracts (to ‘promote employment’!), thus providing an essential tool to divide the working class. Costs of dismissal were also reduced in order to maximise productivity. The labour force had to be treated as the most flexible factor\(^\text{170}\), but a human being has never been an inert commodity: workforce performance can only be improved through exploitation – see Guerrero (2006). Regarding the myth of productivity, Rodríguez & López insist: ‘although orthodox economists and official trade unions usually think the opposite, no trans-historical economic law has linked productivity to salaries. This fictional link was the common ground for a ‘stability agreement’ between capital and labour, whose nature is absolutely political and came to be known as Fordism’ (2011, 55).

A Law of Industrial Restructuring was promulgated in 1984, which started the massive privatization process and confirmed the first wave of job destruction. By the same token, the government imposed the Royal Decrees on precarious contracts, hardened the conditions for receiving a retirement pension, reduced its amount, promoted early retirements in support of precariousness, and reinforced taxes on wage incomes (Guisán & Aguayo 2008, 107). The gap between nominal wages paid by the companies and real wages received by the workers grew bigger and bigger. Increased productivity per employee was not accompanied by any reductions in unemployment rates, which confirms a balance of power whereby capitalists win and workers lose.

... consensus, that conceptual gimmick where the whole culture of transition rests, whose paternity is usually attributed to the Constitution, although the Moncloa Pacts did open this dimension to the public by appealing to the economic sphere – that post-ideological space whereby things are managed without any need to refer to politics [López 2012, 80].

For the greater glory of the neoliberal deployment, the entry of Spain into the European Economic Community (EEC) reinforced that consensus.

1985-95. Growth for Underdevelopment. First Bubble and Endemic Unemployment

The modernization of the Spanish economy between 1982 and 1995 [with the so-called Socialist Party in the government] involved three basic and interrelated strategies: liberalising the economy, deepening the inclusion in the international division of labour [integration in the EEC] and setting up a new regulatory regime [Petras 1996, 7].

The adjustments kept on justifying the alleged convenience of flexible jobs, market liberalisation, quick productive restructurings, and the need to identify ‘the market as the efficient allocator of resources and the employer as the main organiser and director of production processes’ (Fuentes Q. 2005, 42). Markets dominated the foreground of the hegemonic discourse. ‘Key measures included liberalising markets, privatising public companies and banks, free convertibility and flexibilising labour market. All those measures were applied in different moments: some started in the mid-eighties

 privatisations); some, not too systematically, started in the late eighties and lasted until the nineties’ (Petras 1996, 7). All of them are still the pillars of current policies. The declared goal of the adjustments was employment and economic activity, but their consequences were very different. During the first years of democracy, the percentage of the unemployed population receiving any subsidies fell from 69% in 1976 to 42.5% in 1988. Unemployment was concentrated in industry, construction and agriculture. The number of long-term (two years or more) unemployed grew, and structural unemployment came to stay. Since its peak in 1985, the official unemployment rate would only fall to 10% between 2005 and 2007. In the 1985-1989 period, thanks to private investments, economic expansion reduced indebtedness and deficit (6.1% to 3.5%). This improvement of debt and fiscal imbalances, along with the Treaty of Accession to the EEC in 1985, legitimised neoliberal modernization over its ‘arbitrary’ alternative (ibid. 43), thus addressing the eventual revival of the tensions in the labour market. 1985 was the year of the first general strike against labour reform and pension cuts – called by all unions except UGT and supported by more than 4 million people.

The business boom of the late eighties was based on casualisation of employment and low wages. The increase in economic activity did not generate any social improvements, while exploitation grew: GDP in 1992 quadrupled that of 1978, but 1992 unemployment rates tripled those of 1978. In 1988, with unemployment still over 18%, wage share on GDP went back to 1966171. Employers’ social security contributions, pensions, unemployment subsidies, costs of dismissal, and the length of contracts decreased. Some Francoist labour regulations were abolished – those ordinances included, in general terms, more favourable conditions than those imposed on democracy to workers (Baylos 2003, Ruiz 2006). However, the economic rhetoric on liberal and democratic openness legitimated unequal growth and prevented any criticism of its social consequences: economic ‘sanitisation’ extends free markets – against state intervention, which is ‘always excessive’ – thus promoting private profit, wealth concentration, labour exploitation, and demobilisation; see Albarracín (1991), Roca (1991), García Durán (1991), Lacalle (2006), Capella (2003, 24 et seq.).

In conclusion, structural adjustments drew a new map of power, although this did not start with the entry of Spain in EEC but earlier. Big landowners of the dictatorship took advantage of democracy, while an elite of professional politicians emerged from the proliferation of institutions engaged in the political control of new territories where capital expands – real estate markets are the best example. In this context, capital accumulation tended to grow, wealth concentration did not change substantially, and the privileged elite grew. In turn, views on inequality focused on the base of the social pyramid, beyond the official discourse on the need for ‘economic expectations’ (Garcia & Jiménez 2004, 175), in a period when ‘levels of convergence with Europe lost in the crisis would be overtaken’ (ibid. 176).

The most interesting feature of this economic recovery in the late eighties was expansive demand and household indebtedness. Massive resort to loans was ‘fuelled by the wealth effect due to the revaluation of real estate and stock market assets’ (ibid. 178). While the profit-wage gap kept on widening, a broad spectrum of the population fell under debtocracy. The financial and real estate sectors were (are) the driving forces of unsustainable growth, although precisely when the Spanish economy was being fully

171 Wether in ‘good times’ or in recession – except for short junctures – the gap between profit rates (capital incomes) and salaries (labour incomes) tends to permanent growth.
embedded in the global model, ‘social peace’ would be interrupted: the claims for ‘a more widespread income distribution’ (ibid. 177) re-emerged in a context of alleged economic recovery, since the productive momentum did not favour the poor. In 1988, a second general strike – convened by all unions – achieved the withdrawal of a wicked Plan for Youth Employment. In 1990, unemployment rates dropped to 16%. Public spending, foreign investment and private consumption increased, but the handicaps accrued in the brief recovery of late eighties led to an even more severe recession.

Before a new wave of foreign capital came to the ‘promising’ Spanish economy in search of new businesses, the first phase of the bubble (1986-92) had brought two major innovations. Firstly, the demographic boom, internal migrations and the need for housing slowed down. Secondly, the rise in housing prices survived the recession. This aggravated the gap between CPI and housing prices, thus improving speculative profits rather than household incomes. Inequality between wealthy landlords and the common people also increased, but its consequence was taken as an incentive for unleashing speculation rather than a matter of injustice which required correction. Hence the bubble did not affect the real estate activity until the Olympic year of 1992, when three currency devaluations and a strong program for fiscal adjustments were imposed. A variety of speculative projects were carried out under the euphoria of macro-events such as the Universal Exposition (Sevilla) and the Olympics (Barcelona), which constituted much more than a symbol of the Spanish miracle.

Liberalisation and flexibilisation came to be ‘insufficient’ for the ‘coherent transnational project’ (López 2012, 85) that European elites were developing. So-called ‘loss of competitiveness’ – through appreciated peseta and high interest rates – had to be fixed: In 1992, with the redundant excuse of promoting employment, the third Labour Reform by PSOE government was approved by decree to restrict unemployment subsidies, hence the extended vision of unemployed as lazy parasites and fraudsters. At the same time, illegal temporary contracts became a common practice. The social reaction to this legal agression consisted in a ‘12-hour’ strike.

More of the same and with greater perseverance for the dictates of the adjustment policy. This is the economic policy that the country needs [Fuentes Q. 2005, 43].

More market recipes were imposed to meet the Maastricht conditions, with two devaluations of the peseta in 1992 and two more in 1993, until the economic recession reached its peak. The dead cat bounced and the subsequent expansive cycle started with Aznar government (1996-04), which ‘resolutely would straighten the course of the Spanish economy towards the last (and important) expansion of the 20th century’ (García & Jiménez 2004, 181). Viewed from 2016, this description looks ridiculous. A macroeconomic expansion so closely related to social underdevelopment should be reviewed.

172 Most economists’ reductionist approach explains social unrest through the ‘reprehensible behaviour of some profiteers, masters of so-called financial engineering and profiteers speculative practices’ (García & Jiménez 2004, 176). They have nothing to say about the system.
174 Maximum levels of inflation (3.3%), public deficit (3% GDP), public debt (60% GDP) and interest rate (2% 10-year).
175 ‘Even a dead cat will bounce if you drop it from high enough’.
Between 1985 – the start of the eighties’ recovery – and 1994 – a milestone in the nineties’ recession – real GDP per capita grew by 31%, labour productivity increased by 20%, and real wages paid by companies rised 17%. The unemployment rate was 21.5% in 1985, and more than 24% in 1994. Real wages, public expenditure, and tax revenues began to fall in 1993. Regardless of the pace of economic growth, profit accumulation through personal and capital incomes tended to rise, at the expense of wages and basic needs. Private indebtedness would hold this impossible balance until the crash of 2008.

According to a social democrat premise, social harm generated through economic policies must be mitigated by social protection, which does not fit with the neoliberal spirit. This can only be carried out through social expenditure, but the Spanish welfare was as weak in compensating social inequality as it was efficient in assuming adjustment policies. Public expenditure was (has always been) too modest to compensate the social evils of the restructuring. Although the personal income distribution improved in the 1985-95 period, it was focused on a residual compensation through programmes of social emergency (Pérez Moreno & Aranda 2000, 10-1). The rise of Spain as an economic power relied on credits, profit privatisation – the seed of massive socialisation of losses – and new market niches opened by the state. This sort of reverse Keynesianism resembled the Reagan-Clinton transition in the US.

Structural adjustments remained the only solution to the crisis of the nineties. According to many economists, Spain suffered ‘lazy gradualism’ and Spanish society was ‘stubbornly inconsistent’ (Fuentes Q. 2005, 43) – the alleged factors lengthening the crisis. However, ‘the weak productive bases of the Spanish economy’ (Pérez Moreno & Aranda 2000, 4) have never been addressed by public policies: growth rates over 6% in 1987 would give way to negative rates in 1992-93 (ibid.). Structural reforms led (lead) to ‘fewer labour rights and cuts in social protection’ (Recio 2010). The proposed solution would be nothing but less public expenditure, more liberalisation and generalisation of the market. Thus, although there is no empirical evidence, economists insist: ‘the best way to improve employment is private investment’ (Fuentes Q. 2005, 44). During the last forty years, although ‘there is no empirical evidence that living standards are higher and in economy is more efficient countries with less state and less social protection’ (Recio 2010), wage restraint, flexibility, permanent training, commodification of fundamental rights, reduction of business contributions to social security, social cuts... have been promoted through two ideological pivots: productivity and human capital.

Competitiveness, zero-sum, the fallacy of composition\textsuperscript{176} or the trickle-down theory are some ideological artifacts focused on ‘the will to keep a distributive model that guarantees a few people a big portion of the social product’ (ibid.). Hence the purposes of economic policies – production, employment and income distribution – evolve so paradoxically\textsuperscript{177}. In the late eighties, high rates of GDP growth co-existed with growing inequality in the surplus distribution. The recession of the nineties co-existed with a slowdown in income

\textsuperscript{176} ‘Mainstream academic economic theory insists: the way to full employment requires lower salaries. If more sales are wanted, the price of labour – i.e. salaries – must be cut. This argument leads to the classic fallacy of composition: what may be useful for a company does not have to be necessarily good for all. Cuts in wages affect consumption, thus destroying aggregate purchase power, unless evaporated demand can be recovered through alternative ways’ (Auerback & Parentea 2010).

\textsuperscript{177} For a quantitative support of inequality, see Estruch (1996), Torres (2002). When comparing Gini index and GDP variations, some endemic features of the Spanish accumulation regime ‘prevent us from any conclusion on a more or less permanent relationship between economic growth and equal income distribution during the whole reference period’ (Pérez Moreno & Aranda 2000, 6).
concentration. Low-paid labour and regressive taxation explained the ‘failure’ of the stated purpose of ‘job creation’ (Pérez Moreno 2001, 11; Estruch 1996, 71).

Some might say that my economic policy only helps the companies, and I would tell them: you are right, we want the companies to sanitise themselves, thus recovering their surpluses so that we can reach the tipping point where businesses start creating employment [...] It is common sense [F. González, president of the Spanish Government, Journal of sessions of the Congress, legislature II No.157].

Spain had to dismantle any industry that might collide with French or German interests, along with privatising its public companies – telecommunications, energy, banks – to give way to big transnational capitals. In exchange, the EU committed to turn Spain into a gigantic housing and consumption market, through financial and stock-market activities, tourism (that odd activity that saved Francoism from the industrial crisis in the sixties) and a huge investment in transport infrastructures [López 2012, 86].

In short, the first chapter of Hispanic neoliberalism was sectoral reform and its full exposure to globalisation. 1992 was the year of the Olympics (Barcelona), the Universal Expo (Seville), the II Ibero-American Summit, and the European Capital of Culture for Madrid, major events that put public policies and funds at the disposal of private interests: sunk-cost infrastructures, public debt and patronage networks. A year earlier (18-19.06.91), the I Ibero-American Summit of heads of state and government – presided by Juan Carlos I in Guadalajara – assumed the principles of the Washington Consensus. A few months later, the ‘Reconquista’ (Malló 2011) kicked off with massive privatisations in Argentina. The Spanish lobby was formed by Telefónica, Iberdrola, Gas Natural, Repsol, Iberia and Mapfre (ibid.).

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The massive transfer of public funds to the private sector was then legitimized by a dominant discourse that celebrates our presence in the world – the main feature of economic openness. In its initial period, this presence relied on foreign capital. In its advanced phase, capital outflows were promoted. The process of accession to Europe, along with some labour reforms imposed under convergence criteria, reduced the welfarist project to a limited compensation of social harms. The integration of Spanish capital into global markets combined the transfer of funds from the EEC to Spain with a precarious trade balance: ‘Profits and turnouts in the hands of foreign investors were bigger than inflows coming from those same investors’ (Petras 1996, 7). Much of the Spanish productive sector became ‘a platform to export labour force’ to foreign transnational

178 ‘The resort to the concept of legal certainty has usually protected the investments of transnational corporations, always with arguments like the former president of CEOE, G. Díaz Ferrán, who argued that regulatory frameworks for investors must be clear, and legal certainty and economic stability must be sufficient for profitable long-term investments’ (Hernández & Ramiro 2010, cf. Ramiro 2012). Legal certainty is an international principle not only linked to economic appraisals: ‘actual legal certainty places International Law of Human Rights over Global Corporate Law, i.e. the interests of the social majorities against those minorities who control economic power’ (Hernández & Ramiro 2010). ‘The Spanish Government defends the interests of all Spanish companies, inside and outside. If somewhere in the world there are signs of hostility against those interests, the government takes them as signs of hostility against Spain and its government’ (Soria J.M., minister of Industry, Energy and Tourism, 12.04.12). ‘Wrong path: The Argentinian government is ready to run ahead contracts, concessions, and any idea of legal certainty that may attract future foreign investment’ (El País – editorial, 3.04.12; cf. Ramiro 2012).
companies (Petras 1996, 7). The allocation of ‘Spanish capital’ in foreign investments would reach historical levels. Once state decapitalisation was advanced enough, most public companies started searching for new markets to join new imperialism – see Álvarez et al. (2007), Greenpeace (2009), Malló (2011). Accumulation by dispossession was imposed across those countries where debtocracy had prepared the convenient conditions for a massive looting. ‘Banks, construction, privatised monopolies, mass media and real estate corporations came to be the main sectors of Spanish capitalism, thus joining the new transnational order with a generous support coming from state expenditure’ (López 2012, 86). Spanish economic power was built on monetary instability, job destruction, market liberalisation, privatisations, and strategic dismantling. All those elements were basic under the two first socialist governments (1982-89), as a Southern version of Thatcher’s policies in UK (Petras 1996, 18/ 49-50). Labour rights and conditions were seriously affected, while state decapitalisation and progressive ‘loss of sovereignty’ (Estévez 2003, 175 et seq.) built an ‘insufficient welfare’ (Navarro 2002/ 2004/ 2006) system.

This is how the first neoliberal phase was completed in the eighties. After the subsequent relapse of the early nineties, Spain grew from a junior member of the European markets to the main source of European capital in Latin America. On the one hand, the transnational rise of Spanish capitals was launched. On the other hand, Spain would start importing foreign workers and over-exploiting them in the economic sectors of agriculture, domestic work, construction and services. The classic patrimonialism of the Spanish elites, their nouveau riche condition of global, and the refinancing of unproductive growth underpinned a second (and bigger) economic bubble. After the crisis of 1992-94, the second deployment of patrimonialism would rely on easy credit, revaluated real estate assets, and public policies (Rodríguez & López 2011, 40), thus disguising the looting behind indebtedness and wealth effect. In the meantime, social spending remained among European minimum standards, wages stagnated, foreign workforce was overexploited, and poverty rates barely improved – even in the years of so-called prosperity.


1993: Cobi and Curro found smoking crack at industrial site [Prieto 2012, 220].

In the 1995-07 boom, Spanish GDP per capita increased constantly (3%), middle real wage decreased by 2.2% and labour productivity stagnated (-0.5% average) far from average OECD levels (Guisán & Aguayo 2008, 104), due the tertiary, real estate and speculative oversizing of that growth. According to the academic discourse, economic growth should increase GDP per capita, average real wages and employment rates, but the neoliberal policies tended to focus on translating GDP increases to higher operating margins (capital incomes), precarising jobs (wages and rights) and moderating the structural problem of unemployment (to a minimum level of 8.3% in 2007) with high social costs.

179 Speaking of Spanish capital in a framework of ‘private heterogenic agents and transnational capital’ (Albarracín 2010, 3) is more than dubious. The term Spanish economy refers basically to the geographical framework of the economic activities and their social effects.

180 Cobi: mascot of Barcelona 1992 Olympic Games. Curro: mascot of Sevilla 1992 Universal Exposition. These events were two of the symbols promoting public consensus and legitimising the alleged plunge of the Spanish economy as a rising ‘economic power’.  

98
In 1994, while unemployment rates reached 24%, the PSOE Government had faced the harshest labour reform: ‘trash jobs’ (so-called learning contracts) and ‘temporary work’ (through ETTs – temporary employment agencies) legalised what used to be illegal: trading with labour force. Employers’ capacity to dismiss also expanded: dismissal costs decreased, and ‘dismissals for objective causes’ could affect 10% of the staff without any layoffs. Some other measures affected functional and geographical mobility, working hours, holidays, breaks... Collective bargaining was de-regulated and weaker labour sectors were unprotected. In this context, the massive general strike of 1994 constituted a turning point towards demobilisation: institutional trade unions renounced confrontation.

The capitalist expansive cycle of those years favoured the political legitimation of the European project for the liberalisation of capital movements. Economic discipline\textsuperscript{181} was seen as the alleged key condition for the state to deserve market confidence, but actual adjustments focused on adapting the political-institutional framework in the EU to the next neoliberal stage: economic institutions concentrated decision-making power in the European Parliament, the European Council and some other opaque and undemocratic bodies under and agencies. Welcome to capitalist democracy at its best! The government from the market put sovereign power in the hands of large corporations. Public spending would fall from 37% GDP in 1995 to 26% in 2008. The role of social budgets – basically focused on compensating wage income losses – was progressively replaced by financialization, which colonised the entire social body to boost aggregate demand. Asset price Keynesianism proved itself effective in the short term, but the the ‘Spanish miracle’ would collapse with the crack of 2008. As in the US, private debt replaced public spending.

The right-wing Popular Party reached the government in 1996, at the start of an upward economic cycle, to manage the transformations previously performed by the so-called left-wing PSOE. Trade unions stopped confronting neoliberal discourses or policies. Instead, social dialogue was strengthened as an control device, while Parliament rejected all proposals for a reduction of legal working times. Unemployment rates remained around 23% in 1996. In 1997, CEOE, CEPYME (two main employer organisations), CCOO, and UGT (majority trade unions) signed an Interconfederal Agreement for Employment Stability to lower severance payments\textsuperscript{182}. Such mottos as ‘entrepreneurs create jobs’, ‘competitiveness is good’ and ‘more flexibility is needed’ were commonly assumed. Everyone seemed post-politically ready to ignore how hard the effect of those measures would be for the working classes. Under brand new ‘permanent cheap contracts’ – with even cheaper dismissal costs – and ‘training contracts’, 26 contracts were needed to create a single new job. However, media propaganda broadcast the statistical fiction of ‘healthy job creation’. The rates of temporary employment increased fourfold in 10 years, while outsourcing and work injuries soared\textsuperscript{183}. Spain entered the 21\textsuperscript{st} century as the European leader in the list of deaths at work: one death per day in the construction sector, more than 5,000 deaths a year and more than 4.5 million injuries in working time. Official discourses spoke of prosperity. A legislative proposal to regulate outsourcing was supported by half a million signatures, but Parliament rejected it. Scarce social conflict was considered an

\textsuperscript{181} ‘Well accompanied by budgetary and monetary credibility by the government and the Bank of Spain – the latter with autonomous status since 1994’ (García & Jiménez 2004, 184).

\textsuperscript{182} Five years later, the reform of unemployment benefits would be prevented by a general strike.

achievement by ‘responsive dialogue’ between the government and the social agents (Garcia & Jiménez 2004, 184).

The registered unemployment rate was 14% in 2000. Spain entered the 20th century with ‘positive results in terms of economic convergence and macroeconomic stability’184, thus leading to ‘a greater evolutionary synchrony between Spain and Europe’ (ibid. 181) in macro-economic terms – social indicators on development and cohesion remained at low levels. The eventual upturn, economic ‘openness’, sustained growth, and the (4%) raise in per capita incomes enabled the fulfilment of Maastricht criteria185 and showed ‘the greatest momentum a laggard European economy can achieve, when sensibly directed, within an adequate international environment’ (ibid. 182). But inequalities kept on deepening. In 2009, the regressive reform of personal income taxes186 reduced the amount of redistributed resources, lowered tax burdens for higher incomes, and raised them for taxpayers with lower incomes (López Díaz & Jiménez-Ridruejo 2004, 371-2).

Everything seems to be an advantage when income (low interest rates) and wealth effects (revaluation of financial and real estate assets) favoured households’ indebtedness – thus keeping their consumption above their disposable income. Whilst the mere notion of growth may require a radical amendment, bricks, concrete and loans developed the craziest growth alternative. Indebted growth deployed the permanent need to ‘improve productivity’ through permanent counter-reforms: both in boom and in recession phases, growth was based on low wages and selective austerity – low social budgets. Thus, ‘between 1996 and 2000, private consumption and investment sustained rising incomes’ (Garcia & Jiménez 2004, 191), although the ‘externalities’ of this specific growth model would exacerbate under subsequent crisis. As a consequence, flexibility, competition, productivity, and liberalisation remained the main economic recipes for the 21st century.

In 2001, the Partido Popular government approved a new labour reform by Royal Decree-Law 5/2001. UGT called for a general strike, CCOO rejected it, and the first Interconfederal Agreement on Collective Bargaining was signed to moderate wages and submit contracts to constant flexibilisation. The signers paradoxically appealed to ‘responsibility’, in order to prevent ‘unnecessary conflicts’ in the name of holy competitiveness.

This kind of laws, which must be enacted to deal with exceptional circumstances of need and urgency, break the hierarchy between law and regulation – placed at the base of democratic constitutions – and thus give the government a power that should exclusively correspond to the parliament [Agamben 2003, 17].187

A year later (2002), another labour reform was imposed by Decree (RD-Law 5/2002, then declared unconstitutional in 2007), in spite of the first general strike against the PP government. 6.5 million work-related injuries and more than 10,000 dead workers showed

185 In 1994, fiscal deficit was 6.6% GDP (convergence limit: 3%), public debt was 61% (limit: 60%), inflation was 4.9% (on 3.3%), and 10-year interest rate was 10.1% (on 2%). In 2007, budget surplus was 2.4%, public debt was 36%, inflation was 2.8%, and interest rate was 6%.
187 ‘In case of extraordinary and urgent need, the government will dictate provisional regulative dispositions in the form of Decree-laws, neither affecting the state fundamental institutions, nor any citizens’ duties and liberties regulated by Title I […]’ (SC 1978, Art. 86.1), ‘All Spaniards have the duty and the right to work […]’. ‘The law shall establish a Workers’ Statute’ (Art. 35).
the evolution of the labour market during the last six years, while unemployment benefits kept on shrinking the and dismissal costs kept on being cut.

Back into Government in 2004, the PSOE promoted one more labour reform in 2007 through an ‘Agreement for the Improvement of Growth and Employment’ – signed by CCOO and UGT unions and CEOE employers. It is no accident that ‘welfare for the rich’ (Chomsky 2003, 35) was justified through such euphemisms as ‘job creation’ or ‘salary increase’. We have already seen that sustained declines in real wages are a direct effect of neoliberal policies. ‘In the new contemporary language, employment means profits’ (ibid. 35), because the latter grow when the former decreases. ‘Over the past three decades, national incomes were massively and permanently distributed at the expense of labour incomes, and in favour of capital profits’ (Taifa 2007, 8) – regardless of unemployment in every juncture or, at least, without a clear correlation between employment and income shares. Temporary contracts were replaced by a ‘permanent’ contract with cheaper lay-offs, €2,500 million in bonuses to companies, and cheaper social security contributions. Thus, ‘more and better jobs’ means ‘more and better profits’. Wages decrease, conditions worsen and social expenditure stagnates. Indebtedness seems to solve every problem. Sustainable exploitation – particularly affecting a foreign underclasses – worked so efficiently during the Spanish miracle, while political economy was expelled from the public debate in favour of nationalisms, terrorism, immigration, delinquency, international politics, and war. Punitive populism expanded through most of those debates (López 2012, 88). In a nutshell: the years of so-called prosperity were the years of the penal bubble, just when ‘the high performance of the economic cycle could generate its own consensus’ (ibid.).

The pivot point: housing, exploitation and inequality

Between 1940 and 1970, almost half a million public subsidised houses with cheap rentals were built in Spain: after the creation of the Ministry of Housing in 1957, Falangist minister J.L. Arrese addressed housing as a matter of public order. The discretionary increase of building permits – through non-planned re-classifications – was mainly due to pressure from owners. In the ‘years of development’ (mid-1960s until 1970s recession), ‘the building boom increased the housing stock by 40%’ (Naredo 2010, 7). An unprecedented urbanization process in coastal areas and large cities was favoured by internal migrations. ‘The metropolitan area of Madrid almost doubled its population and quadrupled its urban territorial occupation’ (ibid.). Land reclassifications and speculative deals violated the planning for the benefit of large fortunes and real estate companies owned by Francoist oligarchs.

In the late seventies, more than half the housing stock was still under rental status – up to 90% in Madrid, Barcelona, Sevilla or Bilbao (Naredo 2010, 7) – but this absolute majority of rentals would be quickly reversed: property became the dominant regime and a key solution against social instability. Access to property bound the population to important payment liabilities, and re-classifications drove real estate businesses. Mortgage credits and tax reliefs were favoured to promote expensive purchases, hence owners got increasingly indebted. This all took place in radical contradiction with Art. 47 of Spanish Constitution. ‘Along with financial entities, the state – and all its different governments – has a direct responsibility in generating the crisis and, most of all, regarding the harms its management is generating. The Building Code (namely Land Law) and the Mortgage Act

188 RD-law 5/2006, for the improvement of growth and employment.
are two regulations with clear criminogenic effects. The blind behaviour of banks claiming for foreclosures, along with the banal attitude by the state agencies (governments, judges, police) on bureaucratic law enforcement, lead us define an actual crime-making process’ (Forero 2013). Such measures did not fix the lack of social housing but rather increased risks, discouraged rentals, and turned Spain into ‘the European leader in destroying its own real estate legacy, through demolition or ruin’ (Naredo 2010, 9) – in a unique process of creative destruction. This model shaped urban landscapes and territorial organisation. The amount of destroyed buildings was bigger than that in Germany during WWII.

In the expansive phase of the Spanish neoliberal cycle, 2001 reached the historically low percentage (11%) of rental dwellings, but this percentage kept on shrinking until 2007, ‘when a 10-year real estate boom finished’ (ibid.). ‘If something was securely tied after his [Franco’s] death, it was housing policy and real estate speculation [...] The factor of rationality and social control theoretically introduced by urban and territorial plans under the Building Code of 1956 was drastically disfigured by powerful pressures to take profit from the appropriate reclassification of land’ (ibid.). Since then, all Spanish governments have applied successive regulations to extend that cycle.

Real estate transactions between promoters and politicians – either within or outside the regulation – are a key factor in the new urban designs. Profit-making is based on interest and dividends, while cheap credit encourages the boost of speculative bubbles. Thus, as an effect of over-consumption, an alleged instrument of social control turned into a tool to accumulate private debt and to impose the will of financial corporations. This implies an induced debt crisis, a progressive restriction of rights and the abolition of state responsibilities. The Spanish state became the first European builder – construction and tourism have come to be the actual national industries under Spanish democracy. Francoist public promotion of cheap rental was replaced by the sale of social housing stocks to their tenants, while overcrowding and shanty towns increased. In 2005, investments in housing and infrastructure reached 70% of total gross fixed capital formation (Rodríguez & López 2011, 54). ‘Between 2002 and 2007, Spain built more houses per year than France and Germany together, although these two countries triple Spain in population and duplicate it in territory, which proves that this real estate boom is not only due to the rise in prices but also to new constructions’ (Naredo 2010, 15). According to Naredo y Montiel (2011), Clinton’s strategy in the nineties (López & Rodríguez 2010, 57-9) landed on the Spanish Mediterranean shore.

This government took Spain into the Champions League of the world’s economies […] España wins more matches, scores more goals and concedes less than any other country [J.L. Rodríguez Zapatero, Spanish president, Cadena Ser 11.09.07].

This famous statement by president Zapatero (PSOE) in 2007, shortly before the financial crash, was criticised as ‘frivolous’ by Mariano Rajoy (PP, then his successor), who answered: ‘there are serious problems in external deficit, mortgages, household incomes, etc.’ (Cadena Ser 2007). Curiously, once the economy sank into the 2008 crisis, the debate turned upside down and the two parties exchanged arguments: PP would claim the credit

189 On the liability of political power and financial corporations to evictions, and their link with the rise in suicides, see Forero (2014), Bernat (2015).
190 See Rodríguez y López (2011, 49 et seq.) – Building Code (1998), regional regulations, housing policies, mortgage market liberalisation… and even earlier, the Boyer Decree (1985) provided the long-term foundation for housing policies.
for the alleged prosperity of the second economic bubble (1996-2007) and PSOE deemed growth to be a result of irrational private indebtedness, repeatedly using the term bubble.

The real estate boom was also based on a proliferation of new financial formulas. The promise of significant capital gains and business-friendly taxes were guaranteed by the state. The stock market crisis of 2000-03, the sustained decline in interest rates, and the generous funding – by the Spanish state and the EU – led to two main consequences: powerful infrastructures that deepen the territorial imbalance, and home purchases as investments – which attracted more foreign capitals. Real estate markets competed with the financial markets to attract potential investors, thus triggering a spiral: ‘prices are expected to grow – which encourages purchases – and purchases are increasingly financed with credits – which pushes prices up’ (ibid.). In Spain, main financial supports were given by savings banks through credits and privileged conditions to promoters – often owned by the same financial institutions. ‘Savings banks came to be the financial hands of current local and regional neo-warlordism for big real estate operations and dubiously profitable megaprojects’ (Naredo 2010, 17) as Port Aventura (La Caixa), Parque Warner (Arpegio y Caja Madrid), Isla Mágica (Caja el Monte and Caja San Fernando, then merged into Cajasol), Terra Mítica (Bancaixa and Caja de Ahorros del Mediterráneo), Reino de Don Quijote and its private airport (that led CCM to collapse). The clues were already detected some decades ago: ‘Savings banks constitute an institution of a Spanish financial system that gradually lost its genuine non-profit feature, and its current management cannot be widely distinguished from private banking’ (Martínez Serrano et al. 1982, 275).

This unbridled spiral is the basic feature of local economic growth under neoliberalism in Spain. The current depression cannot be understood without its previous chapter of ‘financialized prosperity’. As defined by Rodríguez & López in their critical analysis, those ‘elements that may be considered a ballast for growth under the Schumpeterian logic of the competitiveness and innovation, were put as main financial solutions emerging from the capitalist restructuring after the crisis of 1970’ (2011, 40). For several decades, rises in aggregate demand, investments and financial profits have been possible in Spain, while real wages fall and the expenditure social remained under minimum levels.

Evolution of inequality in Spain and Europe: 2004-2011

Source: El País (11.09.12) – data by Eurostat³⁹
According to an old Spanish tradition, an incredible amount of accumulated private profit did not contribute to a more efficient economic capacity to produce and compete. Income distribution had improved between 1973 and the mid-eighties, but inequality rose again with the industrial restructuring (Taifa 2005, 15-6). Both Gini80 and Gini20 indexes kept a general upward trend, and figures are even worse if we look at the privileged segments of 10% or 1%. Spain was the second country in the Eurozone where the number of millionaires grew more in 2005, and this trend has accelerated with the great depression. Despite the growing visibility of social unrest due to the unequal socialisation of losses, ideological domination remained focused on ‘emphasising an economic, objective and depoliticised rationale’ (Žižek 1998, 12) and still seems to be in good shape.

The journey to the current depression has been riddled with economic contradictions. In the ‘prodigious decade’ of 1995-2006, national disposable income increased by 62% and personal income grew by 39%, although uneven distribution remained among top posts in the EU-15 list. Inflation caused a loss of purchasing power of 2.4%, hence real wages do not explain the rise in disposable incomes. Credit and wealth for households (148%) raised sharply, since the revaluation of real estate and financial assets acted as the main generator of wealth. Average household debt tripled and saving capacities decreased significantly. Although the richest households paid 3 times more debt than the poor, the burden on incomes was 21 times higher for the latter. Conclusion: as shown by the Bank of Spain in 2002 and 2005, wealth distribution was five times more unequal than income inequality. The 10% richest families accumulated three times more income and a wealth 16 times bigger than 50% of poorest households. Between 1994 and 2006, the value of business stocks and shares grew seven times higher than GDP – 434% vs. 62% (IOÉ 2008, 78-91).

III.2.d. Then and Now. Elites, Economic Government and Political Power

What is a ghetto? A ghetto is a homogeneous and closed area. Of course there are ghettos, Pedralbes is a ghetto. It is no joke, such area is truly homogeneous [M. Delgado].

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191 Title: growing inequality in Spain and Europe. Gini Index = inequality between citizens within a country (0 means perfect equality, 100 means absolute inequality). Ratio s80/20 = relationship between the richest 20% and the poorest 20% of population. Purple: Spain; Blue: EU-27; Yellow: EU-15.
192 A. Ortega (Inditex, $24 billion); R. del Pino and family (construction and infrastructures, $8.6 b.); E. Bañuelos (personal wealth: $7.7 b.); E. Koplowitz (construction and communications, $5.6 b.); A. Koplowitz (investor, $5 b.); L. Portillo (personal wealth: $3.7 b.); M. Jove (personal wealth: $3.7 b.); I. Andic (Fadesa, $3.4 b.); R. Mera (Zara, $3.4 b.); J. de Polanco (communication, $3 b.); J. Abelló (investor, $2.7 b.); G. Escarrer (hotels, $2.7 b.); L. del Rivero (construction, $2.3 b.); J.M. Loureda (construction, $2.3 b.); E. Botín (banker, $2.2 b.); F. Pérez (construction, $1.9 b.); J.M. Aristain (Mittal, $1.8 b.), J. Rivero (personal wealth: $1.7 b.), M. Manrique (Sacyr, $1.6 b.), B. Soler (personal wealth: $1.4 b.) – see Forbes (2010).
193 Data on inequality in income distribution were taken from Eurostat - http://ec.europa.eu/eurostat/statistics-explained/index.php/Income_distribution_statistics/es
196 Interview with Manuel Delgado (Subirats & Rius 2005). Pedralbes is one of the most wealthy and exclusive areas in Barcelona.
History provides many examples on the prevalence of high-class interests and the class-biased manipulation of ethnic, religious or sociocultural factors. The political management of that prevalence and this manipulation is the current governmental question under Spanish neoliberalism. We have seen how some economic figures – per capita incomes, GDP growth, etc. – play a key role in symbolic domination. Against the ideological opacity of such parameters, inequality rates help us measure the gap between a dispossessed mass and the wealthy minority. Sub-citizens or under-consumers have long been the object of many pauperologist studies and interventions, while the wealthy and powerful elites have long been invisible to most economic, sociological, political, legal and criminological analyses (Rivera 2014, 172 et seq.). This is how social order is legitimised, state institutions guarantee social injustice, and rationales of economic efficiency govern. Inverse redistribution, budget cutbacks and productive restructuring boost state decapitalisation and social harm in the continental roadmap toward globalisation – a.k.a. the ‘European convergence process’.

If the first stones of the Spanish neoliberal building were laid by the Moncloa Pacts in 1977, its first floors were then raised in the eighties by the same party that would end up launching the violent phase of austerity in the 21st century. This created a conducive framework to ‘multiply corporate structural competitiveness’ (Bourdieu 2003, 278), thus driving the cycle of accumulation by dispossession. Among other conditions, state property was progressively dismantled in different strategic sectors; big construction companies were fed through public money; indirect taxes and some unconstitutional forms of regressive taxation were promoted. It is not a minor issue, for example, that the protection of Investment Companies with Variable Capital (Sicavs in Spanish) was approved in the Congress on 30 June 2005 by 10% of its members – 90% of which had just left the room after approving gay marriage through a controversial reform of the Civil Code. The Congress put the control of Sicavs in the hands of the National Stock Market Commission (CNMV): all these societies would have to pay a 1% tax, thus leaving without consequences any breach of the requirements included in the previous fiscal regulation (Corporate Income Tax Law, art.26). This was denounced by the tax inspectors as another ‘fiscal amnesty for large fortunes’ (IHE 2005).

Although this was not the first tax amnesty approved under democracy, it democratically granted an explicitly preferential treatment to a minority elite. Its two main precedents led to two general fiscal amnesties, while this one helped a specific sector of large fortunes. In 1984, Finance minister Miguel Boyer conditioned his amnesty to the purchase of public bonds by fraudsters. Seven years later, Felipe González government condoned money laundering through the purchase of public debt by fraudsters at a 2% interest rate. In 1977, another amnesty for corporation and/or income taxes was justified by an alleged ‘better adaptation to the new tax system’ (ibid. 229) imposed by the fiscal reform. In the most recent example, the Decree-Law 12/2012 introduced several tax and administrative measures to reduce public deficit through taxes on hidden money at a small rate of 10%. This is how minister Montoro broke all the moulds of political commitment with corporate crime.

197 All citizens must contribute towards the payment of public expenditure pursuant to their economic capacity, through a fair tax system inspired in the principles of equality and progressiveness, which in no case will be confiscatory (SC Art. 31.1).
198 The main experts group has produced tens of reports on this issue – see IHE (2005/ 2005b/ 2008/ 2008b), Peláez (2009), El País (1.07.05), Europa Press (15.10.08), Europa Press (22.02.10), Cadena Ser (24.06.10).
199 The taxed amount produced a collection under 5% of ‘legalised’ revenues, thus constituting 25% the tributary collection predicted by the government (Público 23.01.13).
The economist mantra says that crises require social cutbacks, flexible labour relations or \textit{sine die} delays of regulations on high-risk speculative practices\textsuperscript{200} of financial markets. Inaction was justified under the pretext of a potential \textit{capital outflow} resulting from any fiscal measure against capital accumulation within this sector: ‘Banks have everything ready for a Sicav flight when \textit{tax on the wealthy} comes’ (El Confidencial 4.06.10). The widespread acceptance of this mantra led the Spainsh state to justify anti-social policies in both economic upturns and downturns. The constant tension between the claims of enriched elites and the (no-)rights of the poor limited the ideological debate to a simple matter of ‘efficiency’ and ‘political responsibility’. \textit{Everything} (including life) must be sacrificed for the sake of economic recovery. Real estate and financial bubbles are the best example of this \textit{soft economic totalitarianism}. The housing problem was transformed into a huge source of accumulation through the transfer of public resources to private hands. Against article 47 of the SC\textsuperscript{201}, a traumatic reform of regulation and administrative practices allowed business and political elites to multiply their profits, while a new urban and housing model transformed citizenship statuses and living conditions for a majority. Such changes derive from ‘the constitution of democracy itself, which transports all capacities in urban and regional planning from the central state to regional and municipal governments – without any established criteria or prior control instruments. Regional governments would create a complex regulative tangle, whose symbolic dimensions are very difficult to distinguish from those that are effectively implemented’ (Naredo 2010, 11).

As we saw above, once the Francoist regime turned into a democratic Kingdom, ‘the ruling classes kept their role both in the state and the economic life’ (Navarro 2006, 138).\textsuperscript{202} The historical and structural conditions of capital accumulation in Spain gave way to large fortunes not owned by any families of entrepreneurs or self made men – except for Amancio Ortega, owner of Inditex, and a couple more exceptions – but rather linked to landlord elites from the 19\textsuperscript{th} century and/or manufacturers and bankers in the 20\textsuperscript{th} century; all of them well treated by Francoism and grounded under democracy. Large Spanish fortunes were forged in collusion with the state administration and tools like the European Cohesion Funds or the Common Agricultural Policy (CAP). Subsidies of millions through CAP reward those who own bigger lands and lead to important distortions within the international market. ‘The reasons for this unbalance are not incidental. Unequal distribution of subsidies empowers a handful of companies and producers to determine the European policies in to define their positions in trade negotiations’ (Fanjul et al. 2005, 1-2). ‘Spain is one of the 14 EU members that have not released any information on the beneficiaries of CAP subsidies – despite a recommendation by the European Commission – until its publication became mandatory in 2009’ (Europa Press 8.11.06).

The looting of common goods, public services and state properties enabled wealth accumulation in favour of those elites that emerged when agrarian and commercial bourgeoisie (still, in part, noble) joined the high clergy and the noble families of

\textsuperscript{200} Sometimes investing or betting in default or insolvency risks through derivatives markets. \textit{Liberalising} money, goods and services markets does not mean \textit{deregulating} them, since ‘free markets have never existed, do not exist and will never exist’ (Harcourt 2011b) – recent bailouts are a good example.

\textsuperscript{201} \textit{All Spaniards have the right to enjoy decent and adequate housing. The public authorities shall promote the necessary conditions and shall establish appropriate standards in order to make that right effective, and with regulating land use in the general interest in order to prevent speculation} (SC Art. 47).

\textsuperscript{202} Some other examples in addition to Manuel Fraga are José María Cuevas, José Antonio Samaranch, Pío Cabanillas, Marcelino Oreja, Rodolfo Martín Villa – among so many others.
landowners in the early 20th century. Around WWI, manufacturers and bankers held large agricultural properties. During Primo de Rivera’s dictatorship, economic interventionism helped large companies (railways, shipping, mining) through the replacement of investments in some sectors that would later be privatised. Pressure groups were actively involved in the economic advisory bodies. The same elites that would take control from those emerging industries (mining, steel, shipbuilding, construction, electricity, explosives, sugars, railways...) supported the military uprising of 1936 and Franco’s dictatorship. The new regime maintained state interventionism on behalf of wealth accumulation. The state promoted monopolies and fiscal privileges for the oligarchy – the Francos included. Three main processes determined the composition of the economic elites under Francoism: banking aristocracy’s entry in the monopolistic industries; new state-owned enterprises; and some construction companies – favoured by state investments in public works during the sixties-seventies – whose owners currently occupy the top positions in all rankings of large fortunes.

The power of aristocracy is based in a dense network connecting local elites and financial institutions. The first seven banks (6% of 112 existing entities) held 70% of total savings in 1975, and this economic ghetto was also present in every industrial sector. At the end of Francoism, 68 industrial limited companies amounted more than 700 million pesetas – 46.2% of total capital -, and five Spanish banks had ‘their own’ directors in 51 of those 68 companies. Services and contracts provided to public companies became the usual means to enrich friends and families through the entry of public officers as senior managers into private companies. Even today, contract structures such as those with Renfe and Adif maintain the same nepotistic channels which make services more expensive and enrich companies like ACS or FCC – among others. Almost all state companies reached a central position in the Spanish economy after being privatized. In 1990, the list included Telefónica, Renfe, Endesa, Ensisdesa, Empetrol/Repsol and Iberia; monopolies like Campsa and Tabacalera; private electric companies like Iberduero, Hidrola, Unión Eléctrica-Fenosa, Fecsa, Sevillana de Electricidad; banks like Bilbao-Vizcaya, Central, Banesto, Hispano, Santander and Popular. In 1990, the picture of 1974 was only modified by the birth of big corporations like El Corte Inglés, Corporación Industrial y Financiera Banesto or Grupo Torras. In 2000, once most of the privatization processes had concluded, the first Spanish companies in the world list were: Santander (46º), BBVA (66º), Telefónica (80º) and Repsol-YPF (109º), along with Endesa, Cepsa, ACS, Ferrovial and Altadis. The four main corporations, representing 70% of Ibex-35, were the most favoured by the fiscal reform of 2006.

In 1977, the financial oligarchy had already penetrated the boards of directors of major corporations (Fernández Clemente 2008, 68). The twenty most influential Spaniards...
could be found on the boards of directors of private banking, oil, sugar, cement, electrical companies, public monopolies and the National Industry Institute (INI). The construction sector was crucial in this transition: some of its main figures took positions under Francoism and then came to dominate the world scene of the sector. The post-Francoist boom of public works (late eighties), the housing bubble (nineties) and the occupation of new foreign markets favoured a formidable growth of these same business groups.

Between 1980 and 1994, public expenditure increased sixfold. Half of Spanish GDP depended on state investments, and many fortunes kept on flourishing through public ‘contracts’. Due to the deployment of ‘new forms of management’ (privatization, outsourcing, co-financing, etc.), people’s access to any fundamental rights has been commodified. The current acceleration of this dynamic in Spain – like the rest of PIGS or throughout the EU – unveils a technocratic rationale of massive harm production.

In the meantime, all political parties looked for financial sources – and individual profits. PSOE and PP fought for the control of savings banks and large banks’ boards of directors. Industrial restructurings were used to put the state-owned companies in the hands of party colleagues and close people. This includes arms sales, perks from oil and gas purchases, trade between states, commissions from international conventions, agreements with media businessmen within the new market of private televisions (Díaz & Tijeras 1991, cf. García Abadillo 1995). At the end of the 20th century, most of the 300 largest Spanish fortunes date from Francoism. Among them, ‘the economic weight of a flourishing real estate oligarchy was reinforced by industrial and agrarian dismantling after the accession of Spain to the EU’ (Naredo 2010, 10). In the decade of 2010, the Spanish ranking of big fortunes includes fifty family offices around which most of the wealth has been concentrated.

At the same time, the openness of the Spanish economy to an international realm also enriched the ‘social elite of capitalism’ (Garzón 2010). A countless number of ex-public officers exploited its relational capital through business consultants, boards of directors or lobbying agencies. The most relevant examples among the ministers of the government elected in 2011 are: Luis de Guindos (Minister of de Economy, ex-chief of Lehman Brothers Operative Committee, head of Price Waterhouse Coopers Financial Area, director of the Business Institute, member of the management boards of Endesa, Unedisa and Banco Mare Nostrum), José Ignacio Wert (Minister of Education and Culture, ex-chief of

Española), José Banús (construction); Ramón Areces (El Corte Inglés), and Carlos Godó – owner of La Vanguardia’ (Fernández Clemente 2008, 68).

Those who were already rich before Francoism: Abelló, Aguirre, Banús, Benjumea, Botín, Castelo, Cortina, Delclaux, Entrecanales, Fierro, Folch, Granca, Larios, March, Márquez de Prado, Masaveu, Matutes, Osborne, Pablo Romero and Pastor; the ‘new rich’, wealths created during the dictatorship (Amusátegui, Areces, Aristrain, Beteré, Carulla, Coronel, Eguizábal, Fernández Tapia, Ferrero, Juncadella, Ladró, Pascual, Raventós, Revilla, Sánchez Ruipérez, Suñer and Villar Mir among others). Members of the ‘long-shot culture’ (cultura del pelotazo) like Vilá Reyes, J.C. Muntadas Prim, J. de la Rosa, M. Prado y Colón de Carvajal, Mario Conde, and Jesús Gil. Some bank directors also amassed their fortunes during the four francoist decades (Botín, Entrecanales, Gómez Acebo, March, Masaveu, Matutes, Oriol, Rafael del Pino, Epifanio Ridruejo, Urquijo, Valls Taberner, Ybarra), as well as high administration officers (Benjumea, L. Calvo Sotelo, Díaz Hambrona, Sáinz de Vicuña), military officers (varios Borbones, Álvarez de Toledo, Martín Alonso, Martínez Campos, Varela) and diplomats – Areilza, Cortina, los Gómez-Acebo, Lequerica, Lojendio, Pan de Soraluce, Sanz Briz’ (Ynfante 1998).

A family office is an investment platform through which the wealth of a family is managed. These holdings usually constitute corporate consortia to generate succulent fiscal savings.

208 ACS, FCC, Sacyr Vallehermoso, Ferrovial, Acciona...

209 Portugal, Italy, Greece, Spain.

210 Those who were already rich before Francoism: Abelló, Aguirre, Banús, Benjumea, Botín, Castelo, Cortina, Delclaux, Entrecanales, Fierro, Folch, Granca, Larios, March, Márquez de Prado, Masaveu, Matutes, Osborne, Pablo Romero and Pastor; the ‘new rich’, wealths created during the dictatorship (Amusátegui, Areces, Aristrain, Beteré, Carulla, Coronel, Eguizábal, Fernández Tapia, Ferrero, Juncadella, Ladró, Pascual, Raventós, Revilla, Sánchez Ruipérez, Suñer and Villar Mir among others). Members of the ‘long-shot culture’ (cultura del pelotazo) like Vilá Reyes, J.C. Muntadas Prim, J. de la Rosa, M. Prado y Colón de Carvajal, Mario Conde, and Jesús Gil. Some bank directors also amassed their fortunes during the four francoist decades (Botín, Entrecanales, Gómez Acebo, March, Masaveu, Matutes, Oriol, Rafael del Pino, Epifanio Ridruejo, Urquijo, Valls Taberner, Ybarra), as well as high administration officers (Benjumea, L. Calvo Sotelo, Díaz Hambrona, Sáinz de Vicuña), military officers (varios Borbones, Álvarez de Toledo, Martín Alonso, Martínez Campos, Varela) and diplomats – Areilza, Cortina, los Gómez-Acebo, Lequerica, Lojendio, Pan de Soraluce, Sanz Briz’ (Ynfante 1998).

211 A family office is an investment platform through which the wealth of a family is managed. These holdings usually constitute corporate consortia to generate succulent fiscal savings.
Around 2008, a minority of 1,400 people (0.035% of the population) located in 33 companies controlled ‘the essential organizations of the economy and a capitalisation of €790 billion, equivalent to 80.55% of GDP – nearly a third of Spanish productive capital’ (Santos Castriovioje 2008, 4). Although the transition barely affected the economic and political power of old oligarchic structures, their spheres of influence have changed. In a story that has nothing to do with meritocracy, huge expenditure on public works and infrastructures – coupled with the housing boom and a myriad of corrupt deals – reshaped some positions in the ‘free’ market. In 2006, 13 of the 20 biggest Spanish wealths were based on real estate promotions. Along with these fortunes, a new rich generation was being created; the 50 wealthiest persons accumulated a personal property of €95,000 million – 10% of GDP. The shareholdings of the 20 largest fortunes multiplied: from €16 billion in 2003 to €54 billion in 2007. This personal wealth combined in a tangle of foundations, tax havens, trusts, family offices and Sicavs.

Many builders and real estate developers can be found among the top fifteen Spanish billionaires in the Forbes list. Rather than liberalism, ‘we should speak of neofeudalism or neodespotism; an oligarchic re-foundation of power in the hands of some businesses condottieri who used the state instruments for their own profit, thus widening social polarization.: Some companies created financial money and get grants, projects, privatizations, and reclassifications. Some others tended to be purchased or absorbed by the first. […] These condottieri can freely operate on the ground through regulations, political agreements, before the ignorance and silence of the public’ (Naredo 2010, 10).

The interests defended by the elite are easily derived from the governmental arguments used to legitimise their economic policy. The discourses of employers (CEO), trade unions UGT, CCOO), central banks, lobbyists, private ratings agencies, international organizations (World BANK, IMF), and the government are tied to the same ideological premises. Indeed, all of them come together around an essential notion: sustained increase.

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212 ‘Big bankers (Botín, March, Fierro, Urquijo, Vilarasau, Conde, de la Rosa, Ruiz Mateos, Matutes…), food companies (Telepizza, Campofrío, Navidul, Fontaneda, Pescanova, Helios, Fuertes, Pascual, Mercadona, Pamesa, Caprabo, Cola Cao, Chupa-Chups, Gallina Blanca, Panrico-Donut, Coca-Cola, Revilla), moda (Zara, Adolfo Domínguez, Cortefiel, Tapiocca), wine producers (Eguízabal, García Carrión, Falcó, Osborne, Domecq, Torres, Freixenet, Codorníu), cements (Asland), construction (Koplowitz, Entrecanales, Ferrovial de Rafael del Pino, ACS de Florentino Pérez, Espacio de Villar Mir), other businesses owned by presidents of football clubs (Jesús Gil, Lorenzo Sanz, J. L. Núñez, Ruiz de Lopera), steel (Aristrán, Ybarra), services (Aguas de Barcelona, Aghar, Catalana de Gas o los ‘Reyes del Juego’), media (Prisa, Planeta, Aranzadi, Anaya), rich widows (countess of Fenosa, countesses of Dávila, March, Herrero, Carmen Cervera), the jewish lobby (Marc Rich, Max Mazim, los Salama, Jacques Hachuel) – see Fernández Clemente (2008, 78).


214 Amancio Ortega (Inditex, big shares in Banco Pastor, NH Hoteles and Afnima: $25 billion) as the wealthiest Spaniard and 9th in the world list. Rafael del Pino (Ferrovial: $ 8.6 b.). Enrique Bahuelos (Astroc and owner of the biggest real estate company in Brazil: $8.6 b.). Between $1 and $4 billions: Luis Portillo (ex-president of Colonial), Luis del Rivero (Sacyr Vallehermoso), José Manuel Loureda (ex-president of Sacyr Vallehermoso), Juan March’s children, Rosalía Mera (Ortega’s ex-wife, board member in Inditex and Zeltia), Alicia and Esther Koplowitz (FCC), the ‘Albertos’ Alcocer and Cortina, the Botins (BSCH), Isak Andic (Mango), the Polancos (Prisa), Manuel Jove (Fadesa), and Gabriel Escarrer (Sol Meliá). Leaders of the mercenary companies contracted by the Italian city-states and the Papacy.
in production – read *profits*. In short: so-called free markets dominate *business friendly* states (Whyte 2014). No structural and systemic factors are considered: the states spend billions of dollars and euros to re-nourish a fiscal crisis, which will end up requiring more adjustment measures, dismantling of public services, privatisation of resources, labour reforms, and more political power to the markets. In this respect, the *Manifiesto de los 100* is extremely relevant: according to the manifesto signed by a group of 100 economists in 2009, jeopardising labour conditions was (is) the necessary condition for a ‘labour reactivation in Spain’. They also spoke out on the alleged need to reduce pension subsidies. In the same vein, the director of Economic Juncture of FUNCAS (Savings Banks Foundation), Ángel Laborda, spoke out in favour of ‘turning the Workers’ Statute upside down’ through a single open-ended contract with cheaper severance payments, as well as the suppression of any previous administrative approval for collective redundancies (Europa Press, 3.04.10) or Downsizing Plans.

Selective cutbacks and so-called ‘efficient’ privatisations help private investors build a new business on its ruins. On the one hand, decapitalised and degraded public services are finally outsourced without any control on private institutions, thus worsening the quality of services and lowering labour conditions. On the other hand, the state monopolies have been directly privatized – no matter if they were loss-making or highly profitable. In some cases, the state gets rid of its not profitable assets. In most cases, profitability acts as a transnational shuttle for the corporations. In all cases, costs and risks are assumed by public administrations. Social costs are socialized while profits concentrate in the hands of the beneficiary elites. This is called ‘private-public partnership’, and its effects are brutal.

It is obvious that many public services must provide social or ‘indirect’ economic outcomes rather than direct profits. The privatization and commodification of public services related to basic needs turns citizens with ‘equal’ rights into customers with unequal purchase powers. The aforementioned factors help us understand a virtuous process whereby any solution must come from those who generated the crisis and collected the profits; but nobody seem to mind that the main beneficiaries of job destruction are so often seen as ‘job creators’. The visible hands of the market do not hide their interest in aggravating inequality, reducing social budgets, preventing tax progressivity, and increasing indirect taxes. The alleged fight against public deficits, which punishes social groups with lower purchasing power, imports the rationale of ‘reverse Keynesianism’ (Ruggiero 2013), military Keynesianism (Chomsky 2003), Keynesianism of convenience or ‘hidden welfare state’ (Petras & Vieux 1995).

This vicious circle shapes an asymmetric framework where banks take covert subsidies to borrow money at 1% interest from the European Central Bank – and then lend it at a minimum rate of 5%. Banks and investment managers – the rule-makers in the international financial system – influence every political decision in several ways. One of these ways involves ratings institutions controlled by large multinational companies which, in turn, ‘cross’ their capital with banks. ‘Gates, Buffet, Rockefeller and Ladreit are somehow involved in the shareholder structure of the Big Three’ – namely Standard&Poor’s, Moody’s and Fitch (ABC 23.01.12). ‘The worst is not their ratings, but their blackmailing: they can mobilise a whole government and frighten investors away. Their threats are often unfounded, but nobody cares. Elena Salgado herself, economic vice-president, admitted that most of their predictions are wrong but, *as long as they are there as a reference, we need them to give us a high qualification* […] The government pays €365,000 to €530,000 euro a year to those three main agencies in exchange for a rating on Spanish public debt’ (El Mundo 21.12.10). ‘These three agencies take €3 billion a year for
punishing the quality of credits given to countries like Greece, Portugal or Spain’ (Zabala 2011, 22).

Under the recommendations imposed by the IMF, the ECB or the European Commission (a.k.a. Troika), those reforms deepened dispossession through lower public salaries, pensions, average labour costs, commodified rights and ‘dispossession through consumption’ (Harvey 2012/ 2013). Most of those trends were deemed to encourage job creation and to promote the alleged need for saving. In addition, some progressive proposals to increase income taxes on the highest brackets – from 43% to 44-45%218, introduced in 2010 (budget law of 2011) – hardly affected the greater fortunes because they held just 2.6% of its money in the affected bank accounts. They rather use managers, specialized banks, ‘boiler rooms’ and tax havens, all easily unnoticed. Most big fortunes tend to diversify their investments and reduce their presence in the stock markets. In 2007, almost 40% was invested in foreign shares through investment companies. The best way to monitor large fortunes is not a tax declaration. These large sums cannot be measured in the income of their owners, since they usually resort to legal entities in order to enjoy lower rates. As repeated by the treasury inspectors, the key problem is rooted in capital diversion to tax havens, dirty money boxes, and financial speculative revenues invested in Sicavs.

Sicavs benefit from specific societal legislation, involving tax advantages in exchange to certain requirements. They are charged with a corporate income tax of 1% while the capital remains within the Sicav, and with 18% of the net profit when the capital is rescued, equivalent to a conventional equity investment – note that current minimum tax rate for a salary is 19%. They are more attractive to large fortunes than regular investment funds for four reasons: their capital is managed without any mediation and benefits from tax cuts; they are subject to moderate legal pressures; they operate under minor monitoring by finance inspectors; and tax fraud mechanisms are easily available for them. Great fortunes resort to capital reductions rather than selling shares or dividend payouts, so that inheritance does not generate any tax payments. Although their constitution requires a minimum of 100 shareholders, most of the nearly 3,400 Sicavs existing in Spain are individual societies whose so-called ‘mariachis’ cover the fake quota to reach 100%222. A

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216 RD-law 8/2010, adopting extraordinary measures to reduce the public deficit.
217 ‘El País (8.05.10) published another survey with a question that tries to determine the answers: Do you agree with delaying the age of retirement to save the pensions system from collapse? This fallacy assumes that delaying the limit is necessary to make the system sustainable. This is the argument provided by those who advocate the delay. They could have taken their opponents approach and asked: Do you agree with delaying the age of retirement although it is not necessary to save the pensions system from collapse? By the way, not even with that they could make Yes win’ (Serrano 2010-06).
218 Increased tax revenue: ridiculous €200 million (Zabala 2011, 23).
220 100 or more shareholders; €2.4 million as minimum capital; limits on investments; variable capital between regulated minimum and a maximum levels; tutelage and control by the CNMV and the Directorate General of the Treasury and Financial Policy.
222 Amancio Ortega’s Sicav is an example. Other Sicavs with mariachis: Alicia Koplowitz, (Sicav Morinves, €452,616 million); Amancio Ortega again (Gramela), Rosalia de Mera (Soandres), Manuel Jove, José Luis Núñez (FC Barcelona ex-president), Polanco family (PRISA), the Asensios (Grupo Zeta/ Platino Financiera), the Fernández-Somozas o the Del Pinos (Ferrovial) also kept a big part of their wealth in deposits. Soixa, a society with €175 million of Hernández Callejas family, main shareholders in Ebro Puleva. Pedro Almodóvar also had his own Sicav: Oyster Investments, whose main shareholder was El Deseo productions (over 97% capital), and presided by his brother Agustín. Oyster ahad around 200,000 euros, almost 5% of their wealth,
truly collective society would make it harder to conciliate interests. It is public, for
instance, that Amancio Ortega – the richest man in the world – took €200 million in 2009
out of his sicavs Keble and Alazán. The Polanco family withdrew up to 80% of the capital
in Nomit IV Global, Nomit III International and Nomit Investments. The Del Pino family
(Ferrovial), reduced 75.3% of the capital in Keeper Investments – more than €100 million.
The Sanahuja Family, owner of 30% of Metrovacesa, made several refunds in Cartera
Cresa. All these operations involved capital reductions, as those in any commercial
company returning contributions to its members. Regarding taxes, outbound money is
never taxed unless it exceeds the invested amount, since this is considered capital and not
profit. This criterion is known as ‘FIFO’ (first in first out): both initial investments and first
withdrawals are just ‘capital’, not profit – which implies an absolute fraud imbedded in the
regulatory logic of the Sicav.

Those who own a Sicav – big fortunes’ favourite investment vehicle – are being fed up with
the ‘persecution’ they are suffering in our country, to the point that some have started the
procedures to take their societies to Luxembourg in search of a warmer climate for
investments, according to sources belonging to some specialized law firms. They add that
this is not only about the fear of a potential tax tightening, but also about the bad image they
are being suffering for the mere fact of holding a Sicav [Segovia 2009].

In December 2009, the Basque Parliament approved an increase in taxes to 28% for the
Sicavs, thus matching taxation of companies. This led to a massive capital migration to
Madrid, where the 1% vs. 18% rate was not questioned. A recurrent excuse against any
criticism is precisely the risk of capital flights, although this factor is not considered by
precept of the tax system and violates the principle of Justice – EC art. 31 (Peláez 2009).
Indeed, article 31 establishes that all citizens must contribute towards the payment of
public expenditure pursuant to their economic capacity through a fair tax system inspired
by the principles of equality and progressivity, allocation of public resources will be
equitable, and programming and execution will respond to criteria of efficiency and
accountability. But fiscal policies cast a thick shadow of unconstitutionality. Neither
comprehensive plans against fraud, nor suspension of Sicavs, no systematic inspections on
fiscal crimes, nor reforms on main sources of fraud. Slow state interventions actively help
big tax evaders. That said, according to CNMV 3,365 Sicavs have fallen into disuse in
favor of investments in British and American companies, international investment funds
(Fidelity, Chase Manhattan, UBS), venture capital funds or property acquisitions to sweep
away all traces. A. Koplowitz, for example, has long managed various firms based in
Ireland known as hedge funds – free, stable and versatile investment funds. Free
investment companies are a popular and exclusive version of those funds – linked to
personal wealths, just as venture capital firms.

Thus, tax havens also prevent the state from raising large sums of money in taxes.
‘Spanish companies hold €6 billion in tax havens’ (El Pais 8.01.08). ‘According to
Intermon Oxfam, Spanish investments on tax havens rose 205% between 2013 and 2014.
[...] If Spain could reduce tax fraud to half, €25.5 extra billion could be collected, and
€18.3 billion would come from big fortunes and companies’ (RTVE 5.03.15). ‘Ibex-35
companies keep 810 subsidiaries in tax havens’ (El Mundo 5.03.15)223. The case is either
applicable to companies or individuals. ‘On 2 March 2004, the Financial Times quoted the
Fiscal Studies Institute: tax evasion amounts to 10% of GDP in Spain. Another survey by

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in Lux Invest, one of the funds under Madoff’s effect, when the Sicav was managed by Santander Asset
Management from Grupo Santander (ASSI 2010).

223 See http://www.oxfamintermon.org/es/que-hacemos/proyectos/desigualdad/ilusion-fiscal
the same Institute estimates shadow economies in 21% of GDP’ (Hernández Vigueras 2005, 318). ‘A litany of entities spent years claiming for minimum controls with palliative proposals never attended by OECD governments. It is well known that this practice benefits large corporations above all entities. Telefónica, Repsol and BBVA are the three main Ibex-35 companies in tax havens, but many others also use them: BSCH, Banco Popular, Banco de Sabadell, La Caixa... 33 on 35 contributors of Ibex resort to tax havens, and 9 on every 10 billionaires have moved their residences and fortunes abroad. ‘Senior managers and boards of directors from Ibex-35 (about 540 people) earn about $625 million, the equivalent to 40,000 average salaries’ (Zabala 2011, 23).

This review of the Spanish ‘economic government’ reminds us that the ongoing crisis – a.k.a. the new normal – cannot be analysed without a historical framework of state-corporate crime (Rivera coord. 2014, 10). That is precisely the main goal under the present heading: to enter some keys on the criminogenic relationship between economy and politics – market-state, capital-power – which is essential to interpret the neoliberal process.

III.2.e. Game over. Body and Soul of the Fiscal Crisis

The state intervenes, firstly, on behalf of employers and entities enjoying outsourced services in exchange for a fee – coincidentally, major builders’ service divisions and the catholic church. Secondly, through its support to privatized services with all kinds of subsidies and tax exemptions, as educational concerts and private pension funds. Again, the principle of state non-interference is only accomplished in the name of freedom for those who can afford it. But the fact is that the state intervenes through liberalising and subcontracting services, and this only benefits a few social groups [Carmona et al. 2012, 143].

To restore the confidence and the proper functioning of the banking system’s market liquidity, this Royal Decree-Law authorizes the guarantee [...] up to a maximum of €100 billion. 225

Rosa Luxembourg defined the crisis as an event that is socially perceived as an alien, uncontrolled, ‘strong hit whacked by an invisible and greater power, a test sent from the sky, close to a great electric storm, an earthquake, a flood’ (1951, 239). A fundamental difference between the governmentality under social rule of law and its neoliberal successor lies in the way they constitutionally assume the responsibility of ‘doing something’: a welfrist system does it, while a neoliberal regime accepts ‘the rationale of capital an unquestionable premise’ (Žižek 1998, 9), thus becoming an active manager of ‘objective facts’ (ibid.). Speculative-improductive businesses, careless multiplication of private debt, the interruption of credit flows and wealth production ‘in any social

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225 RD-law 7/2008, on urgent economic-financial measures in relation to the concerted action plan for Euro Zone countries.
relationship’ (Rodríguez 2003, 18)\textsuperscript{226} are not alien to the realm of political responsibility, but rather the object of political will.

A progressive twist of the bureaucratic field underpins the induction and the management of every crisis. Following Bourdieu, the notion of bureaucratic field is linked to a definition of the state as the ‘completion of a process concentrating different types of capital (physical force/ coercion instruments, economic capital, social capital, cultural-informational capital, and symbolic capital) which constitutes the state as possessing a sort of meta-capital’ to affirm its holders’ hegemonic position (1994, 4). Indeed, to speak of a government from the market is to question the ongoing processes of re-concentration and hyper-concentration of economic, symbolic and repressive capital. The (anti)constitutional bases of this process consists of four key features: liquidation of the public sector of the economy, betrayed tax reform, labour flexibility and inadequate welfare (Mercado 2003, 303-14) – the same four elements included throughout these pages: state decapitalisation, dispossession, exploitation and expulsion. Its conditions of possibility have been analyzed above. Debtocracy concentrates on budgetary stability, confidence by investors, governmental discipline, and the demonisation of demand policies.

Never before in the history of mankind has accumulated wealth reached such a level of inequality\textsuperscript{227}. In the Kingdom of Spain, inequality is now equivalent to that of 1947 ( Alvaredo & Sáez 2009). For a few decades, consumption had been the material key of social consensus, but austerity is announcing ‘a post-modern neo-serfdom that threatens to return Europe to its pre-modern state’ (Hudson 2011, 7).

The bursting of the real estate bubble pushed savings banks to a critical situation. These entities had long been the main financial source for large building projects and other grotesque infrastructures (Delgado & Naredo 2009). The chain of defaults in real estate companies pushed savings banks toward high risk concentration. A massive restructuring process affected the financial scene through fusions, transfers of public money, and privatizations. The high rates of indebtedness (first private and then public) of the Spanish economy are the obvious result of this previous spiral of construction-financialisation. The real estate bubble and its collateral effects absorbed 70 percent of private credit, thus spreading the virus of speculation all over the social body. Once domestic savings were exhausted, the bubble remained funded by foreign loans during the last four years of the boom (2003-2007), until securitisations and long-term debts collapsed in 2008. The real estate boom made Spain the country with more houses per capita in the EU, but no social needs were met in this area. Owned dwellings became more and more expensive, while social housing became more and more scarce, until the stock was inaccessible for a majority of people. Hence, Spain is now the European leader in second homes, vacant homes, abandoned villages and destroyed – demolished or ruined – buildings (Naredo 2010, 15-6). Uncontrolled growth, along with short-term speculation and against any social or ecological sense of sustainability, was interrupted by the same factor that once held its impulse: unsustainable financialisation.

Blaming the crisis on this circumstance would mean turning the effect into a cause: financialisation was the trigger, but precisely because it backed a [hitherto incontestably

\textsuperscript{226} ‘Or better said: wealth is the total amount of social activity. Capitalism is, in this sense, not a system to organise work but rather a system to appropriate work. […] more than objects, today we sell relations, symbols, knowedges, affections or communication’ (Rodríguez 2003, 18).

successful growth and globalisation model based on so outrageous\textsuperscript{228} credit increases that they would become unsustainable in the long term [Lorente & Capella 2009, 11].

Whilst in 1929 bankers jumped through their windows, now they throw their clients and employees [Palidda 2010, 20].

The Spanish bubble confirmed all those theses announcing a collapse\textsuperscript{229}: from moderate liberalism – which, with such proposals as the Tobin tax, advocated strategic functional formulas perpetuate the economic system – to radical criticism of neoliberal globalisation and accumulation by dispossession\textsuperscript{230}. Rapid and uncontrolled urban growth ignores its complex needs of coexistence, thus violating the rules of urban planning, submitting economic policies to the absolute priority of a space-time fixing of infrastructures – over any long-term investments –, and generating an unmanageable volume of fictitious capital. These are the most significant symptoms of an antisocial and anomic model, which implies two main aspects: creative destruction\textsuperscript{231} – much more destructive than creative –, and its debtocratic management.

If the expenditures on built environments or social improvements prove productive (i.e. facilitative of more efficient forms of capital accumulation later on) then the fictitious values are redeemed (either directly by retirement of debt or indirectly in the form of, say, higher tax returns to pay off state debt). If not, overaccumulations of values in built environments or education can become evident with attendant devaluations of these assets (housing, offices, industrial parks, airports, etc.) or difficulties in paying off state debts on physical and social infrastructures (a fiscal crisis of the state). [Harvey 2004, 65].

Fifteen years after Harvey’s alert, there is no doubt about the consequences of this over-accumulation process in Spain. The political realisation of its conditions of possibility is being questioned below, since its social impacts must be analyzed in terms of exploitation and exclusion.

The suppression of labour force – and its everlasting devaluation – is another alleged ‘solution’ to the over-accumulation crisis, as well as the emphasis on describing the crisis as a biblical, unavoidable disgrace. In this regard, the great depression in the European free trade area is a perfect example. Let us take the Latvian case, since its similarities with the Spanish case\textsuperscript{232} us to establish a relevant parallel between both miracles, their subsequent recessions, and the reproduction of global relationships of dependency in each case.

The post-Cold War period since 1991 reflects similar patterns of underdevelopment in the relationship between rich Western Europe and its poorer East and Southern European counterparts. In contrast what was done after World War II, structures were not put in place

\textsuperscript{228} On the causes and consequences of this unleashed increase of credit in Spain, see López & Rodriguez (2010), Rodríguez & López (2011).


\textsuperscript{230} ‘The inability to accumulate through expanded reproduction on a sustained basis has been paralleled by a rise in attempts to accumulate by dispossession. This, I then conclude, is the hallmark of what some like to call \textit{the new imperialism} is about’ (Harvey 2004, 64).

\textsuperscript{231} ‘Destruction of difference was now the condition of order: this was the new, modern variety of destruction – a creative destruction, destruction indistinguishable from the positive effort of order building’ (Bauman 1997, 155). In its economic meaning, coined by Sombart and taken by Schumpeter, the term refers to the innovative process that, in a market economy, destroys the old businesses to put new products into circulation. For the latter, the momentum of a long-term sustained economic growth depended on the capacity to innovate among the \textit{entrepreneurs} and creative destruction represented the defining act of capitalism (Schumpeter 1942).

\textsuperscript{232} As in Ireland, Italy, Portugal or – mainly – Greece.
to make the latter economies self-sustaining. Just the opposite outcome was structured in: foreign currency debt, especially for domestic mortgage loans, without putting in place the means to pay it off (Hudson 2011, 4). As in colonial regions, the West became a destiny for capital flight as property was sold on credit and the proceeds moved out of the post-Soviet and southern European kleptocracies and oligarchies (ibid. 5). A pyramidal accumulation scheme was held up by the backs of debtors’. Like the Latvian case, the Spanish process is one more case case of intra- or self-colonisation. The following is a chronology of the extortion carried out by the financial powers against populations, taking into account that debtocracy is driven by political decisions rather than ‘technical’ strategies.

2007 is the summit of the Spanish economic miracle, when unemployment rates reached a minimum level in 30 years (less than 8%) and GDP grew by 3.5%. The next year, the Treasury personnel expressed its traditional concern for the decline in tax revenues – partial reduction in tax collection due to a reduction to 43% in the maximum limit of personal income tax: ‘around €700 million’ (Zabala 2011, 23). While personal income tax revenues hardly varied and VAT revenues decreased by 7.7%, profit taxes shrank by 18%. Meanwhile, corporate profits increased 15% in 2007. In turn, public deficit multiplied (-2% to +2% GDP) in 2008, and thanks to the fall in tax revenues, public spending remained far below the European average. Tax fraud increased ‘among taxpayers who felt less controlled’ (IHE 2008b) in two main areas: indirect and regressive taxes on consumption, and especially taxes on business profits. According to the Spanish Tax Agency, in Spain ‘effective taxation halved in the three last years to 10%’ (Estrada 2010), while the nominal tax rate for companies is 30% and 25% for SMEs. It is easy to conclude that the solution to the fiscal collapse – thus the improvement of social policies – should rely on those illegal two thirds of tax ‘savings’. According to the Technicians Syndicate at the Budget Ministry (November 2011), Spain is the third most fraudster country of the EU-15, since its shadow economy amounts 23.3% of GDP – ten points over the European average. It is estimated that the complete eradication of shadow economy would lead to a GDP growth over €200 billion (Gestha 2011). The Finance Ministry ‘dedicated 80% of its staff to monitor and prosecute small frauds by self-employed workers, small enterpreneurs and workers’ (ibid.).

The turning point of the crisis came in July 2008, when Martinsa-Fadesa presented the most important suspension of payments in Spanish economic history through a voluntary arrangement with creditors. The enormous and overrated stock of land and housing in the hands of financial institutions turned into a serious problem for those entities. The Ibex-35 had suffered the hardest collapse ever in January 2008. Many Spanish financial and real estate monsters failed, but the consequences of this private failure on the private economic engine came to be assumed by the state under the pretext of ‘responsibility’. ‘In June 2009, Spain had spent more public money (around 2% GDP) to bailout its real estate sector than any other country: four times USA, two times Ireland, and six times UK’ (Rodríguez & López 2011, 58). The first landmark of the financial system

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233 Then -8.6% in 2009 and -9.2% in 2010, for an increasing level of public debt – from 36% GDP in 2007 to 61% in 2010, 90% in 2013, and 100% in 2016 – sources: BM, Eurostat.
234 Including a layoff on 26.5% employees and €7 billion debt (over 50% its assets) mostly with commercial and savings banks.
235 Defined as such in the explanatory statement of RD-law 2/2012 to clean-up the financial sector.
reform was the creation of a Fund for the Acquisition of Financial Assets (FAAF\textsuperscript{236}) and a Fund for Orderly Bank Restructuring (FROB\textsuperscript{237}). Then the actual looting started.

Shortly after, the Royal Decree-Law 9/2009 implemented a temporary mechanism to reset the capacity of the financial sector and to support the liquidity of the credit entities, and to ‘strengthen intervention, discipline and solution procedures’. €6.75 billion were given to the FROB and €100.5 billion were secured by the state budget, in order to ‘manage the restructuring processes for credit entities and to reinforce their own-resources systems’. The state administration plays the ‘priority’ role of transferring common wealth and social resources to private financial corporations.\textsuperscript{238}

Spain may have the strongest financial system in the whole international community. We have the best figures in efficiency and profitability and, of course, very high levels of solvency and provision, higher than any other financial system across the countries we can compare to. Our goal is to beat France’s per capita income [laughs]... in three, four years [J.L. Rodríguez Zapatero, Spanish president, to the directors of American transnational companies and investment banks employing around 33,000 Spanish workers, at an event organized in New York by the Spain-US Chamber of Commerce, Europa Press 24.09.08].

In December 2008, the unemployment rate doubled (15%), and GDP growth fell to a mere 0.86%. One year later, unemployment kept on growing (19%) and production – read national income – collapsed: GDP fell by 3.72% in 2009. The risk premium\textsuperscript{239} escalated: 44 points in August 2009 to 470 in the election month of November 2011. The state de-capitalised itself under speculative attacks. The financial bailout and the persistent renounce to progressive taxes confirmed the thesis of an induced fiscal crisis. Debt and deficit were (are) the two axes of current governance, which confirms the submission of political decisions to the ‘will’ of the markets. The government uses the market to ban politics. Under this sort of self-colonial regime, politics itself neutralises politics.

Already in 2009, the government and the ‘social agents’ signed an agreement on collective bargaining\textsuperscript{240}, thus paving the way to the incoming adjustments. Once again, as in Latvia...

‘Latvia’s taciturn and honest prime minister, Valdis Dombrovskis, won reelection in October even after imposing the harshest tax and austerity policies ever adopted during peacetime’ (Hudson 2011, 1). Its objective is to sell privatisation as necessary and efficient, ‘regardless of how well or bad their economy serves its people’s needs’ (ibid. 2). The old IMF doctrine applied across the Third World would reproduce the same bonds of dependency and internal devaluation in Europe under two false premises: on the one hand, the improvement of

\begin{footnotesize}
\begin{enumerate}
\item RD-law 6/2008 establishing a Financial Asset Acquisition Fund.
\item RD-law 7/2008 on urgent economic-financial measures in relation to the concerted action plan for Euro Zone countries.
\item See http://www.frob.es/general/creacion.html
\item Namely the extra charge that a state must pay to be financed, calculated as the difference between the return of 10-year Spanish and German bonuses. The higher risk of a country, the better return is required to its debt. This value, it is said, determines the trust of investors in the strength of an economy, but functions as a tool for speculative attacks and debtocratic colonisation.
\item Action agreement signed by CEOE, CEPYME [business organisations], CCOO and UGT [capitalist trade unions] on collective bargaining since 2009 (18.11.09), through which all parts commit to start, in less than a month, a process for an Interconfederal Agreement, in order to help restore dialogue within labour relations and to reduce conflictivity, basic questions to address the crisis and its main effects, supporting competitiveness of companies, legitimate interests of workers, and confidence across the whole society. Four more agreements (2010, 2011, 2012, and 2013) would be signed later.
\end{enumerate}
\end{footnotesize}
competitiveness – obviating that it is impossible to turn the global economy into a ‘planet of exporters’ –; on the other hand, the return of an unpayable debt as the condition for ‘aid’. Both measures fed each other back, hence the looting led to wealth concentration and ‘a Dickensian welfare system’ (ibid.).

During the pre-electoral campaign of 2015, main Spanish political parties played with newspeak to propose the same Dickensian formulas – a populist effort defined by PP as ‘the example of a good economic policy’ and by PSOE as ‘purely social democrat measures’. ‘Pedro Sánchez promised €6 billion a year to create a Minimum Subsistence Income’ (El Mundo 20.07.15). ‘PP accused PSOE of imitating Podemos, and offered €2 billion for a social agenda’ (ibid.).

The key condition had been revealed by the European Commission in June 2013: ‘Latvia will be ready for the euro in 2014’. Olli Rehn, responsible for Economic and Monetary Affairs and vice-president of the Commission, stated: ‘The Latvian experience demonstrates that a country can successfully overcome and come out stronger of its severe macroeconomic imbalances. As a result of the deep recession of 2008-2009, Latvia took a determined political action with the support of the EU and IMF financial assistance programs, which improved its economic flexibility in a broad European framework for a sustainable and balanced growth. Subsequently, we expect that Latvia will record the biggest economic growth in the EU next year’. The dead cat bounce would leave thousands of human lives trampled along the waysides of economic growth.

Both the fall and the bounce of the ‘Spanish cat’ share the logics and methods of Latvia or the PIGS. The alleged solution of a healthier trade balance involves devaluing labour, increasing exploitation, and deepening poverty. These measures constitute a disaster for the population, but are the best solution for oligopolies. The ideology of ‘national interest’ – this poetic euphemism for raison d’état – legitimizes the looting imposed by the raison de marché. In May 2010, once the induced imbalance between public finances, private banking and corporations was at its worst, the Spanish government announced nine ‘saving measures’ at a (social) price of €15 billion – including €4 billion in public wages, €1.5 billion in pensions, €1.5 billion through the abolition of ‘baby check’ subsidies, €6 billion in public investment, €1.5 billion in government departments and city councils – in addition to a previous €10 billion cut. Subsequent additional savings (1.5% GDP) were distributed in €5 billion for 2010 and €10 billion for 2011. These measures also included a vague and non-quantified allusion to an alleged tax increase for higher incomes. Two months later, the RD-law 11/2010 reformed the legal regime of savings banks. Four months later a new labour reform lowered the costs of dismissal, promoted temporary jobs and legalised the operations of temporary employment agencies in the public sector. The government itself estimated the cost of this reform in €6 billion.

Accumulated spending in 2008-10 through public subsidies to the financial sector amounted to 8.4% GDP, while real GDP fell by 5%. Although the minister of Economy Elena Salgado had promised that the Sustainable Economy Law would generate ‘activity, employment, wealth and wellbeing’ (Europa Press 27.11.09), the state lost €1.6 billion through 26 ‘anti-crisis’ measures focused on ‘supporting economic activity and creating more than 350,000 jobs’ (Efe 9.04.10). These measures included the

243 Law 35/2010 on urgent measures for the reform of the labour market.
244 Sustainable Economy Act 2/2011.
aforementioned FAAF and FROB\textsuperscript{245}, guarantees and credits to banks, the famous Plan E (see below), or another subsidy for car purchases (Plan 2000E), for a total cost of €80 billion. ‘In the first period of the crisis, this billionary expenditure ‘was very helpful for financial institutions, not so much to productive activities, and almost useless for job creation’ (Gordillo 2011, 3). Recapitalisations, financial endorsements and guarantees, toxic asset reliefs, financing facilities, and liquidity injections\textsuperscript{246} amounted to €90 billion over three years without any consistent influence on the real economic activity. Out of €2.5 billion approved to finance companies, only €350 million were used in 2010, which proves that the most of the ‘sanitation funds’ was captured by the financial elites. As alerted by M. Kalecki after WWII, public investment – namely its rationale, in a broad sense – is seen as a threat by the capitalists. ‘The social function of the healthy funding doctrine is to make employment dependent on the state of confidence’ (1943, 98), thus naturalising the cannibalisation of public policies.

When the financial mafia governs, a double effect is produced. Firstly, a litany of structural measures is promoted to stabilize the economy, reduce the public deficit – read dismantling state structures – and ‘reassure’ the markets. Secondly, local capitalists choose the strategy that best meets their needs. A good example is the ‘Plan E’ (2008-10), which focused on generating activity under any pretext but clearly showed how dependent the construction sector is on public budgets. Just like the financial sector and the automotive or energy industries, the ‘brick business’ kept its privileges despite the serious social emergency. Genuine free markets are, in practice and against any neoliberal recipes claims, extremely ‘regulated’ and always the object of government intervention in a permanent win-win scenario.

In 2010, 4 million people were unemployed in Spain – the official rate was 20% –, and the GDP declined by 0.14%. The collapse of credit flows from the banks to the real economy could not be prevented. Although aggregate demand also collapsed, prices remained on the upside – the housing sector is the best example again –, while banks manipulated their accounts – not to register their devaluated assets – and re-funded their debts, hence more toxicity was created. One year earlier, many financial entities had to face the maturities of the loans provided by Central Banks (€70 billion) and by other entities (€130 billion). In 2009, the Bank of Spain recommended all these entities to ‘keep a buffer of reserves in their accounts of 2009, so they could use it to mitigate the effect of their operational depletion in 2010. The smartest ones, such as E. Botín, profited from this short period of prosperity through more aggressive operations’ (ibid.). In 2010, profits amounted to €8.2 billion for Santander and €4.6 billion for BBVA.

Where is the problem? What are its actual causes? Three major structural problems\textsuperscript{247} are revealed in the 2010 OECD report on the Spanish economy: a too rigid labour market

\textsuperscript{245} Chairied by the Governor of Bank of Spain. Some members of its Steering Committee are: Isidre Fainé (President of CaixaBank, vice-president of Telefónica, Abertis, Repsol YPF, and Aguas de Barcelona, Director of BPI and Bank of East Asia, President of the Spanish Confederation of Directors and Executives (CEDE), the Spanish chapter of the Club of Rome, and the Círculo Financiero (financiers association).

\textsuperscript{246} Between 2007 and 2010, Spain spent €88.8 billion (more than 8% GDP) to support the financial system – according to the European Commission (Garzón 2012), and €140 billion two years later. In Spain, the value of toxic assets exceeded €200 billion (50 billion hidden), according to IMF calculation on the recapitalisation of this sector (Garzón 2012, cf. Zabala 2011). The total volume authorised for the Spanish banking system until December 2011 amounted to €336.96 billion (Europa Press 1.12.11).

\textsuperscript{247} Progressive taxation is abolished de facto, while the pensions system is seen as a ‘potential market’ – just as education and health – which must be gradually dualised (IOÉ 2009).
(recommendation: reducing labour costs to improve competitiveness), a ‘growing public deficit with a difficult solution’ (recommendation: deepening the reforms and reducing public spending), and the ‘need to reform the pension system’. Again, the problem was identified in wages and social security. A few days earlier, in a meeting with the richest employers in the country, 248 president Zapatero had agreed to promote a pension reform that would transfer the business portfolio of privatized savings banks to big financial corporations, and to apply some other measures for ‘competitive improvement’. Four days later (1.12.10), the government imposed a new adjustment plan 249 to increase business surpluses and to put some strategic sectors in the hands of investment banks. Some of its ideas were: privatising 49% of airports and air navigation 250, as well as 30% of the state lottery company, State Lotteries and Gambling, a public company with €10 billion revenues and €3 billion annual profits; abolishing the €426 monthly subsidy for long-term unemployed; regulating private employment agencies to ‘liberalise’ employment services 251; changing the highest tax bracket to widen the tax base for companies that were already privileged with reduced rates 252; expanding the concept of ‘small enterprise’ from €8 to €10 million turnovers 253; cancelling the compulsory chamber resource 254, etc. So a large part of the public infrastructure was been sold ‘to private buyers through credits with tax-deductible interests’ (Hudson & Sommers 2010, 80). In addition to all this, the kidnapping of monetary policy proves that the liberal states can resort to nothing but fiscal and wage austerity, a self-destruction method comparable only to war. 255

The looting process went on with the RD-Law 2/2011, which allegedly improved the solvency of credit institutions through higher minimum capital requirements. In 2011, the unemployment rate exceeded 23%, GDP grew by 0.7% and many financial entities started being ‘rescued’ through capitalisations (wrongly called nationalisations), private mergers or acquisitions. The litany of layoffs in many companies coexisted with millionaire compensations to their senior managers and revolving doors between banks, state administrations and companies.

‘Spain will succeed without a bailout’, said Goldman Sachs and Banco de Santander’s advisor Guillermo de la Dehesa in January 2011 (Tiempo 14.01.11). On 2.09.11, the Congress approved a reform on Article 135 of the SC – after a hidden agreement between PSOE and PP – to submit the action of public government to a ‘spending ceiling’ established by the EU (135.2), thus turning public debt repayments into an ‘absolute

248 Also known as ‘national markets’. Representatives of 39 companies were convened. Among the 27 attendants: Francisco González (BBVA), Pablo Isla (Inditex), César Alierta (Telefónica), Emilio Botín (Santander), Antonio Brufau (Repsol YPF), José Manuel Lara (Planeta), Francisco Javier García Sanz (Anfac), Borja Prado (Endesa), Isidoro Álvarez (El Corte Inglés), Ignacio Sánchez Galán (Iberdrola), José Manuel Martínez (Mapfre), Petra Mateos Aparicio (Hispasat), Carmen Riu (Hoteles Riu)...

249 RD-Law 13/2010 on actions to promote job creation.

250 Including the privatisation of El Prat and Barajas airports, the liberalisation of air traffic control in 13 on 47 airports in 2011 and the other 34 in 2012. The strike of air controllers in response to this plan led to the first declaration of state of alarm in democracy – including the resort to military troops to maintain airport activities.

251 A crucial step towards emptying the National Employment Institute. Although public employment services respond to (fundamental) right to work, this right turns into a commodity exploited by private agencies through public money: 90% for not-for-profit institutions, and 60% for businesses.

252 Profits from €120,000 to €300,000, i.e., all companies rendering profits under €300,000 a year enjoy a 16,6% reduction in their tax rate.

253 40,000 companies reduce their taxes on profits in 33%.

254 Until then, every company or self-employed worker had to pay a fee to the Chamber of Commerce. This suppression implies annual savings €160 million for big corporations, and €90 million for smaller companies.

255 Hudson & Sommers mention the examples of US in 1896 and England after 1815.
budget priority’ (135.3). Along with the invasion of Iraq in 2003, this was probably the most flagrant rupture of the representative link in the Spanish democracy. The rest of parties in the Parliament denounced this bipartisan manoeuvre. Some spoke of ‘constitutionalised neoliberalism’ or a ‘financial coup d’État’, but ‘according to the Spanish Constitution state competencies can be transferred to external decision-making centers without any permission or citizen endorsement’ (Capella 2003, 11).

In 2011, 60% of Spanish employees were paid less than 1,000 euros per month. 5.5 million salaries were less than the national minimum wage. On December 14, a few weeks before the incoming government announced its new adjustment measures, the CEOE published two simultaneous reports on ‘efficiency and devolution’ in the public sector with this basic conclusion: state-funded private services are more efficient and better managed. Consequently they must be privatised – as so many recommendations by the WB, IMF, WTO or OECD have long insisted –, hence a flourishing market will turn our fundamental rights into consumer goods. The president of the employers’ organisation hinted that the state should supress one million public employees – a dismissal ‘equivalent to the private sector’ –, and described the budgets on education, health and social services as ‘enormous’ (Europa Press 14.12.11).

The measures of the Latvian government caused a mass exodus. ‘Over 12% of the overall population – and a much larger percentage of its labour force – now works abroad’ (Hudson 2011, 2). The hyper-concentrated capital in the new colonial area – alleged ‘full-members’ of the EU – also flew massively to the Northwest of the Eurozone and to certain tax havens, ‘as property was sold on credit and the proceeds moved out of the post-Soviet and southern European kleptocracies and oligarchies’. (ibid. 5).

With an unemployment rate of 24%, half of the European unemployed in 2012 were in Spain. The volume of received remittances amounted €5.7 billion (0.6% GDP) in 2011, below the remittances sent by foreigners from Spain (IOE 2008, 30). This showed a direct relationship between a fragile accumulation regime and the social impact of precarious employment, while fiscal unsustainability and state decapitalisation worsened. The first measures taken by the incoming government (30.12.11) included an increase on income and property taxes, as well as the biggest budget cut ever: €36 billion. All this, along with VAT increases, deepened the dynamics of inverse redistribution. Two months later, the RD-law 2/2012 to recover the financial sector intended to ‘strengthen the sector through the necessary cleaning up its financial condition’, ‘redress mistrust’ on banking assets and revive the credit flow within an economy strangled by leverage. Dispossession goes on. The effectiveness of such measures was null, and the direct cost of the banking concentration amounted to €6 billion (via FROB) in this last phase.

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256 ‘Subsidised [private] centres contribute to efficient public spending and academic excellence’ (CEOE 2011, 23).
258 Focused on social policies and public employment – Royal Decree-law 20/2011 on urgent budgetary, tax, and financial measures to correct public deficit.
259 The text adds: the effects of the housing crisis on the companies’ balance sheets have generated a spiral of uncertainty on the whole sector which cannot be extended. It is therefore imperative and unavoidable in the current economic context, to intervene through regulation in order to eliminate any uncertainties on our financial stability an to help reinforcing trust in our financial system, contributing to positive dynamics that may generate credit and facilitate access to funding for our companies and families.
Another example of this redistributive logic can be found in the 2012 budget of the Ministry of Public Works, whose investment in transport infrastructures was hardly justifiable through efficiency criteria. The Ministry announced a 34.6% cutback, but the budgetary reduction for this specific area was only reduced by 8.6% (Segura 2012). The ‘Promotion Group’ – which includes the own Ministry and agencies like Adif, Aena or Scittsa – invested €11.9 billion in new tollroads and high speed lines, although there is no demand to justify such expenditure. ‘The Ministry has agreed a debt restructuring with the nine tollroad creditors […] the state administration will pay €980 million […] The bailout assumes a €500 million debt with some tollroad builders’ (Cinco Días, 24.06.13)\(^{260}\). €4.2 billion were projected into new sections of high-speed railway, although a report of the Ministry (March 2011) recognized a social demand of 3 daily trains in each direction on a railway whose building cost was estimated at €8.5 billion. Although their demand was much higher, suburban trains cost only €28.5 million. In addition to this expenditure €1.28 billion was paid to build new roads in the European country that already had the most kilometres of motorways and highways.\(^{261}\)

The new government won the 2011 election by promising not to raise taxes, not to reduce redundancy pay, to create three million jobs, to waive health co-payments, not to cut any budget for health, pensions and education, not to authorize further rises in the price of electricity, not to promote another tax amnesty, and not to transfer ‘a single euro of public money’ to the banking system. The general state budget for 2012\(^{262}\) – approved one month before the accounts for 2013 started being discussed – formalised the first six months of the legislature, including the so-called ‘Stability Plan’. The RD-law 20/2012 gave continuity to the constitutional reform: debt repayment and deficit reduction must be the two only priorities, while competitiveness remains the main ideological totem of neoliberalism. All this fits perfectly with the suggestions previously stated by the CEOE. The Labour Reform of 2012\(^{263}\), the umpteenth reform of fundamental rights approved by ‘urgent governmental decree’ (Agamben 2003, 30), involved one of the worst attacks on labour rights and conditions in democracy – and also in dictatorship. The number of public servants dropped by 109,091 was celebrated by the Ministry of Finance and Public Administrations as a result of ‘the greatest public expenditure reduction in history’.\(^{264}\)

In 1943, M. Kalecki explained why the capital used to oppose any growth model based on demand policies. His analysis and smart conclusions are still useful in a quite different context: ‘The fundamental principles of capitalist ethics need the axiom according to which you will earn your bread by the sweat of your brow unless you have private means’ (1943, 99). Seven decades later, with the government under direct control of the markets, the European authorities refounded capitalism on debtocratic consensus and empty rhetorics. Neoliberal governance had moved from the fallacious discourse to the meaningless argument, in a parallel journey to the transformation of the socioeconomic structures and the forms of government of the 20\(^{th}\) century. Some speak of post-neoliberal policies, but the post- prefix is not as relevant as the liberal root. It is, above all, about triumphant capitalism and social collapse. ‘This is what Spain and the Spaniards need in order to ensure economic growth and job creation’, said M. Rajoy in 2012\(^{264}\). And Kalecki’s

\(^{260}\) ‘Ana Pastor, minister of Development, guaranteed that the state would not pay a single euro for the bailout of highways’ (Europa Press 24.06.13).

\(^{261}\) In the same budgets, €53 million were invested to prevent pollution and climate change.

\(^{262}\) Law 2/2012 of State General Budgets for 2012.

\(^{263}\) RD-law 3/2012 on urgent measures for the labour market reform.

\(^{264}\) Regarding the Labour Reform of 2012 (La Vanguardia 8.03.12).
warning became a tragic truth: *neither all of your brow’s sweat nor privatized policies will let you win earn enough bread.*

A Stability Program projected for the 2013-16 period\(^{265}\), along with the Organic Law 2/2012 for budgetary stability and financial sustainability, imposed ‘government of self’ (Foucault 1984) in the names of deficit and debt control: as debtors are individually blamed for their acts before the creditor, the debtor state is also blamed and forced to assume its financial responsibility – like any other economic subject, and therefore forced to make a permanent self-effort (San Martín 2013, 7). Public deficit was reduced by 8.2% in the first semester of 2013\(^{266}\), but public debt rocketed. Between 2001 and 2011, credit exposures of households grew by 37% GDP, non-financial entities’ grew by 60% GDP, and those of the state increased by 1% (Garzón 2012b). It was during the last years when the state reached its maximum level of indebtedness and accrued interests, through stabilisation plans, subsidies, support, clean-ups, confidence, sustainability, control… austerity. In 2013, households and businesses’ liabilities equalled 220% GDP far beyond the European average, while public debt (90.2% GDP) exceeded it. Public expenditure for debt repayment amounted €40 billion by 2013, thus equalling the available budget for all ministries\(^{267}\), and the IMF forecasted a level of public debt of 100% GDP in less than two years.

On June 2013, the profitability of Spanish debt – namely the cost of the state funding in the markets – experienced a huge upward trend. In the previous 45 days, bond yields grew by 0.8 points (Calvo & Viana 2013). Such an upturn is always positive to the creditor: the risk premium remained at a minimum level. A Bill on Rationalisation and Sustainability of the Local Administration\(^{268}\) showed the governmental commitment to reduce public budgets – €8,000 million up to 2019 – through imposing bigger efforts on the most efficient administrations\(^{269}\). More than 4 million ecologically and economically valuable hectares belonging to neighbourhood committees, half of the land, and the employments in the rural administration would be transferred to corporations\(^{270}\). In the same vein, two months earlier, the government had put 15,135 public properties for sale under the so-called ‘Programme for the value enhancement of public real estate assets’.\(^{271}\)

The Troika kept on ‘recommending’ over-exploitation and higher pensionable ages. In May 2013, the European Commission imposed new reforms for the 2013-16 period to all EU countries – except Greece, Ireland, Portugal and Cyprus, ‘rescued’ and blackmailed through memoranda. Spain must ‘control public expenditure arising from the ageing of the population’ through the sustainability factor included in the reform of 2011, thus extending the retirement age in line with the increase in life expectancy\(^{272}\), i.e. delaying retirements

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\(^{265}\) *Stability Programme and National Reform Plan* – see http://www.minhap.gob.es

\(^{266}\) In April 2013, Eurostat calculated Spanish public deficit was 10.6% GDP in 2012, higher than 10.2% predicted in February 2013.

\(^{267}\) In 2007, Spanish public debt was among the lower rates in the EU (36.3% GDP), and the yearly amount of due interests was less than half of today’s volume.


\(^{269}\) According to the Finance minister, more than half of municipalities show healthy accounts. They represent less than 1% of total state deficit, which questions the expensive and unexplainable dynamic of dismantling and privatisation to which this new norm may contribute.

\(^{270}\) As denounced by the expert in rural development Ángel de Prado (Cadena Ser 4.08.13).

\(^{271}\) See www.minhap.gob.es/es-ES/Areas Tematicas/Patrimonio del Estado/

\(^{272}\) The *Council Recommendation with the aim of bringing the situation of excessive deficit to an end* gives continuity to the elements introduced by OL 2/2012 for Budgetary Stability and Financial Sustainability, and
in a context of high unemployment, severe precariousness, lower contributions and extreme income inequality. The average pension in Spain is the third lowest in the EU-15.\footnote{273} Budget cuts. Centipedes will have only ninety legs. Tripods will have two feet. Quarters will be two months. Millennia will have 500 years. Squares will have three sides. Pentagons will have two angles. Decathlon will have only six disciplines. The Ten Commandments will be seven. 1,001 nights will be 633. The twelve labours of Hercules will lower to nine. The three little pigs and the three graces will be only two. The seven little lambs, seven hills, seven wonders, seven sages and seven deadly sins will be reduced to four. The nine muses will remain five. The 99 names of God will be reduced to 22. The five senses will be three. The three powers will be left in one. None of the four elements will survive [Alba 2010, 221].

The neoliberal repeal of state sovereignty pushes ‘the degree of expropriation of citizen decision power on key issues’ (Estévez 2003, 193). Public powers are being formally emptied while ‘the processes of European integration not only contribute to privatise public services, but also constitute a capital manifestation of sovereignty: the ability to determine the content of legal norms’ (ibid.). Austerity hides the drift of biopolitical strategies and common resources towards a paradigm of banishment and massive production of social harm. A sovereign subject has emerged in the years of the great depression to formally dissolve the notion of fundamental rights, thus turning the classic taboo of ‘evil causation’ (San Martín 2013, 3) into a brand new area of government.

Apple’s dividend would save Spanish public finances. The firm of iPhone will dedicate €34 billion in three years to compensate shareholders. With this amount of money, Spain would meet the deficit limit of 5.3% [Expansión 20.03.12].

Big liquidity injections of public money into the private sector were thus ‘balanced’ by a €41 billion reduction in tax revenues (2007-10). Subsidies, guarantees and tax concessions were allegedly focused on ‘facing the crisis’ and ‘opening credit flows’. Instead, they multiplied deficit and public debt. The deficit-debt spiral efficiently complied with its material and symbolic function: the consequences of ‘a model whereby aggregate demand feeds globalisation [...] through the rapid growth credit’ (Lorente & Capella 2009, 12) which kept on leading to massive dispossession, drain of state assets, fund transfers, conversion of private liabilities into public debt, labour market liberalisation, and social deprivation.

In a nutshell: It’s not about the economy, idiot, it’s about power. The most effective ideological fallacy requires the state not to intervene and put any obstacle to ‘individual freedom’, while social harm spreads. The following pages are focused on such idealistic gap and such intolerable levels of harm.

III.3. Invisible Bodies. Growth, Underdevelopment

\textsuperscript{273} See Eurostat. In 2012, life expectancy decreased for the first time in history: from 79.16 years in 2011 to 79.01 in 2012 for men; from 84.97 to 84.72 for women (Público 20.08.13).
Welfare must be dismantled, and there is no much time to do it. I can tell you Europe is deeply concerned on this issue. The question is how much time we have to do so and is not too much, we do not have fifteen years [A. Sáez, vice-president and CEO of Banco Santander, Europa Press 4.06.04].

Or maybe we do not have too much welfare left to dismantle. Sáez, by then the best paid banker in Spain and fifth in the world list, was pardoned by the acting Council of Ministers in November 2011 and excused his sentence of three months of arrest and temporary disabling for perjury and false accusation – along with the former director of Banesto in Catalonia Miguel Angel Calama, and the lawyer Rafael Jiménez de Parga. This is just one of countless examples of organised impunity among the Spanish ruling classes. Such practices are the tip of an iceberg of structural corruption whose basis is closely linked to a concrete growth model, its promotion by public policies, and the unequal distribution of its effects.

Let us remember president J.M. Aznar in 1997. ‘I’ll repeat it because some still didn’t understand this: Spain goes well, things go well’. The same statement has been repeated by successive Spanish governments. Its guiding idea remained until the recession was publicly recognized by president J.L. Rodríguez Zapatero, and M. Rajoy would retake the optimistic slogan only 17 months after his victory in the elections of 2011:

There is a very positive fact. This year we are touching the bottom. We have just touched the bottom, actually [M. Rajoy, Spanish president, RTVE 29.05.13].

As a sort of crossroad between the study of the economic structure and the evolution of the penal system, this section addresses a critical review of the Spanish miracle through the notions of citizenship, poverty, property, consumption, debt, inequality, exploitation, exclusion, and expulsion. The invisible bodies are those social groups and/or political subjects whose actions and relations are essential for social reproduction, but end up being subjected by economic exceptionalism. Although the expansion of social surplus has overloaded the punitive drain of exclusion, this cannot conceal the circuit of exploitation-recycling-profit that spent decades creating employment for the so-called middle class. As the effects of the current economic aggression started affecting wider middle-class sectors, harm production has tended to be analysed in stricter criminological terms. The genealogy of social harm requires a solid theoretical body on the specific figure of the ‘economic crime against humanity’ (Zuboff 2009, Benería & Sarasúa 2011) or the ‘state-corporate crime’ (Lasslett 2010, Tombs 2012, Tombs & Whyte 2015).

This country causes admiration around the world, not only for its construction firms [...] the credit is due to all, but if I had to emphasise I would most certainly point to trade unions [Florentino Pérez, president of ACS, El País 24.12.06 – cf. Campabadal (2012, 69)].

The commitment of the political leaders of the time favoured the political neutralisation of the predictable social effects of economic adjustments.274

These two quotes are very useful for any analysis of the alleged optimism of certain macroeconomic data and the pessimistic alert of social indicators within the neoliberal cycle, because they show the link between political legitimacy – from the democratic transition to the debtocratic dependency – and economic deployment – at the expense of

massive dispossession. Thus, the main conditions for economic consensus have also been the clearest symptoms of social underdevelopment under neoliberal democracy.

The first section discusses the concept of exploitation between job insecurity and the over-exploitation of foreign labour force at the beginning of 21st century, thus confronting the myth of full employment with the notion of ‘full unemployment’ (Gaggi & Narduzzi 2008). The effects of debtocracy and austerity will be also discussed, along with the conversion of the state into a ‘self-governed’ (San Martin 2013, 20) economic subject. The functional link between social exclusion and economic growth – based in real estate and financial markets – has twisted under the ongoing recession, thus reissuing the ban as the current sovereign paradigm. This is also why we cannot obviate those soft control institutions that, especially during the second (economic and penal) bubble, ‘managed the social effects’ of the accumulation model. Since 2008-10, the financial crisis has shown how severe the levels of inequality and exploitation that support such economic growth can be.

Without forgetting the 1978-95 period, the bulk of data presented in the next pages refers to the second half of the Spanish neoliberal democracy, namely its consolidation as an economic power. Let us therefore check whether Spain is a proper example of the analytical approach on the strengthening of the state’s right hand and the weakening of its left hand.

To finish this introduction, a theoretical absolute can be advanced: economic policies do not exist. More concretely: it is not about ‘economic policy’ but political economy, governance, social control, global mobilisation, and debtocratic totalitarianism. The dangerous contingent relationship between minimum state autonomy and abandonment of rights is turning the notion of citizenship into pure fiction. The government from the market is a sort of political macroeconomy directed from and for the principles of a supranational bureaucratic field. These principles do not need any ‘policies’. The political debate in the Spanish democracy tends to boil down to lasting populist arguments: post-political exacerbation of nationalisms, racism and xenophobia, sexism, punitivism, all of which prevent any political discussion on fundamental rights, structural approaches and truly alternative regulations.

In short: de-politicising vs. ideologization, demobilisation vs. privatization, and accumulation vs. dispossession, in the name of a ‘consolidated’ democracy.


All the training in the world will not create any jobs with decent salaries [Wright 1998, 150]. If currencies cannot be devalued, people’s lives will be. Devaluing the population helps profits to recover. After two years of declining margins of exploitation (2007-09), ‘a new upward trend coexists with a drastically drop in wages, whose engine undoubtedly relies on the move of millions of workers from temporary employment to unemployment’ (Rodríguez & López 2011, 60). Exploitation in growth periods becomes unemployment and working poverty under subsequent depressions.

Full Employment, Full Precarity, Full Unemployment
The unemployment rate has experienced five main periods along post-Francoism: a first recession decade (21.5% unemployment in 1985), subsequent recovery (16% in 1991-92), a peak of 24% in 1994, the second bubble (minimum of 8% in 2008), and the current depression: over 20% before 2011, 27% in 2013, 22% in 2015, 18.5% in 2016.275 Every recession leads to job destruction, and every chapter is more aggressive than the previous one. Every crisis is closely linked to the preceeding upward cycle, and that is why the above trend should be completed with the evolution of working poverty: 10.5% in 2013, 13.1% in 2015, 15% in 2016, while poverty rates among unemployed people grew up to 50% (Observatorio de la Sostenibilidad; cf. InfoLibre 27.06.17).

The increase of property incomes was several times bigger than that of (direct and indirect) labour incomes, with the immediate effect of rising inequality. The empowerment of domestic economies was only partially (and eventually) balanced by the financial bubble. Hence the appropriate use of the terms bubble and underdevelopment. Both phenomena evolve simultaneously. Neoliberal growth feeds on inequality and poverty. In the Spanish case, severe poverty rates stood around 8% both in good and bad times, while the poverty risk slightly increased (11% to 12%) under ‘prosperity’. Since 2008, poverty risk and severe poverty have expanded. This could have been easily expected even during the so-called miracle: 17 million people with savings capacity, 15 millions struggling to ‘make ends meet’, and 12 millions (27%) indebted (IOÉ 2008, 47/97 et seq.).

Temporality (three times higher than the EU-15 average), work-related accidents276 and wage clamping are three important elements of this phase of job creation in the second legislature of president Aznar – 2000-2004 (ibid. 49). Flexible, temporary and underpaid jobs turned the Spanish labour market into one of the more precarious in Western Europe. Furthermore, between 1998 and 2008, unemployment decreased as exploitation rocketed. Against such backdrop, a new period of job destruction started in 2008. Official rates of poverty would rise to 30% in 2016, and extreme poverty remained over 10%277. Structural unemployment would jump to near 20%. 10% salaried workers, 13.5% temporary workers, and 18.5% part-time employees (mostly women) live under the poverty line. Wage discrimination and long term unemployment were two catalysts of this phenomenon.278

Fordist capitalism had imposed a conjunctural balance between labour, production and consumption, along with a sort of win-win relationship between productivity, private profit and social protection. But the Spanish economic regime made the 19th-century latifundium its exploitation paradigm, thus developing intensive use of labour force in favour of absolute – read gross operating – surplus. It makes no sense to blame low labour

275 Conclusion: the shock pushes so-called ‘structural unemployment rate’ from 10% to 20% in Spain.
277 Calculated with respect to average net disposable income: extreme poverty under 15%; severe poverty between 15% and 25%; relative poverty between 25% and 50%. See Aragón et al. (2012) for a complete study on recent evolution of the immediate effects of the crisis on poverty and precarious labour in Spain.
278 In the second quarter of 2008, the total percentage of long-term unemployed was 21% (16.2% male and 25.9% female). In the second quarter of 2012, that same percentage grew up to 52% (ibid.). In 2007 (pre-crisis year), women earned 70% of male average salary, young people 47% of average total salary, and foreigners earned 57% of natives’ average salary (Torres & Matus 2013). Sexist non-paid labour breach in Spain is 3 hours and 7 minutes, one of the bigger differences in the OCDE – whose average breach is 2 hours and 28 minutes’ (OCDE 2011). Other sources on the Spanish labour market: Petras (1996), Bilbao (1999), Díaz Salazar (2003), García & Rodríguez (2004), Arriola & Vasapollo (2005), Taifa (2006/ 2007/ 2011).
productivity for the problems of the Spanish economy after its growth has been based on building, tourism and speculation for nearly three decades.\textsuperscript{279}

\textit{Flexibility} is the master key of labour submission and ideologization. \textit{Competitiveness} is the euphemism par excellence for exploitation. \textit{Job creation} ‘implies economic insecurity for employees – especially for those in the lower levels’, rising inequalities and growing inability to combine working life with the rest of activities of our whole social life’ (Recio 2010). Between 1995 and 2009, in addition to producing enough wealth to pay its wages, the workforce generated a €4.7 trillion gross operating surplus. ‘The effect of inflation (up to 50\% during these years) amounts to €6 billion. Investment figures – mostly in real estate and all sorts of pharaonic works representing 65\% of the total – show that an immensely rich minority took the most substantial portion of a €2.5 billion cake’ (Escuer 2011). Some years after, the new government\textsuperscript{280} kept on repeating the same mantra: social policies, fundamental rights and job creation mixed in a rhetoric perversion to legitimise exploitation and expulsion. Meanwhile, social policies were reduced to the pace of job destruction. The labour reform of 2012 opened up a new era of \textit{full unemployment} – towards a structural unemployment rate of 20\%, the repeal of job stability, full discretion of the employer and total loss of rights.

Successive labour reforms under democracy extended precariousness at the expense of wages. Between 1985 and 1995, ‘salaried workers reduced their average income’ (Pérez Moreno & Aranda 2000, 9) and the non-salaried retained their share in the gross operating surplus – no matter if their representation among the total had decreased by 18\%. Gross operating surplus per employed person grew by 41.5\%, but salaries kept on diminishing as a part of GDP: total payroll per salaried worker grew by 8.73\%, while GDP per employed person had grown by 17.67\% (ibid.). Both minimum wage and average monthly incomes decreased along that decade.\textsuperscript{281}

Exploitation rates – namely \textit{the ratio between unpaid and paid work hours} – had shown an upward trend in the late 20\textsuperscript{th} century. Although this evolution was not linear, the surplus value rate grew from 72.7\% in 1954 to 90.8\% in 2001 – for a total growth of 25\%, mostly concentrated in 1982-96 (Guerrero 2006, 60). In five decades, the way how the rich got richer showed a high correlation with the permanent decrease in real wages (ibid. 71).

We lack flexibility. In Europe, people can buy a house and stay in the same place until they die. In America, they sell their houses and move from New York to California if necessary. They are very flexible [F. Piech, chairman of Volkswagen, 1998 – cf. Alba (2004, 55)].

A German car manufacturer [...] announces a new van: ‘the perfect worker’: according to the advertisement, he/she never takes a sick-day or asks for a raise, always ready for the company, 24 hours a day, 7 days a week. The worker ‘every entrepreneur dreams about’ [Rosa 2011].

In 1965, the average Spanish salary was less than half of that in UK, with a difference of 6,500 dollars by worker – prices of 2000. Forty years after, in 2005, the same difference

\textsuperscript{279} A paramount example of ideological manipulation of economic indexes can be found in the following report on the ‘growth of purchase power over productivity between 2000 and 2009’, published by Adecco and Iese: http://www.adeco.es/_data/NotasPrensa/pdf/237.pdf

\textsuperscript{280} Ana Pastor (Diario de Sevilla 25.04.10), Ana Mato (www.pp.es 30.09.11), Mariano Rajoy (Europa Press 7.11.11), Ignacio González (Efe 29.04.2013), Rita Barberá (El Periódic 27.05.13), etc.

amended to 12,000 dollars, with an average wage of 26,700 in Britain and 14,700 in Spain (Guisán & Aguayo 2008, 102). After the increase in real wages between 1965 and 1980, Spanish workers lost their purchase capacity at an annual rate of 1% – except for a short break in 1990-93 (ibid. 106). Both in phases of growth and recession, this trend summarises the impact of fiscal pressure and other factors minimizing wages.

There is only one way to get rid of the crisis, which is working more and, unfortunately, earning less [G. Díaz Ferrán, Efe 14.10.10].

This phenomenon was aggravated with the labour reforms in 2010 and 2012. Less employment, lower wages and higher taxes show how the criminal management of the recession promoted inverse wealth redistribution. Wages plummeted in the sectors of construction and services (-8.5% in 2012). Only in 2012, 787,240 jobs were destroyed (Expansión 12.03.13) while corporate surpluses recovered (+1.4%) and corporate gains exceeded labour incomes as a share of GDP for the first time ever.

The proverbial capitalist trend to accumulate by over-exploitation was thus reinforced. The labour reform of 2012 costed €10 billion of public money, a similar amount to what was ‘cut’ from public expenditure a month earlier. The RD-law 3/2012 reduced the maximum compensation for unfair dismissal from 1,260 to 720 days; extended the causes for objective dismissal; added a new permanent contract with free unfair dismissal; enabled easier individual and collective dismissals in the public and private sectors; reduced maternity and paternity rights; allowed permanent mobility within the company; put all material working conditions under the employers’ unique discretion; announced a new law of mutual insurance companies whereby the entrepreneur may press the worker to be back at work as soon as possible in case of common disease; suppressed the equality plans from bargaining agreements; and deleted any mention of gender equality from the Law 8/1980 on the Statute of Rights for Workers. Subsidised by the state in 60-90%, private employment agencies would progressively replace the SEPE. Training, retraining, employment and policing of subsidies were put in the hands of transnational companies.

Some other measures included a higher limit for training contracts to 33 years old – with a €480 monthly salary in the first year, €544 the second and third –, along with more budget cuts in social protection. In addition, a new open-ended contract allowed the entrepreneur to take half of the unemployment provision that the hired worker still had to be paid. On the one hand, this broad reform strengthened a structural unemployment rate of around 4 million people – 20%, twice the level before the crisis –, and a precarious and overpopulated pocket of working poor permanently rotating between unemployment, retraining and recruitment. On the other hand, once overtime hours were legalised by part-time contracts, so-called ‘complementary hours’ fund a new ‘elastic’ work day. This means that workers can be employed part-time and legally work a full working day. Collective bargaining was thus de facto abolished, since the reform effectively allowed the entrepreneurs to ignore agreements regarding base wages, additional payments, extra hours, specific retributions, shifts, holidays or work-family reconciliation measures.

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282 Two years after (3.12.12), the already ex-president of CEOE was arrested for alleged asset stripping, and sent to prison on €10 million bail. He was also accused of an insolvency offence with the aggravating circumstance of concealing a big amount of money, procedural fraud, document falsification, and money laundering, among other crimes. Recently, in line with Diaz Ferrán, president of the Euro group J. Dijsselbloem stated in Madrid that Spanish workers must ‘work longer and harder’ (El País 28.10.13).

283 Spanish Public Employment Service – see http://www.sepe.es/
In short: legalisation of hitherto illegal practices, reduction of the labour regulatory framework to the skeleton of the Statute of Workers, wages under the poverty line, *de facto* discretion and impunity for the capitalist, semi-slavery conditions for those who are not even the owners of their own labour. 35 years after the democratic transition, the constitutional reform of Francoist corporate authoritarianism imposes ‘a dynamic of two citizenships, within and outside the company, without continuity between them’ (Baylos 2003, 354), thus turning labour relationships into a ‘substitute for the political regime of rights and guarantees’ (ibid.). Exploitation rates grow; wage shares of GDP fall below 50% in favour of corporate profits; and working poverty rises from 2008 (Susaeta & Pin 2010). From 2007 to 2010, 1.8 million unemployed grew up to 4 millions, while only three corporations from Ibex-35 (8.5%) suffered losses – two of them just in the first year, then recovering more than €3 billion profits (Navarro & Tur 2010, 6-7). The Ibex firms accumulated €32.2 billion in 2011, and then lost €7.4 billion in 2012 – after Bankia’s collapse and the bailout of some real estate companies’ (Europa Press 28.02.13).

Nobody should speak to us of social and progressive policies, because the social and progressive government here is called Partido Popular. We are the party that protects workers, self-employees, small and medium entrepreneurs, and pensioners [M.D. Cospedal, Efe 16.05.10].

On 7 June 2010, an official note described this statement by the PP general secretary under the title ‘Workers Party’. ‘The ideological dream-work transforms latent dream-thought into the explicit ideological text which continues to legitimise social relations of exploitation and domination’ (Žižek 1998, 3). To confirm the tight bond between exploitation, work and poverty, the economic vice-president of the European Commission O. Rehn recomended a general wage reduction of 10% in 2013: ‘Those who refuse this measure will carry on their shoulders the enormous responsibility of social and human costs’ (Europa Press, 6.08.13). The IMF, original designer of this proposal, had just published its forecasts on ‘five more years of stagnation and unemployment’ for the Spanish economy, thus proposing ‘to deepen the labour reform’ through an agreement between employers and trade unions in order to ‘exchange wage reductions for job creation’ (El Diario 2.08.13).

Let us consider how big have been the differences between successive political regimes in our country during the last half century. […] However, beneath all those political regimes and forms of state and government, the attracting force of the capitalist economic mechanism continued to operate. This is a unique mechanism, with some essential features and a basic capacity to produce effects […]; a mechanism with such driving force that can shape, condition and even determine the non-economic aspects of our social evolution [Guerrero 2006, 50].

*Foreign Poors: Full Exploitation of the Dispossessed*

Where not only individual property but even collective property are considered sacred, the willingness to extend solidarity to foreigners disappears [Enzensberger 1992, 65].

The force of this capitalist mechanism dealt with immigration as an extraordinary source of cheap workforce during the Spanish economic miracle. As shown by E. Romero, migrants were used as the basic hinge to redefine the working class (2010, 41 et seq.). This mass of foreign poor constituted a ‘sudden asset’ for the neoliberal deployment. As Elvira Rodríguez cynically stated in the 14th Congress of Partido Popular (2002): ‘Towards the society of full employment and opportunities’.
Some years ago, we had an unemployment rate of 8% and entrepreneurs had scarce chances to hire workers. Then we opened the doors and around 500,000 or 600,000 foreigners arrived every year for a while. That was a problem and, from an overall view, we see more clearly now [J. Rosell, Efe 13.07.12].

This quote by the President of employers’ union CEOE legitimises the use of laws on aliens to control the mass of surplus labour, thus disciplining a suitable amount of ‘cheap and helpful workers’ (Romero 2010). To manage this ‘social problem’ – which actually constitutes a tragedy for the mass of victims and not for Rosell’s colleagues – involved the consensus of major political parties, corporations and trade unions. On the one hand, explicitly racist discourse belongs to far-right and neo-Francoist sectors. Their target is ‘to mobilise a truth through reinvented values of tradition and Western civilisation, but from a wimpish perspective, that of a helpless majority facing a dominant culture undervaluing authenticity and exalting what is despicable […] a political construction invoking sensitivity (fear, resentment), as performative as persuasive’ (Carmona et al. 2012, 44). In the most delirious cases, a claim and its contrary share the same assertion: ‘Chinese people put up a blind and they eat, sleep, and procreate there… I don’t know where they die, but they are competing with us in a brutal manner’, says the Mayor of Bilbao. ‘Bilbao natives first, as an excuse to a fair provision of public housing. Healthcare for all, but natives first’, stated PP candidate to Basque government A. Basagoiti. His colleague and mayor of Gasteiz J. Maroto – a.k.a. I am the Mayor and there will be no mosque – kept it xenophobic: ‘many people do not come from abroad in search of a job, but rather for an idle-easy living through stealing and robbing, and our institutions give them subsidies’ (Mirgaia 2012). ‘We have to imitate the culture of hard work of Spain’s 7,000 Chinese shops’, stated Mercadona’s owner some months earlier. One for fear, one for submission. The degree of performative violence involving such statements is often encouraged by the rise of racist movements in certain cities or regions. Far-right organisations force this trend to push punitive positions among most political parties – including social democrats and ‘alternative leftists’. E. Romero provides two glaring examples: major trade unions assuming the employers’ arguments (2010, 15 et seq.), and the PSOE government hypocritically ‘reminding us that irregular migrants also have rights because they are humans – smart statement by the President! –, while the minister of Home Affairs treats these humans like beasts and boasts of his success at a press conference’ (ibid. 39).

The following data may provide a context for the materialisation of institutional racism and segregation policies.

In 2010, temporary employment rates among foreigners doubled those for Spaniards in most areas and profiles (Carrasco & García 2012, 58). The absolute majority of foreign employees are concentrated in domestic services, construction, agriculture, catering industry and retail shops – the proportion of foreigners on the total active foreign population exceeds the Spanish rate in those sectors. Regarding unqualified jobs, foreign workers triple the Spanish figures (ibid.77). In the strawberry harvest in Huelva

284 ‘The president of Mercadona, J. Roig, underlined that new measures were needed to improve productivity, even if they might be unpopular and annoying’ (Efe 7.03.12).

285 A. Pérez Rubalcaba presenting the figures of the Review on the fight against illegal migration 2009, which showed a decrease in the number of ‘paperless’ arrived to Spain, along with a 25% growth of administrative expulsions due to the reinforcement of control and police activity along the borders.

286 Regardless the ‘recruitment of non-qualified personnel’, here is a brief but relevant note on foreigners recruited by the armed forces: ‘foreign troops are 7%, but 43% of deaths’ (El País 3.02.10).
(Andalucía, with more than 55,000 seasonal workers in 2004) alone, the number of people coming from Eastern Europe under contracts in the country of origin was 7,000 in 2002, and 19,800 in 2004. ‘Abundant workforce available in the quarries, squares full of people waiting, an inhumane strategy imposing terrific competitiveness between workers for a miserly salary’ (García & Rodríguez 2004, 17).

Between 1990 and 1999, foreign workforce grew at the following rate:

<table>
<thead>
<tr>
<th>Sector</th>
<th>Variation 1990-1999</th>
</tr>
</thead>
<tbody>
<tr>
<td>Agriculture</td>
<td>2,122%</td>
</tr>
<tr>
<td>Domestic service</td>
<td>620%</td>
</tr>
<tr>
<td>Construction</td>
<td>209%</td>
</tr>
<tr>
<td>Catering</td>
<td>120%</td>
</tr>
<tr>
<td>Small commerce</td>
<td>48%</td>
</tr>
</tbody>
</table>

Source: Cachón (2003, 25), Lázaro et al. (2012, 41)

Those percentages increased in the 2000-10 period, when the entry of immigrants evolved as follows – in thousands of people (OECD 2012; cf. Guisán 2005, 98 et seq.):

<table>
<thead>
<tr>
<th>Year</th>
<th>2002</th>
<th>2003</th>
<th>2004</th>
<th>2005</th>
<th>2006</th>
<th>2007</th>
<th>2008</th>
<th>2009</th>
<th>2010</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>330.9</td>
<td>394.0</td>
<td>443.1</td>
<td>429.5</td>
<td>645.8</td>
<td>682.7</td>
<td>803.0</td>
<td>920.5</td>
<td>692.2</td>
</tr>
<tr>
<td>Variation</td>
<td>209.2</td>
<td>72.4</td>
<td>126.3</td>
<td>125.4</td>
<td>237.0</td>
<td>177.0</td>
<td>117.7</td>
<td>197.5</td>
<td>81.5</td>
</tr>
</tbody>
</table>

Regarding the entry of asylum seekers:

<table>
<thead>
<tr>
<th>Year</th>
<th>2002</th>
<th>2003</th>
<th>2004</th>
<th>2005</th>
<th>2006</th>
<th>2007</th>
<th>2008</th>
<th>2009</th>
<th>2010</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>7.92</td>
<td>9.49</td>
<td>6.31</td>
<td>5.92</td>
<td>5.53</td>
<td>5.25</td>
<td>5.30</td>
<td>7.66</td>
<td>4.51</td>
</tr>
<tr>
<td>Variations</td>
<td>4.9</td>
<td>2.0</td>
<td>1.8</td>
<td>1.7</td>
<td>1.7</td>
<td>1.7</td>
<td>1.7</td>
<td>2.1</td>
<td>2.7</td>
</tr>
</tbody>
</table>

The evolution of the percentage of foreign born ‘citizens’ is, therefore:

<table>
<thead>
<tr>
<th>Year</th>
<th>2002</th>
<th>2003</th>
<th>2004</th>
<th>2005</th>
<th>2006</th>
<th>2007</th>
<th>2008</th>
<th>2009</th>
<th>2010</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>4.9</td>
<td>6.4</td>
<td>8.0</td>
<td>8.8</td>
<td>10.3</td>
<td>11.1</td>
<td>11.9</td>
<td>13.5</td>
<td>14.2</td>
</tr>
<tr>
<td>Variations</td>
<td>1.6</td>
<td>1.7</td>
<td>1.7</td>
<td>1.7</td>
<td>1.7</td>
<td>1.7</td>
<td>1.7</td>
<td>1.7</td>
<td>1.7</td>
</tr>
</tbody>
</table>

The exits of foreigners from Spain between 2002 and 2010 were:

<table>
<thead>
<tr>
<th>Year</th>
<th>2002</th>
<th>2003</th>
<th>2004</th>
<th>2005</th>
<th>2006</th>
<th>2007</th>
<th>2008</th>
<th>2009</th>
<th>2010</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>6.9</td>
<td>10.0</td>
<td>41.9</td>
<td>48.7</td>
<td>120.3</td>
<td>199.0</td>
<td>232.0</td>
<td>288.3</td>
<td>336.7</td>
</tr>
<tr>
<td>Source</td>
<td>2002</td>
<td>2003</td>
<td>2004</td>
<td>2005</td>
<td>2006</td>
<td>2007</td>
<td>2008</td>
<td>2009</td>
<td>2010</td>
</tr>
</tbody>
</table>

Since 2000, the demographic growth rate beats all records in Spanish history (1.5%), and immigration was the main factor. Between 2001 and 2005, 50% of labour demand (1.32 million jobs) was supplied by foreign (and cheap!) workers. The coexistence of this phenomenon with the decrease in unemployment among native workers confirmed that immigration ‘did not hamper but rather helped a drop in unemployment’ (Sebastián 2006, 7). An interesting feature of the role of foreigners within the upward cycle is that immigrants’ educational level was higher than that among the native population. This feature is reversed among the so-called ‘second generation of immigrants’ (ibid. 9), thus

287 Registered foreigners on 1.01.10: 12.2%. Paperless: 14.3% - 12.2% = 2.1%, around 900,000 people.
showing a clear symptom of the gap affecting the living standards of some social groups, along with its members’ scarce possibilities for social promotion. Expectations of upward mobility for local workers is based on keeping the worst jobs for ‘immigrants’ (Romero 2010, 88) – read foreign poor.

Foreign workers provided 7% of GDP growth in the first section of the second bubble (1996-2000) and nothing less than 40% in the second – 2001-05 (Sebastián 2006, 14). Per capita incomes grew by €623 between 1996 and 2005, profits ratio on GDP and wage discrimination against foreigners increased while real wages dropped. Precarious jobs and dispossession for the poorest. According to the Spanish government, immigration ‘explains’ more than 50% of GDP growth in the bullish period of the early 21st century. The government publicly ‘celebrated’ the contribution of domestic work to raising employment rates amongst native women and the ‘greater geographic mobility’ of the foreigners, along with the explicit and obscene ‘downward pressure’ on real wages – which increases labour ‘flexibility’ and feeds the illusion of a fall in structural unemployment (ibid. 17 et seq.). In 2006, the PSOE government underlined the macroeconomic contribution of immigration, which involved a better fiscal balance, welfare surplus, employment ‘mobility’ and ‘flexibility’. However, the impact of inward migration on the external current balance ‘could explain 30% of current-account deficit’ (Sebastián 2006, 32). Foreigners ‘send remittances to their countries of origin’ despite them earning the lowest salaries and ‘saving less’, even if inequality deepens or controls on the illegal Other are reinforced through internal and external borders.

The great depression came to leave the social surplus on their own, thus confirming that all harmonic descriptions of such process had obviated ‘the violence whereby it is founded’ (Romero 2010, 86). Between 2008 and 2012, the evolution of unemployment rates for Spaniards and foreigners was:

<table>
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<tr>
<th></th>
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<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Spanish population</td>
<td>10.2%</td>
<td>16 / Δ57%</td>
<td>18.2 / Δ13%</td>
<td>19.5 / Δ7%</td>
<td>24.2 / Δ24%</td>
<td>Δ237%</td>
</tr>
<tr>
<td>Foreign population</td>
<td>16.7%</td>
<td>27.2 / Δ63%</td>
<td>29.1 / Δ7%</td>
<td>31.5 / Δ8%</td>
<td>36.5 / Δ15%</td>
<td>Δ220%</td>
</tr>
</tbody>
</table>

In 2011, when native unemployment reached 18.6% for men and 20.3% for women, the figures among immigrants amounted to 33.4 and 30.4% (Alquézar et al. 73-4). That said, unemployment rates among young foreigners in 2011 exceeded 48%, 19 points higher than adults, but – against the trend in many OECD countries – similar to young natives: youth employment fell around 15 points between 2008 and 2011 (OECD 2012, 272). The foreignisation of young Spanish workers is also dramatically high.

I used the term foreignisation in a similar vein to Wallerstein’s ethnicisation: ‘from an operational point of view, racism has led to a sort of workforce ethnicisation. I.e., there has always been a hierarchy of professions and remunerations provided to certain social assumptions. […] A capitalist system in expansion […] needs all the available workforce, since work is what produces those goods through which capital is extracted and accumulated. Expelling them out of the system does not have much sense’, according to
Wallerstein (1991, 56-7; cf. Cachón 2003, 35). Nevertheless, this approach may need to be partially revised. Promoting racism is a useful way of maximising capital accumulation, but no order is eternal. A more and more available workforce ‘is being needed’ to fill the devalued spaces of a permanent reserve army of labour. Fixed capital and contractions in the productive sectors extended the economic ban whereby the system expels the global reserve army, and this system’s province-states manage the subsequent social surplus through repressive performances of fake sovereignty.

Among other political, ideological or repressive factors acting on individuals and communities, the progressive degradation of labour conditions has been supported by the punitive management of immigration. As stressed by M. Delgado, both the xenophobic slogan par excellence (Spaniards first) and the soft-leftist rhetoric (Say no to racism) enable the fracture of intra-class cohesion: ‘a racist individual does not discriminate against others because he/she is a racist; he/she is a racist for discriminating against them’ (2011). There is an intimate compatibility between what is said by the ‘scarecrow whose task is being there to be called racist’ (Delgado 2011), the multiculturalist tolerance that leave untouched any structure of exploitation and inequality, or the fait accompli through criminal policies identifying and victimising ‘risk groups’ (Brandariz 2007, 126 et seq.).

The pre-conditions for this sort of harm production include three structural elements:

The first is surplus (either native or foreign) workforce embodying less eligibility within the capital-labour sphere, thus favouring recruitment at an optimal price – read minimum wage (see Ruggiero 2013, 119 et seq.). ‘Under capitalism, full employment is the anomaly’ (Romero 2010, 28), hence the myth of full employment must be discussed by a comprehensive approach on the balance of power imposing the dynamics of exploitation. The full unemployment paradigm redefines Wallerstein’s quote on the need of producing ‘white blacks’ when the proportion of exploitable individuals on the active population is not enough. As I advanced above, what might prevail in a short-term scenario is an unparalleled process of job destruction, a de-facto foreignization process, and the massive expulsion of native workers.

The second pre-condition may be depicted as the ‘criminal aetiology’ of the migratory phenomenon. In a variety of (economic, social, political) expressions, violence is the reason for many ‘migration projects’, but not their basic cause. State-corporate crime is the first cause of exile and expulsion: all migrant areas have been dispossessed by a prior deployment of the accumulation regime.

Thirdly, although many governments focus on regulating immigration flows as a political priority (explicit function), the results (latent function) are very different: ‘Whether control policies fail or their explicit goals are fraud’ (Romero 2010, 29): the weight of shadow economies in Spain is one of the highest in Europe. Maintaining a stable amount of non-persons under absolute social and legal uncertainty is a necessary condition for these policies. The direct bond between migration control and the labour market is the actual

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288 Class is thus prioritised over ethnical elements in the satisfaction of ‘hierarchised needs of economy in a certain space-time’ (Wallerstein 1991, 57).

289 According to data of 2006, foreigners earn 74.45% of natives’ average salary (Alquézar et al. 2012, 121).

290 See Romero (2010, 27-9) on the support by capitalist trade unions to banning the human right to free circulation through a ‘regulated and ordered’, thus leading to ‘better utilisation’ (ibid. 21).

success. While every legal reform\textsuperscript{292} exacerbates repression on the foreign poor – through authorizing police forces to access recorded data, restricting political asylum and ordinary procedures –, successive extraordinary regularisations\textsuperscript{293} tend to balance the number of illegal people and legal aliens with limited rights. Police harassment and administrative confinement within national borders expelled 13,000 people in 2009 – a demographically irrelevant figure. With a maximum of 2 million of people without papers or without residence card, and under such a disproportion between moral panics and social realities, expulsion is an effective resource to feed legal insecurity, fear, submission and immobilisation. The disproportion between the number of illegal persons and the resort to repressive means is obscene: according to the Ministry of the Interior, 163,396 people arrived in Spain in clandestine boats between 2000 and 2010. Along this same period, the number of foreigners in Spain increased sixfold (from one million in 2000 to nearly six in 2010), including a million extraordinary regularisations (Romero 2011, 95).

On the other hand, the Action Plan for sub-Saharan Africa or Plan África (2006-08) was approved in 2006, while the media spoke of an ‘avalanche’ of immigrants: 31,678 ‘illegal’ people arrived in the Canary Islands in 2006, while the number of tourists amounted to 9.5 million (Romero 2011, 81). Plan Africa was developed under the ‘anti-terrorist’ pretext in an indigestible mix of allusions – immigration, mafias, drug trafficking, terrorism, cooperation, solidarity, humanitarianism – and practices – surveillance, expulsion, confinement, militarization, business projects.‘The Cooperation Director Plan (2005-08) defined the International Cooperation and Development Law (LCID, 1998) as a legal instrument to frame the relationship between cooperation, foreign, security, and commercial policies’ (ibid. 53). Five years later, the second part of the Plan (2009-12) involved a Plan of Export and Infrastructures – €70 million in FAD credits in exchange of buying Spanish products – and coincided with the offer to host Africom in the Spanish military base of Rota – once all African countries rejected the headquarters of the US military command (ibid. 83/91)\textsuperscript{294}. In a nutshell, it is about round-trip exploitation: colonising African markets and employing cheap immigrants.

Once the economic situation has worsened, the return of immigrants to their countries of origin not will mean, at all, any relief to the problem of unemployment. By contrast, this new phenomenon will produce a negative effect on the probability of Spanish workers to lose their jobs with no positive impacts on their chances to find new contracts. In short, although immigrants may get back to their countries of origin, native workers will also lose their jobs and, since they are not substitute workers, less foreign workers will not help Spaniards to find new employments [Alquézar et al. 2012,109].

Fifteen years ago, the reverse had been the case: ‘As if by magic [Marx 1867], millions of immigrants come on suddenly to replace the absent native active population in a more profitable way for capital’ (Romero 2010, 78).


\textsuperscript{294} On 17.06.15, Spain and USA signed the third protocol to amend the Spain-US Defense Cooperation Agreement (1988). ‘The agreement will allow a permanent use of the military base of Morón de la Frontera (Sevilla) by the US armed forces’ (http://www.defensa.gob.es/ 27.07.15), in alleged exchange of the (false) commitment of US to clean the effects of the nuclear incident of Palomares (1966) – see Wikileaks, cf. El País (10.12.10).
III.3.b. Exclusion, Dispossession and Failed Consumers

Exclusion, dispossession, poverty, inequality, exploitation, injustice, class segregation and racism are constituent features of capitalist growth. There is no empirical evidence in the history of capitalism to deny this, despite the popular use of such expressions as ‘there are still inequalities’ or ‘there is still a way to go’. The adverb still, with its magic power, suggests that capitalist growth naturally tends to reduce inequality. An ideological conception of progress imposed this thoughtless association between growth and development: insecurity and social unrest reveal an allegedly persistent disgrace rather than a necessary condition whereby capitalist growth is deployed. To this day, such ideas seem to be reserved to two categories of spokespersons of the hegemonic doctrine: economic (mainstream) and classic (secondary) theologians.

The first category (economic theology) brings together those who, beyond governmental marketing, speak in the name of power ‘without being concerned for the immediate cost of the speech’ (San Martín 2013, 2) – with direct disregard of this potential cost, as an immune criminal would do. This is how J. Rosell answered to the official propaganda in 2013: ‘we can be a bit more optimistic, but there is still a long way to go. We cannot say that this is fantastic and everything grows like a rocket. There are still many reforms to do […]. The labour reform is not finished and will never be completed, because it must be adapted to changing circumstances’ (Europa Press 21.6.13). There is no doubt on who holds the power in this debate and who can therefore speak sincerely enough. The corporate criminal wins. A theorist on this elite’s payroll, R. Shiller, responded to a journalist in Davos: ‘the optimal level of inequality for growth depends on the perceptions about inequality’. Economists avoid the inherent conflict implied by harm production through a sort of marginal moralist theory, thus arguing that profit and social commitment must combine ‘to create synergies’295. There is no conflict! Inequality can remain a potential source of economic activity. ‘Efficient management’ is the key, and cultural capitalism is its playing field.

Secondary (classic) theologians act as the spiritual reserve of mainstream discourse in times of crisis: ‘no one can remain indifferent before the inequalities that still exist in the world’, Pope Francis stated in a Brazilian slum. ‘I would like to make an appeal to those who have more resources, to the public powers and to all well-meaning people committed with social justice: please keep on working for a fairer and solidary world’ (El Mundo 25.07.13). Neither wealthy citizens nor public powers can feel too tired for having ever tried to build a fairer world, although ‘this does not mean that we should despise their solidary will’, would affirm a charity broker like Shiller. Will is another commodity under capitalism; an intangible commodity, but that is why marginalist theory works. Let us therefore get back to the despicable plane of materialism.

The distance between the incomes of the richer 20% and the poorer 20% of the Spanish population jumped from 5.3 in 2007 to 6.9 in 2010, the largest increase within the EU-27 (FOESSA 2012, 7). Impoverishment is a widespread phenomenon across all OECD

295 ‘We like watching our bank account grow. […] a product must be created to promote philanthropy, but also to reward the part of those who want to accumulate wealth. This means that, instead of giving money to charity, charity shares can be bought – although the money will never be recovered. Because people like games’ (La Vanguardia 27.01.13).
countries, and persistent poverty rates show an endemic in Spain. In 2010, only Romania and Latvia exceeded Spain in the list of the EU-27 (ibid. 13). Whilst inequality and poverty were already alarming in the economic upturn, those indexes rocketed since 2008 (IOÉ 2011, 178). Thus, although Spanish growth exceeded the EU-15 average during the economic miracle – read as consequence of the accumulation model –, its rate of poverty were also higher. According to the study Poverty and Persistent Poverty in Spain: 1994-2001 published by the INE (National Statistics Institute), poverty affected one in every four children under age 16 in 2001 – against a EU average of 19% (Adiego & Moneo 2002, 3). In broad terms, poverty rates decreased from 19.6% to 18.8% between 1994 and 2001. ‘While male poverty decreased by 2%, female poverty increased by 0.5%’ (El País 2.12.04). In the golden decade (early 21st century), the rise in household income reduced general levels of poverty, but risks of relative poverty were higher for families with children or dependant members. In 2003, the EU Social Observatory estimated that 2 million children suffered from severe poverty in Spain, 200,000 of which lived in Madrid. ‘But the Child Care Institute, which is responsible for all those children, counted only 6,000 [...] ‘According to the Official Gazette of Madrid, more than 45% of the €78 million annual budget that could help the families through direct measures was being spent on assistance operators’ (M. Reguera 2003).

In Spain, expenditure on social protection decreased from 24% GDP in 1993 (EU-15: 28.8) to 20.1% in 2000 (EU-15: 27.3), the lowest in the EU-15 after Ireland. In 2005, this same budget amounted to 20.8% (IOÉ 2008, 232). The proportion strictly dedicated to social exclusion was 0.1% GDP in 2000 (EU-15: 0.4, Netherlands: 1.4), the lowest in the EU-15 after Italy. Expenditure per capita in purchasing power units was €26.7 in 2000 (EU-15: 92.6, Netherlands: 347.2) – see Navarro coord. (2004). What about ‘the good will of public powers’ invoked by Pope Francis? Although these figures improved in 2004, neither the relative position of Spanish social policies nor its effect on inequalities changed – and still today remain around historically minimum levels. Between 2005 and 2009 – just once the upward cycle had finished –, the lowest quartile of wealth distribution (the poorest households) reduced their accumulated wealth from 1.6 to 1.3%, while the highest quartile (rich households) extended their wealth from 64.1% to 67% (IOÉ 2011, 181). Taking family policies as a relevant example, ‘a global finding reveals their legalistic condition, since the recognition of rights is a priority above the implementation of political measures – namely budget endowments for economic subsidies or social services’ (Parella 2000, 436). An effect of family policies in Spain is the reinforcement of class inequities, i.e. a dualisation due to unfair social policies (IOÉ 2008, 58 et seq.).

In the late nineties, Spanish household expenditure in education doubled the EU-15 average. The re-privatisation of the education system led to three simultaneous effects of the same trend: more business generation, more social dualisation (Tomasevski 2004, Verger 2012), and State de-capitalisation. Just like the case of the health system (Alvarez Edo 2010, Lister 2010), the prophecy of public inefficiency tended to be self-accomplished.

While Spain ‘went well’, the public expenditure in education exceeded 4.3% GDP (EU-15: 5.4) – with an expenditure per inhabitant of 927 units of currency (EU-15: 1,174). Private schools hosted the medium-high 30% of the population, while middle and low classes (70%) attended the public system. In the case of Madrid, the number of students in private schools decreased while inscriptions in public schools increased between 2009 and

Child poverty grew in 17 of 24 richest countries between 1995 and 2005 (BBC 3.03.05).
2013, and the dismantling of the latter fed a sort of inverse redistribution of financial resources to the first. The relative weight of private (primary and secondary) schools, along with the progressive growth of private universities, is one of the main features of the Spanish system (Rambla & Bonal 2000, 291). So-called ‘school failure’ affects around 30% of students – who cannot complete their secondary studies –, and the composition of the classrooms is basically segregative and classist (ibid.). The absence of a stable market for middle range qualifications and the new labour regulations have thrown these groups into a precarious labour market with high instability and cheap temporary contracts. The risk of exclusion is much higher for social groups located ‘above the line’, while ‘better qualifications do not have visible effects on the occupational mobility’ (ibid. 307) – even less during the last years (Susaeta & Pin 2010, Casares et al. 2012, Prieto Alonso 2012). Much before the looting executed under the pretext of the fiscal crisis, private expenditure in education by Spanish households doubled that of the ten richest countries in the EU (Taifa 2005, 18).

This so-called ‘welfare state’ – whose alleged dismantling monopolised all electoral debates in 2011 – is actually a residual-minimised version of the conservative welfarist pattern under the highest unemployment rate in Europe. This is why the link between economic structures, control policies and punishment needs to be adapted to the current stage of social waste production. The ongoing extension of an actuarial and negative paradigm must be interpreted in a context of ‘crisis of the opulent society, crisis of classic identity references, crisis of work as key source of social inclusion, crisis of the nation-states, and crisis of the concept of citizenship’ (Brandariz & Faraldo 2006, 21). Most governmental reactions to ‘large and growing crowds of residual human beings, which are likely to be long-lasting or permanent’ are implemented through ‘stricter segregationist policies and extraordinary security measures, thus jeopardising social health and the normal functioning of the social system’ (Bauman 2004, 113). Mechanical control devices are directed to a mass of non-citizens (non-persons) under a ‘negative surplus’ regime (De Giorgi 2002, 91-7).

The widespread fall on all social indicators in Spain since 2008 is, in fact, the climax of a historical trajectory of unproductive and antisocial growth whose main handicap had been officially celebrated as a ‘virtue’: the building-credit-consumption-indebtedness spiral led to higher exploitation and a wider social divide. These two factors have already been criticised above. Let us revise the nexus between dispossession and consumption, along with its social implications in a context whereby citizenship lies in purchasing power and non-consumers are deprived of their basic rights.

Consumers are the main assets of consumer society, while failed consumers are its more annoying and expensive liabilities [Bauman 1998, 57].

Interest rates are at historically low levels; it is a good time not only to borrow, but mostly to cure our defaults [R. Rato].

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298 A solid state tradition that leaves control and provision of education in the hands of the Catholic Church, thus marginalising public schools. ‘Although Francoist social and educative differences have been partially compensated, this compensation has not eliminated persistent inequalities’ (Rambla & Bonal 2000, 297).
299 ‘According to Rodrigo Rato [then minister of Economy], real estate has turned into an investment alternative, due to the bad performance of stock markets during the last three years’ (El País 2.07.03). Housing prices grew at a biannual pace of 18.8%.
Spanish consumer society was built – too late and too fast – on the scaffold of private debt that replaced the Keynesian foundations of institutional welfare. Wealth accumulation through quick-easy-expansive businesses determined the design of economic policies, while consumption and easy success threw the work ethic to the ideological nooks of workfare. As the institutional version of an armed real estate promoter, the Spanish state undertake subjected its social policies to the economic sphere. This trajectory describes the specific version of the neoliberal fallacy in Spain, also in terms of social protection. Both real wages and social budgets tend to decrease, always below the European average and, even when Spain ‘goes well’, under the GDP growth (Adelantado coord. 2000, Navarro 2007, IOÉ 2008). Most of the questionable improvements in the living standards of the Spanish population were not due to economic growth, but rather relied on a financial (inflatable) mattress – hence higher wealth concentration could coexist with more and more inequality.

Nevertheless, this is easy to understand. A successful combination of unproductive accumulation and egalitarian policies could only be possible if the state might develop a sort of ‘conscious strategy’, an ‘economist trap’ that could turn the monetary product of financialisation to compensate exploitation through sustained increases in social expenditure. But this is not a feasible option: province-states lost their economic autonomy in the early nineties, thus overturning their fiscal policies toward reverse Keynesianism and upward tax redistribution, investing most of their budget in real estate and mega-projects, or privatising most social resources. Province-states do not try to alleviate the effects of dispossession beyond the minimum requirements for a sustainable control of the social conflict – which in turn has already been entrusted to the penal system.

To sum up: the Spanish growth model lacks this ‘social’ counterpart promoted under the rule of law in many other democracies. Late Francoism raised a weak pseudo-Fordist structure that – even after its development in the eighties – cannot be equated to the European welfare states. Universalism in the fields of health, education, and social protection was formally declared when neoliberalism was already privatising many resources within those same spheres. Indeed, as soon as Spain joined the project of a European free market, the Spanish state became one of the biggest privatisers in Europe (IOÉ 2008, 58). Furthermore, structural inequalities reinforced polarisation: ‘the social groups with higher incomes and wealth will be easily provided with healthcare, education, housing, and pensions by private markets, while the poor will find higher barriers to access private markets and will have to settle – if they can – with a minimal public system’ (ibid. 59). These same areas expropriated from public interest under our debtocracies had been previously stolen and privatised in other globalised countries, and commodification is an essential feature of privatization. Citizens exercising their rights to enjoy ‘public services’ were forced to become clients of ‘private services’, thus having to ‘choose and consume’ a marketable product.

Decent housing is one of the rights included in the UN Chart of Human Rights whose structural violation shows the dramatic contradiction between constitutional principles and political economy. This right, whose warranty gets more precarious as housing business grows (IOÉ 2008, 56), is the ‘explicit expression of social harm generated by the state-corporate symbiosis’ (Forero 2013, 111). To sum up: housing public policies do not meet their constitutional remits, but ruthlessly violate them. Like the relationship between access to employment and labour conditions, access to housing worsened between 1996 and 2007, although real estate businesses flourished steeply – along with accumulated profit,
participation of banks, empty houses and second residences\textsuperscript{300}. More than 1,5 million people were ‘homeless’ in 2012 (FOESSA 2012, 45) – forced to live in streets, hostels, shelters or infrahouses (Sánchez Morales 2012, 308). Its regulatory role ‘as a central element in the continuation and expansion of the real estate cycle’ (Rodríguez & López 2011, 45) underlines the responsibility, the presence and the size of the neoliberal state. The Spanish housing market – until recently ‘the most profitable investment in the world’ (ibid. 48) – is one of the reasons why the weakest owners and tenants are being dispossessed. The replacement of public indebtedness (political function) by private credit (individualisation and socialisation of harms) in the expansive cycle of 1996-07 led to the current situation. The wealth effect – once celebrated by the boom of capital gains and access to credit consumption – has turned into the poverty effect (ibid. 56).

Unproductive accumulation promotes economic growth at the expense of social underdevelopment. The luxury goods market shows a clear example: while 75% of the population lose their capacity to satisfy their basic needs, the state transfers more and more public resources to market ‘efficiency’ so incomes and wealth can be redistributed in reverse. As the access of the majority to basic products is lowered, the access of a minority to luxury goods is raised.

Consumption means ‘destroying everything to keep going’. To speak of a consumer society is such a contradiction in terms. No society can exist where there is nothing but consumption, because consumption implies biological destruction and reproduction. The concept of society [even the worst, the more cruel, which we wouldn't like to imitate] necessarily implies halting, distance, relations between human beings, the fact of keeping things at such a distance that we cannot eat them. Consumption implies making everything edible. This is why capitalism produces hunger everywhere: hunger is produced where people have nothing to eat […], and among those six or seven hundred million of privileged people who crossed the ‘threshold of what is enough’ […] From a certain level of ‘too much’, nothing is enough [Alba 2011].

Against this obscene backdrop, exclusion is the euphemism through which the social speech of neoliberalism refers to the poor – those failed consumers defined by Z. Bauman as ‘the social waste of globalisation’ (1998/2004). The crisis of over-accumulation accelerates capital fixing, hence job destruction becomes a more and more serious problem, life itself is commodified, and the consumer society turns into an extremely polarised society of hyper-consumer members and consumed non-citizens. A big sector of the so-called ‘middle class’ still tries to find its own reproduction within the market of workfare, charity and social recycling, where workforce is exploited – and profits are collected – by NGOs, foundations and companies linked to political parties, public administrations or private corporations.

In the meantime, a change of paradigm transforms our ideas on social orders and human relationships. This transformation may have been specially abrupt in Spain, where consumption of ideology and the ideology of consumption have operated a dual construction of identity, thus replacing the political condition of citizenship with the status of spectator-consumer. This totalisation of hunger described by S. Alba involves a sort of mobilisation through consumption desire, hence idealising consumerism also implies commodifying idealism. The purchase of emotions and experiences is also promoted by the consumption apparatus – in the most destructive sense – (Žižek 2009), while the

\textsuperscript{300} See Forero (2013, 113), IOÉ (2008, 193 et seq.).
spectators consume each other’s – and their own – bare lives. Welcome to the society of self-consumption!

This violent hegemony of desire turns access to consumption – namely permanent consumption – into a source of permanent dissatisfaction. Such violence is the elementary factor of an unequal, pathogen and anomic order where class differences reaffirm the gap between realization and frustration. Hotel bookings made by Spaniards in 2010 rose by 3.1% (Eurostat News Release 28.02.11). A report by the Spanish Observatory of the Premium Market and Prestige Goods predicted ‘the recovery of growth in the luxury market for higher income brackets (46% of the market) as a result of the good behavior of the short-term financial returns, and a medium-term recovery for the aspirational segment (53% of the market) with a gradual recovery of GDP’. Such recovery is unnecessary for the firms, since international demand keeps on growing. The Spanish Association of Luxury Brands also published its good news in 2011: ‘fashion, accessories, beauty, cosmetics, beverages, jewelry and watches had a turnover of €4.5 billion in 2011, 20% higher than 2010’.

In 2010, the president of Everis Foundation E. Serra and a hundred big businessmen and ‘experts’ presented a report to the Spanish King with the suggestive title of A key opportunity to build together the admired Spain of the future. Some of those businessmen and experts signing the report and joining the visit were C. Alierta (Telefónica), F. Benjumea (Abengoa), B. Faliones (FCC), J.M. Entrecanales (Acciona), L. Atienza (Red Eléctrica), A. Catalán (AC-Hoteles), A. Llardén (Enagas), A. Zabalza (Er巴斯), T. Serrano (Renfe), I. Polanco (Grupo Prisa), D. del Alcázar (Vocento), C. Iglesias (Unedisa), J.M. Lara (Grupo Planeta, Antena 3), M. Conthe, E. Punset, J.M. Fidalgo and E. Ontiveros. The event took place some days after a previous meeting between the Spanish president and a select group of 30 businessmen. Many of them joined both meetings. The main lines of this report can close this section with the material definitions of citizenship and social contract, thus confirming what C. Brendel and H. Simon described as a Spanish ‘transition from formal domination to real domination of capital’ (1979, 55-64/175 et seq.; cf. López Petit 2004, 8). These are some passages of the statement Let’s transform Spain, an abridged version of the report: ‘consolidating a better known, respected and influential country-brand, and removing the ghosts and complexes of the past’ (Everis 2010, 4); ‘responsible optimism’ or ‘hopeful reality’ characterizing ‘the mood of our civil society’; ‘consolidating the welfare state’ as ‘an existing model that generated excellent results in the past, but has given clear symptoms of exhaustion for years’; ‘building a future together’; or the traditional claim for ‘solid consensus and stewardship between political forces and civil society’ (ibid. 5-10). All these slogans were summarized in an Asian proverb introducing the document:

When the wind blows, some people run and hide while others build

301 See http://www.observatoriodelmercadopremium.ie.edu/sites/default/files/mercadopremiumalalza.pdf. ‘The high income group is constituted by households with annual incomes over €100,000 (390,000 families) or more than €750,000 in financial assets – excluding houses (140,000 families). The latter sector of 140,000 families shows an annual average between €10,000 and €12,000, which represents half of the market. Its sales growth is being influenced by the economic environment and fiscal pressures, mostly by the profitability of financial investments’.

302 See http://www.luxuryspain.es/2012/02/el-sector-del-lujo-espanol-no-sabe-de-crisis-2/

303 See http://www.everis.com/spain/es-ES/sala-de-prensa/. Everis is a consulting firm (read lobby) created in 2001 to ‘support entrepreneurs and to develop innovation in any area’. Its membership list and government structure can be found in http://fundacioneveris.es/Paginas/
windmills, a poetic – and mostly obscene – confession of the elite’s Darwinian principles.  

III.3.c. Expulsion. Economic Dimension and Punitive Resources

Exploitation and precariously are two key features of post-Fordist labour markets – where decent job creation becomes radically incompatible with profit accumulation. Full unemployment is the new sign of the ongoing trend to expel more and more workers out of the market. We can therefore distinguish a broad process of mass expulsion and a specific trend to hyper-expulsion – of the social surplus. In line with the first (historical bases) and second (global logics) chapters of the book, three dimensions of expulsion under the same painfarist reason can also be identified: punitive expulsion as a penal tool stricto sensu, economic or labour expulsion, and legal expulsion – regarding fundamental rights. These three dimensions show a progressive abandonment of the social state resulting from the tension between a ‘law focused on social protection’ and a ‘systemic conflict of power relations, along with the growing interdependence of social and economic relations’ (Vila 2014, 18).

Once expulsion can be understood as an update version of deportation, exile or banishment – displacement from a physical place, a social space or a jurisdictional territory –, therefore as a form of punishment regardless of its legal, political, economic or social causes, the punitive logic behind certain neoliberal policies and discourses becomes even clearer. In other words: as this analysis approaches its conclusions, the government from the market merges with an administration of harm to dispossess, redistribute and expell an increasing share of the governed mass.

As a reminder, let us remember two key factors. First, that the oscillation between growth and recession is due to a logic of sustained increase in the rate of profit as the latent goal of public policies – hence a policy through which wealth cannot be concentrated will be deemed as a failure. Wealth concentration will necessarily lead to higher profit/wage ratios (ΔBº/Δw). Second, that this axiom imposes a cyclical clause whereby economic growth imposes the conditions for the subsequent recession. Spanish neoliberalism and its housing bubble provide a good example: a cycle based on the productive boom of the 20th century was exhausted by its own attempt to sustain exploitation through a financial artifice. And the bigger the fall, the more violent its social consequences. Since the bases of this growth model were absolutely unfair, its collapse inflicted serious harms on the lower classes. In addition, the shadow areas of the market do not imply a threat to the iron law of sustained rise in profits, but quite the opposite.

Fuck ’em [Andrea Fabra, Member of the Partido Popular, 11.07.12, in the Spanish Parliament, as the PP parliamentary group applauded a reduction in unemployment subsidies announced by the government].

304 The indigenous of a privileged habitat who claim to be ‘prominent figures in the Spanish civil society’, inhabit structures and fields alien to the social realities of common people, and do not need to understand these realities to adapt them according to their class interests, which casually (read sovereignly) conflate with the way, the spirit, and the rationale that ‘must help take the country towards the admired Spain of the future’ (Everis 2010, 9).
Many young (and not so young) people have left Spain in search of opportunities due to the crisis. This is called external mobility [F. Bañez, minister of Employment, 17.04.13].

*Mass expulsion* appears to be the immediate social effect of unproductive accumulation. It is *massive* because it does not affect any specific social profile. The places of origin of a migration processes are aways dispossessed by a prior deployment of the accumulation regime. To this day, nothing should sound more familiar to the 300,000 young people who had to move from Spain since 2008. 2011 was the first year in the 21st century with a negative migratory balance in Spain (Carrasco & García 2012). Exile abroad is a secondary effect of labour mass expulsion. The first effect is mass impoverishment, hence the collapse in living standards from generation to generation.

*Hyper-expulsion* involves the specific impact of mass expulsion – through job destruction – of poor foreigners who are used as the minimum reference for less eligibility. The *expulsion-exploitation* link imposes an expanded principle of less eligibility as the necessary condition to recruit workers at lower and lower costs.

Between 2008 and 2013, a growing share of Spanish workers experienced this traumatic shift towards expulsion, while hyper-expulsion imposed a change of scenery on a large sector of the foreign population. Reifying and confining the Other do not imply any innovative strategy for this sector, but ostracism and exile provided a dramatic turn of the screw. The most tolerant discourses on the foreign poor claim for ‘control’ at the service of the market (*if they may be useful...*); right-wing approaches warn of a dangerous ‘invasion of immigrants’ (*send them back home!*); since 2010-11, some dare to call the Spanish migrants ‘young adventurers’.

These discourses are compatible, complementary, even functional to the same biopolitical regime. In practice, the very coherent discourse might well have been this one: foreigners are being useful for us, but they should not lose their desire to leave this country. The sudden economic overturning of 2008 has just led to an unexpected scenario by the Spanish centaur state: foreign workers leave the country and Spanish young workers also move abroad. A new *ecology of punishment* (Jiménez 2015, 213 et seq.) combines expulsion and ‘outdoor repression’.

The spike in state racism, the idea of fortress Europe, the cynical survival of work ethics, and the hardening of penal policies are the surface marks, i.e. the tip of an iceberg involving much more ambitious agenda: the ideological regulation of a very complex workforce composition, the submission of a variety of processes fully overflowing the governmental possibilities and capabilities [Rodríguez 2003, 16].

The concept of expulsion has already been analysed in economic terms. In a broad sense – as a *de facto* abandonment of state responsibility to suppress fundamental rights –, expulsion has become the backdrop of exploitation and dispossession. As a specific phenomenon – *stricto sensu* a practice to modulate imprisonment –, expulsion emerged in

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305 See Regional UN Information Centre in Western Europe (30.08.13): http://www.unric.org/es/desempleo-juvenil/279-los-espanoles-vuelven-a-ser-emigrantes
307 Especially under two last governments of PSOE, public management of Spanish immigration policies combined two complementary discourses. The first depicts ‘invaders as internal enemies (those who live here) and external threats (those who want to enter the country)’. The second depicts ‘Spain as a humanitarian leader promoting development in the countries of origin’ (Romero 2011, 11).
308 Adapting the original term: *the head of a real estate developer, the body of a law enforcement officer.*
the field penal-penitentiary sphere once the fiscal crisis had been induced. This is why the expulsion of foreigners has been functional to the management of the post-fordist reserve army of labour. It might be worth drawing a quantitative portrait of this process.

Spain changed its status from ‘emigrant country’ to ‘destination country’ along the seventies. The number of residence permits tripled between 1970 and 1995, and increased seven-fold between 1996 and 2007. In 2001, the number of foreigners living in Spain exceeded the number of Spaniards living abroad for the first time in history, but the net balance of remittances was not reversed until 2004. Remittances of foreign citizens to their families doubled Spanish Official development assistance in 2006, and reached their peak in 2007 (IOÉ 2008, 30). The demographic balance would narrow back since 2008: 700,000 in 2007 to 300,000 in 2010 (OECD 2012) – more than half the total decline in permanent flows across OECD countries. The main cause were the free circulation flows within the EU-27 and not both from Africa, since Spain is a major way to enter Europe. Net immigration flows in Spain have remained low since then. In 2010, 430,000 foreigners entered Spain – 8% less than 2009 and 40% less than 2008 (nearly 700,000). Moreover, a limited calculation on temporary workers shows that entries in 2011 fell by 87% regarding 2008. ‘Net migration was positive in 2011: more than 50,000 people’ (OECD 2012); and 2012 maintained this balance.

10,130 out of 43,871 expulsion orders issued in 2011 were executed. The annual average of expulsions between 2005 and 2009 was 11,000 (13,278 in 2009) – around 0.3% of extra-community population and 1.2% of undocumented residents, thus showing the real goal of border fortifications: the main effects of ‘control and regulation’ are fear, submissive adaptation and efficient exploitation of those who remain, rather than any relevant number of expulsions. Between 2004 and 2008, the ‘legal’ foreign population increased by 2 million, and the total number of repatriations amounted to 416,453. ‘The PSOE government claimed to have deported more people in the period 2000-03 (258,049) than the PP government’ (Romero 2010, 98-99). This is the political context for the circulars 1/2010 and 2/2012 by the General Police Directorate, which reinforced extralegal selective discretion, linked immigration to delinquency and public safety, and tended to generalise expulsion procedures as a priority. More than 27,107 people – with a 500% overrepresentation of foreigners – were stopped-and-searched in the second half of 2012 (Europa Press 30.03.13).

Whilst the amount of entries has recently decreased, the relative volume of expulsions has grown. In 2011 – first year of negative migratory balance – the Ministry of the Interior chartered more than 150 flights through the General Department on Alien Affairs and Borders. Thirteen more flights were scheduled in collaboration with the European Agency for the Management of External Borders (Frontex). 3,251 in 11,358 expulsions by air were executed in 2011 (Spanish Ombudsman Office 2012). Another 1,439 people, mostly Algerians, were repatriated in more than 140 ships. 2012 was the first time when the Spanish Ombudsman registered the number of deportation flights.

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309 Expulsions are the repatriations based on the causes stated by LOEX through administrative records for illegal stay. The total amount of repatriations includes expulsions, returns (from border posts), devolutions (from ‘non-border’ sites) and readmissions – expulsions to third countries through readmission agreements.


In 2012, the number of expulsions (10,130) was slightly lower. After adding 8,647 refusals of entry, 1,409 readmissions and 6,271 returns, the total number of repatriations amounted to 26,457 (Apdha 2013, 17). Between January and April 2012, the government spent more than €10 million on such operations – according to data provided by the government in response to a parliamentary question. ‘The cost is manageable for the government: every show of force against immigration, every movement to send aliens through the exit door has its electoral revenue, according to PP strategists, even though arrivals are decreasing’ (Celaya 2012).

In 2013, the General State Budget included this €50 million allocation: €1.4 million for external surveillance (SIVE), €9.1 million for the Guardia Civil (also in external surveillance), €400,000 to maintain 10 CIEs, €4 million to secure the borders in Ceuta and Melilla, and €25 million in forced repatriations (Apdha 2013, 14). After years of huge investments in technology and repression, migratory flows have not ostensibly changed. Meanwhile, the number of deaths of migrants has increased as a result of the reinforcement of control measures and the poor transportion means: ‘131 dead or missing in 2010, 198 in 2011, 225 in 2013. […] the truth about this horrible escalation of people losing their lives will never be known, and real figures will surely be much higher than available data’ (ibid. 18).

Going back in time, we can see that between 2,000 and 4,000 people died in the Strait of Gibraltar along the 1991-1996 period (Dietrich 2008, 20). More than 3,000 died between 1997 and 2000. The estimated amount of deaths in 2004 was 800. An average of 1,500 every year, according to UN. In any case, it is just a fraction of the deaths resulting from shipwrecks, which does not include those who die in Africa. ‘Some 12,000-14,000 dead until 2007. The Strait of Gibraltar is the largest mass grave in post-war Europe’ (ibid.: 21) – cf. Cabezas (2014). But the Syrian crisis and the aftermath of some other wars in the Middle East have made it even worse in recent years: according to the International Organisation for Migrations (IOM), around 15,000 people died in the Mediterranean sea between 2014 and 2017.

How to explain such a sharp demographic and economic convulsion of Western Europe within our alleged ‘peaceful and tolerant’ society? As we shall see later, this does not seem to match with one of the most selective and racist penal systems in Western Europe. A paradoxical combination of police reinforcement of border control, routine recording of deaths, humanitarian rhetorics and hyper-punitive cultural elements has ended up defining immigration as an ungovernable source of public insecurity.

Muslim immigrants pose a risk for our democracy because their customs and ideas bring serious incompatibilities for our lifestyle – I. Cosidó, PP spokesman in the Congress, then Director General of the Spanish Police, in the summer course of FAES think-tank [Público 1.07.08].

First, second and third generations of immigrants, with different levels of training, purchasing power and culture. A large percentage belongs to low levels of social integration,

312 A map of alien internment centers in Spain and in the EU can be found in http://www.migreurop.org/
313 None of those deaths – in the sea or in the desert – is due to a natural catastrophe. All of them are the result of a crime. All of them, as so many others, are the victims of a structural genocide with political and economic causes.
but we cannot exclude anyone – E. Pereiro, head of the National Center of Antiterrorist Coordination [cf. Prado et al. 2009, 108; Romero 2010].

The main difficulty may lie in the one-dimensional plane where this paradox arises. Racist expression might neither be determined only from cultural and political parameters, nor from a purely structural perspective. ‘Multicultural’ discourses (Delgado 2011b), exploitation under new labour regimes, humanitarianism as a prosthesis of consumerism, daily privatisation of spaces and relationships... all those vectors determine a post-political attack against the notion of inclusion. Institutional racism speaks of integration not to assume any structural causes or institutional liabilities. The notion of class is thus post-politically dissolved as exclusion is replaced by expulsion. Instead of meeting the fallacy of integration – what about the host’s responsibilities? –, expulsion expands to abandon fundamental rights and foreignise larger sectors of native population. Enzensberger described hospitality as a new dynamic ‘democratising’ the status of foreigner among the native population. More and more natives are just being foreignised by the government from the market.

In order to avoid bloodshed and to enable a minimum level of exchange and circulation between clans, tribes and ethnic groups, ancient societies invented taboos and rituals of hospitality. Instead of abolishing the status of foreigner, such mechanisms strengthen it. Aliens can have some hospitality, but they cannot stay forever [Enzensberger 1992, 15].

Yet, exploited non-citizens, ‘non-persons’ (Dal Lago 2000) forced to integrate, repressed Others, dangerous individuals, cheap workers have suffered all kinds of abuse for ages.

There is no capitalism without racism [Malcolm X].

Postmodernity is effectively our condition, but at present this condition has become morally unacceptable. When capitalism threatens the very existence of humanity, it is despicable to rejoice in the postmodern garden. Now, to proclaim the universal citizenship or to talk of radical democracy, to continue the project of modernity as if nothing had happened, is simply naive and filthy [López Petit 2009, 20].

Since market-state symbiosis generates more and more social harm and expulsion appears to be a purely punitive phenomenon, are we facing a change in the crime-punishment link? Are we witnessing an expansion of the punitive sphere? Is there a new governmental reason behind the hypertrophy of punitivism? Can we give a coherent explanation in terms of mass expulsion and punitive autonomy? Expulsion is the global feature of a re-bordered political economy (De Giorgi 2012), while expanded punishment becomes a necessary condition and a direct consequence of debtocracy. Within the Spanish penal sphere, the primacy of expulsion over imprisonment seems to confirm this same trend: the ‘governmental puzzle of liberalism’ (San Martin 2013, 3) rearranges itself. Hence our proposal to replace the euphemistic notion of exclusion by an expulsion through which punishment and harm are extended and intermingled.

III.3.d. Spain Wasn’t Doing So Well. The Middle Class and a Suitable Amount of Scum

It was not desirable that the proles should have strong political feelings. All that was required of them was a primitive patriotism which could be appealed to whenever it was necessary to make them accept longer working-hours or shorter rations. And even when they became discontented, as they sometimes did, their discontent led nowhere, because being
without general ideas, they could only focus it on petty specific grievances. The larger evils
invariably escaped their notice [Orwell 1949, VII-40].

Our regime will make class struggle radically impossible, because all those who cooperate in
production constitute an organic whole [FET y de las JONS315 1939, 12].

Despite the mantra on democratic maturity imposed by the culture of the transition, no
strong confidence in the institutions can be deemed as a feature of the Spanish society.
Poor democratic participation or low tolerance to corruption are two symptoms supporting
this idea of an immature democracy.

The conditions under which the economic elites benefit from their social position and
their relations with the political class have been already mentioned. This chapter completes
the portrait of an constitutional framework of inequality – read a legal framework of injustice – to analyse the Spanish bubble of incarceration under neoliberalism. The focus
will therefore move to the action of the elites and the way that capitalist? social relations
are justified and accepted by the lower classes316. We are all middle class because nobody
wants to be poor: the society of indebted owners summarises the conditions for the social
base of neoliberalism in Spain within the ‘subjectivation machine of the financialisation
process and the material dynamo of the debt-investment spirals – which kidnapped the

Once the crisis was officially declared, its harmful effects became more visible through
diverse expressions of unrest. But the same constituent elements of the conflict317 had been
the necessary conditions for the so-called ‘economic miracle’. This alleged paradox
survived every chapter in Spanish economic policy, thus providing a political dilemma that
should be interpreted against the backdrop of neoliberal post-Francoism under
‘democratic’ consensus. It’s democratic transition, baby, and this is also why any
conclusion on the economic structure must include a superstructural condition: a
‘metaphysical wrapper’ called sovereignty – through which ‘the transcendent singularity of
its holder is discursively reconstructed’ (San Martín 2013, 7) – succumbs to a
supranational government. Debt is this government’s weapon, and the crisis-debt-deficit-
crisis spiral is the battlefield where national sovereignity collapses. At the same time, a
flourishing discourse denounces that this spiral undertakes ‘an attack on the middle class’
through austerity policies. This affirms the middle class citizen as the subject of an
individualistic notion of citizenship that has long identified fundamental rights with
purchasing power. The exclusive condition of that discourse, along with the centrality of
the signifier citizenship, reveals how groundless consensus is under neoliberalism.

Once presented by Franco as the real ‘monument’ of his work, the middle class fell under
the threat of unemployment, the pendulum of credit, and the propaganda of democratic
consensus. As noted by E. M. Reguera, ‘the middle classes had started sliding towards
unemployment, and someone had to offer them a means of subsistence. And what could be
better than integrating the poor in the Salvation Army to prevent them being doggedly idle,
or even worse, turbulent’ (2003, 123). Unemployment rocketed between 1970 (1.2%) and
1985 (21.5%), from the productive stagnation of the early eighties (Martínez Serrano et al.
1982, 221) until the weak economic recovery of the ‘first’ bubble. After a short period of

315 Traditionalist Spanish Phalanx of the Committees of the National Syndicalist Offensive.
316 First indebted, then dispossessed, mobilised by consumerism, and submitted to high levels of exploitation.
317 In other words: social inequality, denial of individual rights and liberties, and degradation of social
solidarity – see Quijano (2000, 2).
job creation (16% in 1991-92), unemployment grew back to 24% in 1994. As a result of the ‘second’ financial and real estate bubble, structural unemployment appeared to have stabilised around 10% (8% in 2008).

The first phase of sustained increase in unemployment coincided with what Sanz Cintora generously qualifies as the ‘authoritarian welfare state’ (2001, 14): an assistive structure supported through moderate investment on social protection that did not touch the stigmatising nature of social aid. The professional and academic status of social workers was built in the long decade of the transition – and had been included in the university curricula since 1983\(^{318}\). The new constitutional order suppressed any allusions to charity, while local administrations were in charge of enforcing the new regulation. Those were the years of the deinstitutionalisation of children and mental health, the closure of mental institutions and the ‘eradication’ of shanty towns. ‘Spain took the double path of reformist pragmatism and idealistic voluntarism’ (ibid. 21). In the late eighties, the post-Francoist network of social protection involved the ongoing and important participation of the Catholic church within a renewed, specialised, bureaucratised and commodified welfare sector (ibid. 23-4). This ‘new economic area’ was therefore ready to welcome the so-called ‘private initiative’\(^{319}\), the participation of ‘civil society’, ‘new forms of management’, and ‘volunteerism’. The proliferation of ‘foundations’ – linked to companies and/or financial corporations – and some other ‘social-purpose’ entities led to the entry of ‘social and mercantile initiatives’ into social service regulations. This trend was then consummated in the nineties, and profit-seekers would be explicitly included in the early 21\(^{\text{st}}\) century. Between 1989 and 1993, all autonomous communities implemented their minimum income schemes. Later they developed ‘comprehensive plans’ against poverty, thus combining privatised management, pecuniary assistance and a kind of soft workfare to link social intervention and job schemes. This process converged with a conjuncture of job creation under the second bubble, although severe poverty rates barely changed and the risk of poverty edged up slightly.

The expansion of the social intervention market led the development of public-private collaboration through mixed management. Meanwhile, security markets and imprisonment were also growing. As L. Ferrajoli and D. Zolo had warned in 1980, ‘no one would argue today that the working-class is the exclusive or predominant victim of penal repression and prison institutions. Economically and culturally marginalised sectors, those who have lost their social identities, are the hardest hit: migrants, urban sub-proletariat, underemployed in tertiary activities’ (1980, 88). Under Spanish democracy, the citizen retreat around a neoliberal concept of the social and the individual led to the stigmatisation of certain social groups through visions of social exclusion. This is how many ‘new poors’ or ex-middle class citizens try ‘to regain self-confidence in one’s self and trust their closest neighbours’ (Díez Ripollés 2004, 28). First of all, the young addict who had committed an offence against property became the prime scapegoat. In the mid-nineties, the junkie was replaced by the foreign poor as the key object of stigmatisation – hence as the dominant carceral profile. All these phenomena are related to the rise of securitarian discourses. As an idealized subject, the neoliberal citizen was built around the notion of middle class, based on specific values and habitus of high social strata, and affirmed against the stigma of


\(^{319}\) The RD of 15 July 1988 bolsters the social sector – shortly after, the social market – through promoting the management of services by private agencies, then called ‘non-profit entities’.
insecurity – read the remarkable feature of the underclass. It has been almost three decades since many scholars started analysing how the surplus generated by the economic cycle is ‘recycled’.

There is nothing natural about monitoring and controlling the poor. Not all areas of social order have been colonized by the market in the same way. The historical relationship between states and markets draws a biopolitical process at the service of the economic sphere. Like a myriad of needs such as food, health, housing, education or communication, most evils arising from exclusion are also being transformed into productive inputs. The accumulation regime – whereby exclusion is produced – applies the same technical and ideological foundations to generate more activity through the by-product of its primary activity. In Spain, this neoliberal recycling of social exclusion implied a rapid overlay of the welfare-workfare-prisonfare rationales: under wealth effect and growing commodification – which reaffirmed the neoliberal fallacy –, a social majority assumed the guiding principles of inequality. Within a structure of social protection that hardly deserves to be called welfare, the markets of social intervention and confinement welcomed private entrepreneurs in residences, home care, therapeutic centres, juvenile institutions, community social services and prisons. The rationales of partnership, profitability and efficiency keep on colonising those public spheres that were allegedly linked to the rule of equity.

Regarding the conditions under which those businesses are undertaken, E. Larrauri argues that ‘fear is real, although it can be either generated or natural, in the societies where we live; but the political translation of that fear (more police, harsher penalties, less rights) and its economic consequences (more security companies, more private police) are not natural at all’ (2000, 235).

As a hybrid space between assistance and penal management, the control on redundant groups is being transferred to private entities whose customers are the public administrations. Those who are confined in total institutions become the productive inputs of every business area subsidised through public budgets. In turn, the companies involved in those business areas will collect every monetary sediment. These ‘sediments’ must be subtracted from the money allegedly spent on (adult or juvenile) prisoners, (elder or disabled) dependants, (unprotected or dangerous) children, (male or female) foreign poors and homeless people.

Such an efficient management of hunger is feeding a constellation of NGOs, foundations and companies […]: Grupo Norte foundation pretends to sell care for children, but also includes Forsel (employment agency), Prointel (security), Limpisa (cleaning), Ibérica (social services) and Signo, used to hire 2,500 workers in 1998 and 4,000 in 2002; and its incomes jumped from 4.9 billion pesetas to almost 10 billion’ (M. Reguera 2003, 120).

The state administrations also assume those same rationales of privatization and profitability that exploit insecurity, exclusion, ‘antisocial’ behaviours or ‘delinquency’. ‘F. Pantoja, a member of the Spanish General Council of the Judiciary who participated in the preparation of the Organic Law of Penal Liability of Minors, put it like this: We included a provision to let some neighbourhood associations take part in such measures as community services or probation, but we could not imagine that this would be used to delegate the execution of imprisonment’ (El País 19.05.06). According to M. Reguera, ‘Peñalar centre Peñalara, concerted with Asociación Respuesta Social Siglo XXI, spends 13 million pesetas per child a year, which means 136 million pesetas a year, since only 10 children are
attended in this institution. ¿Could you imagine that a poor family with five kids (half the amount at Peñalara) was given half of those 136 millions/year? ¿Mediators attending families, or poor children who became a horn of plenty for their guardian angels?’ (2003, 124).

Under a ‘social and democratic rule of law’ willing to ‘guarantee democratic coexistence within the Constitution and laws according to a fair social and economic order’ (Spanish Constitution – preamble), one would expect the penal system to remain under minimum levels as all those democratic purposes were being achieved. Indeed, as stated by the Constitutional Court (STC18/1984), the ‘recognition of economic and social rights [...] requires the state intervention to make them effective’. This is the essential relationship embodied by the social democrat myth of contractualism. Under neoliberal disorder, the theoretical correlation between ‘better governance’ (‘more democracy’) and minimum penal law collapses. No analysis of the last decades can conclude that those constitutional purposes have even been desired by successive Spanish governments (Capella 2003). The current legal order does not reflect the interests and needs of a broad spectrum of the population. ‘The virtual disappearance of the analysis and the discourse of social classes is a clear symptom. Such analysis is, however, essential to understand the low social spending and the lack of social development in Spain’ (Navarro 2006, 25), as well as the commodification of basic needs. Thus, ‘modernising means forgetting that social classes exist in Spain’ (ibid. 2006, 27).

Most social indicators of the functions of the market-state as a producer and manager of inequality are often overshadowed by the pseudo-scientific authority of macro-magnitudes. Moreover, the positivist prioritisation of nominal (snapshot) figures on relative (contextualised) values reveals how the market-state manages social control. In other words, trends in social control are determined by the governmental reproduction of a status quo under economic priorities.

III.4. The Functions of the Penal System under Spanish Neoliberalism

The state stridently reasserts its responsibility, potency, and efficiency in the narrow register of crime management at the very moment when it proclaims and organizes its own impotence on the economic front, thereby revitalizing the twin historical-cum-scholarly myths of the efficient police and the free market [Wacquant 2009, 22].

The neoliberal project found a barren socio-economic order in Spain, static enough for a stable transition between the kingdom ruled by Franco and the democracy presided by a Bourbon king. The constitutional declaration of the Spanish state as ‘social’ took place after their European neighbours started repealling the social priorities of their public policies for three decades. This is a key element: Spanish neoliberalism provided an adequate context for a Lampedusian renewal constitutionally legitimated and based in a fake consensus. ‘Such transition was made under the control of ultra-conservative forces, successors of the dictatorship, who maintained their control on the state institutions, as

320 ‘The administration of justice is moving ever further away from what citizens call ‘justice’. The criminal prosecution of children is the most resounding proof of the non-existence of social policies, the inevitable corollary of exclusion, the last link in a chain of preventions and harassment […] The less democratic, inclusive and redistributive the policy, the more intense the pedagogic vocation expressed by juveniles laws’ (M. Reguera 2001, 107).
well as the financial (banks), corporate (employers), ideological (church) and repressive (army, police and judicial) powers. The picture remains 33 years ago’ (Navarro 2012). The social structure of Francoism did not disappear with democracy, but adapted quickly to the rules of the global game. Consensus was post-politically built at the same pace as this post-Francoist adaptation: ‘withdrawal from ideology, a retreat from active engagement in civil society to passive, apolitical consumerism’ (Žižek 1998, 10). Self-censorship is inherent to the exercise of power, thus tightening and relaxing the political grimaces of ‘lifelong democrats’ who (eventually and alternatively) belie and recover their explicit adherence to a revisionist tale that would be inconceivable (and legally prosecuted) in the rest of Europe.

The legitimacy of the Spanish democracy creates too heavy a burden. In the late seventies, to declare democracy was a priority: ‘We must do the transition or else they will do it for us’, is one of the famous quotes by C. Arias Navarro, last Francoist president and first president under monarchic democracy. And the penal system is a good example of this entrenchment. The Spanish political culture is a very important element in the portrait of the punitive turn: under neoliberalism, the expressive abuse of the penal law acted as a sort of sovereign placebo.

Every democratic deficit detected in a particular institution will reveal common problems within other areas of public policy. What if such deficits were constituent elements of the same governmental structure and the same ideological basis? Reformist prison policies have no place in a neoliberal regime. Neoliberal theories of crime and punishment were imposed in Europe because capitalism responds to the social effects of its deployment through the same tools and recipes which have led to such effects. It is beyond discussion that ‘mainly in societies with a third, fourth or fifth generation of rights, references to a society of fear – namely feelings of insecurity – are also consolidated’ (Bernuz 2006, 1). Moreover, such phenomenon emerges across societies abandoning rights where neoliberal totalitarianism has succeeded in imposing a fully functional political regime. Such is the case of the Mediterranean post-dictatorships, now called PIGS.

Only because biological life and its needs had become the politically decisive fact is it possible to understand the otherwise incomprehensible rapidity with which twentieth-century parliamentary democracies were able to turn into totalitarian states and with which this century’s totalitarian states were able to be converted, almost without interruption, into parliamentary democracies [Agamben 1995, 155].

A European democracy can afford to have its own unemployed, criminal and terrorist people, but cannot afford to have any political prisoners [Van Ammelroy 1979, 193].

Death sentences of 1975, the events of Vitoria in 1976, or the intense criminal activity of the State Security Forces (SSF) and paramilitary groups during the transition (Grimaldios 2013) should remind us that ‘as soon as a political threat takes revolutionary shape, the repressive mentality creates its own tailor-made staff’ (Vilar 1963, 169). But the desirability of ‘democratic modernisation’ would force a convenient harmonization between the ongoing economic model and the state repressive methods. Market order reshaped some areas of state control, while the economic and political elites negotiated a (not too) new distribution of power and wealth. Although a ‘dictatorial style’ could not

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321 A. Suárez, secretary general of the National Movement (December 1975 to July 1976), became the first democratic president – 1977-1981.
322 On the ‘Culture of Transition as a hegemonic cultural paradigm’, see Martínez coord. (2012).
easily adapt to the performative demands of a democratic state, the alleged gap between the minimal states of Francoism and neoliberalism proved not to be insurmountable at all. In fact, in the case of anti-terrorist practices and certain carceral regimes, this alleged gap is absent. Although the following pages are not focused on this hard core of repression, this must be mentioned as an example of how the authoritarian mentality survives in democracy. The penal system is a good testing ground for institutional and superstructural continuities. Some Francoist ‘violent traditions’ remain today within and outside the walls. Institutional abduction is the result of a ‘selective action against some potentially dangerous groups or classes’ (Peres 2009, 221), thus degrading carceral living conditions, reinforcing the specific role of the delinquent, and reifying preconceived symbolic categories within social inequality. Those who are labelled as delinquents may therefore become delinquents by the work and grace of the prison. This happened under Francoism and happens under democracy.

The transition was a period of severe social unrest. As the regime decayed and change became imminent, claims for the recognition of ‘political prisoners’ increased. However, it is paradoxical that this claim would come to help exclude the ‘social’ prisoners. Political prisoners had been sentenced ‘without being criminals’, so ‘common’ prisoners might deserve their sentences. Both the outgoing authorities and those of the incoming regime – they were often the same people –, as well as many organizations expecting to be legalised, forgot that social prisoners had been sentenced by Francoist Social Danger and Rehabilitation Act (1970), which in turn adapted the Vagrants and Crooks Act of the second Republic to imprison the annoying poor – whether they were offenders or not. Senators L. Xirinacs and J.M. Bandrés promoted a bill on General Amnesty for social prisoners, initially supported by some parties but then boycotted by major political forces (UCD and PSOE), keener on prison reform than the release of most prisoners. The proposal was finally rejected by almost all members of the Spanish Senate, including Santiago Carrillo’s Communist Party’ (Galván 2007, 130; cf. Rivera 2006, 163/178). A. Van Ammelroy quotes a letter sent by A. Rato (Spanish Communist Party) to the Prisons director and the Justice minister: ‘delinquents must be isolated for the same reasons we confine a dangerous maniac or someone who carries a virus’ (1979, 194).

Between 1975 and 1977, several pardons or royal decrees released the political prisoners so they could join the general elections of 1977. Franco’s Social Danger and Rehabilitation Act would remain in force for a while, since the reform of the Penal Code had to wait, but the Senate agreed to investigate all state prisons. A reform of the prison regulation was published in August 1977, and the General Prisons Act (LO 1/1979) became the first organic law under democracy. ‘The demand for the emptying of the prisons ended in a prison reform, and then in an organic law whereby some principles that should inspire the new rules were ignored’ (Rivera 2006, 180). The condition of minimum penal law – that

323 See III.1.c above and http://mapadefosas.mjusticia.es/exovi_externo/CargarInformacion.htm (Ministry of Justice). Official records assume that 120,000 to 140,000 people remain buried in 1,236 mass graves. Out of 2,457 graves, 1,221 have not been opened after 40 years of democracy. 250 graves have disappeared under infrastructural works. Only Cambodia surpasses Spain in this horrific world ranking. In December 2017, the Basque Institute of Criminolgy (IVAC-KREI) presented its final report on torture 1960-2014, with 4,113 recorded complaints by 3,417 people for mistreating and torture, although real figures are higher – see CPDT (2005-13), OSPDH (2005b, 2012), Van Boven (2006), Makazaga (2008/ 2009), Del Cura (2011), Arzuaga (2012). The European Court of Human Rights has imposed eight rulings against the Spanish state for not taking proper action on denounces for torture – the last being cases involving Jon Patxi Arratibel (2015) and Xabier Beortegi (2016).

should be consecrated by the democratic state – was born dead. Hegemonic discourses imposed criminalisation on the *sine qua non* principle of minimum intervention (Terradillos 2003, 355 et seq.).

The element ‘peace’, civil peace, social peace, religious peace, peace itself, became something without which anything referring to politics could thrive. And for worse shaming, peace was not only a demagogic tool to keep the spirit of war – inherent to the dictatorship – but also would become the far-right legacy in its hegemony against leftists. Fear of altering «peace», even armed peace under dictatorship, had to be carefully considered under the conditions imposed by Franco’s heirs to achieve democracy. Peace, regardless of how false it was, would exert a constant blackmail in the transition [Morán 2015, 46].

Another relevant chapter of this ‘peculiar’ transition must be found among capital-labour relations, where daily repression, denial of rights and a vertical organic structure used to prevent and respond harshly to any protest. Along the path of democratisation, legalised trade unions proved themselves effective to legitimise new capitalist policies and control unrest toward on behalf of *social peace*. Income policies founded in the Moncloa Pacts were mostly aimed to ‘preserve the climate of negotiation and understanding with the trade-union bodies’ (García & Jiménez 2004, 173). The neoliberal decades would then build a general framework for job insecurity, economic destructuring and social underdevelopment. Let us compare this general framework with the trends in the penal field along two main axes: *exploitation* – as the base of capitalist production relations – and *expulsion* – as the current key for punitive governance.

As pointed by I. Rivera, ‘there is not much need to describe the ongoing deep crisis of penal confinement as the penal institution par excellence. Nevertheless, prisons do not tend to disappear. On the contrary, the penal system and its further agency (prison) are experiencing a remarkable growth’ (2006, XIII). Rivera underlined this fake paradox just three years before the prison population reached its ‘democratic’ peak: The number of prisoners in Spain – around 10,000 in 1980 – amounted to nearly 77,000 in May 2010. This increase contrasts with a delinquency rate below any of the large EU countries (GODPP 2010), which cannot be read from a normative perspective – just as hunger cannot be explained from an economist approach. It is the sinister political function of legal dogmas which must be understood under the factual condition of penal selectivity, just as there is no better example than famines to explain the criminal role of economics.

In order to analyse the neoliberal functions of imprisonment, let us distinguish a *low* level of neutralisation, disabling and storage. Repression, surveillance, punishment, correction and discipline would thus remain in the *middle* plane. In the *upper* level, the state works on a symbolic mission to reaffirm its authority by tracing a frontier between good and bad poor, deserving and undeserving, reintegrated and expelled (Wacquant 2009, 18-22, 47 et seq.), native citizens and alien threats. The ‘punitive turn’ (Larrauri 2009, 2) experienced in most neoliberal states since the eighties has much to do with our social perception of delinquency, rather than its actual evolution. Penal policies respond to the social demand built by a media spiral (Tamarit 2007, 4). It is about *published opinions* rather than public opinion. ‘Lack of confidence in institutions leads to political pressures toward more repressive means to maintain political authority. Lack of trust in the people linked to fear leads to growing punitive demands, which exacerbates those pressures’ (Lappi-Seppälä

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325 Note how ironic is to include the post-Francoist regime in the group of ‘advanced democracies’.  
This is the playing field of punitive populism (Rivera 2005, Larrauri 2006, Pratt 2007, Peres 2009).

The question is not therefore about focusing on legal elements per se, but rather on socio-economic factors and governmental trends. Penal institutions cannot be analysed without qualifying Jakobs’ thesis, whereby ‘juridical bonds must shape social configurations’ (Jakobs 2003, 13). In the less radical base of our approach, ‘a good social policy is the best penal policy … Which is just a different way to say that our society would do better investing in schools, social work and families than in prisons’ (Lappi-S. 2011, 309). Indeed, it is about implementing ‘non-peripheral’ measures and ‘non-complementary’ schemes, but truly alternative policies (Manzanos 2011). Jakobs’ justification on the right of the state ‘to ensure safety against individuals who persistently relapse in committing offences’ (ibid. 32) confirms that the warfarist rationale of penal exception\(^{327}\) confirms and conceals the historical failure of the carceral system: ‘More than half the inmates in Spanish prisons will be sentenced again within the next 3 years’ (ASAPA 2006), and 73% of the prison population has been convicted two or more times. The real outcome of the prison system is a political success in the quadruple naturalisation of social injustice: 1) perceiving social rights as different and ultimately subordinated to other relevant and fundamental rights; 2) the subjection of social rights to an absolutist conception of such patrimonial rights as private property or business freedom; 3) the subjection to an absolutist conception of such rights derived from political representation or institutional power; 4) the subjection to an segregative conception of citizenship linked to the nationality, and an excluding notion of legal residence linked to the labour market or the provision of financial resources’ (Pisarello 2009, 2).

The demand of ‘more and better’ punishment does not aim precisely at successful rehabilitation. Whatever the article 25.2 of the EC\(^ {328}\) may say – hence the General Prisons Act, the Penal Code and the Organic Law of Criminal Liability of Minors –, the elementary virtues of imprisonment hardly changed in two centuries: ‘sanction, coercion, criminalisation, discipline, de-humanisation, violation of fundamental rights’ (Manzanos 2005, 145), along with a range of physiological or psychological effects (Valverde 1997, Díez & Álvarez 2009). Outside the walls, its social sequels also linger: uprooting, disintegration of support networks, double harm for the prisoners’ family, social death. Nothing could be further from ‘war on crime’ than a discourse on social defense that is much more aggressive than social\(^ {329}\). Most measures contained in the Penal Code and the Prison Regulation do not aim to eliminate the illegal act itself. Retributive demands respond to emotional overloads – defined as ‘acting out’ by D. Garland (2001, 190 and ss.) – and reproduce the conditions where every offence was committed, while prisons keep on being filled with the human by-product of the ‘economic miracle’.

Detention leads to recidivism. After leaving prison, it is more likely to come back. […] Imprisonment cannot stop producing delinquents. They are produced by the kind of existence that detainees are required to live [Foucault 1975, 270].

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\(^{327}\) ‘The current doctrine of the Penal Law for the Enemy neither provides any new ideas nor any original foundations, since most of its rules and principles were clearly shaped in the past, particularly under Hobbesian doctrines’ (Gracia Martín 2006, 156 – cf. González Cussac 2007).

\(^{328}\) Punishments entailing imprisonment and security measures shall be aimed at rehabilitation and social reintegration, purposes introduced in the Prison services Regulation of 1968 – Decree 162/1968. Its precedent is the Prisons Regulation of 1956, amended by RD 2273/1977 (Rodríguez Yagüe 2013, 26 et seq.).

\(^{329}\) Due to the irregular inertia whereby Francoist institutions turned into democracies, Spanish penitentiary institutions are part of the Ministry of Interior and not the Ministry of Justice.
Penal juridical theories not only contributed little to elucidate the socio-historical problems of punitive methods, but they have also had a negative influence since they have considered punishment as an eternal and immutable entity [Rusche & Kirchheimer 1939, 2].

Prisonfare turns banishment into its paramount function. It is no surprise that a criminogenic system prioritises the management of their symptoms at the service of stability. Symbolic functions are the growing dimension of current penal policies. Law confirms its value as a political tool to perpetuate the ways that its own infringement is executed.

In this vein, social exclusion comes to be the material reverse of such theoretical fallacies as equal opportunities, trickle-down or Darwinist meritocracy. In spite of commercial advertisements and institutional propaganda, neither all basic resources are available for everyone, nor the impossible is achievable by anyone. Neither does wealth accumulation ever trickle down, nor is justice ever ‘equal for all’331. State intervention actively ensures this. If the purchasing power is the way to satisfy every basic need, poverty produces more and more subjects vulnerable to labelling and actuarial control. Such policies only seek public security for the privileged ones. ‘They admit compassion towards the good poor but perversely condemn the bad poor who decide to die killing or, following the get rich! slogan, take their share of the feast without going through the market’ (Morán 2005, 16). Information – this commodity – exposes the audience to urgent signals, emotional stimuli and closed codes. ‘The discourse is quashed in its reality, at the service of the signifier’ (Foucault 1970b, 50).

Imprisonment rates are the result of decisions and political actions in the context of a given political culture [Lappi-S. 2007, 18].

That said, neither political cultures respond to any sort of ‘epiphany’, nor decisions are exclusively influenced by political cultures. For a long time Spain, United Kingdom and Turkey were the three countries with rates above 150 prisoners per 100,000 inhabitants where incarceration grew by over 20% between 2001 and 2010. More than half of European countries experienced an increase higher than 20% (Delgrande & Aebi 2012), but the Spanish punitive bubble was not precisely due to the standard conversion of welfare into prisonfare. The democratic construction of the Spanish penal state did not find its precedent in a structured and solid welfare state, but rather in the dictatorial protection system – too ‘peculiar’ to be called welfare.

The Spanish prison population maintained a general upward trend over 35 years, until the Spanish penitentiary sphere reached the top of the EU in 2006. In the late seventies, before the amnesties, it was around 13,500 people (INE 1980). In 1991, after a decade, the number of prisoners doubled – readmission rate in prison was 69.2%. In 1994, over 38,000 people were imprisoned. In 1996, the number of prisoners was 64,021. The increase

330 Just a few examples. The Directorate General of Penitentiary Institutions censored J.C. Ríos’ survey on the situation of imprisoned people. The Catalan government censored the report L’emprenament a Catalunya by the Observatory of the Penal System and Human Rights (University of Barcelona). After the European Committee for the Prevention of Torture and the UN Special Rapporteur on Torture released their reports on the conditions of imprisonment in Zuera and Daroca, Zuera Macro-prison management prohibited ASAPA to visit prisoners under confinement and FIES regimes.

331 Juan Carlos de Borbón, live in all Spanish TV channels (24.12.11).
between 1994 and 2006\textsuperscript{332} was 70\%, while the population of the country grew by 11\%.
This last period – the last and main chapter of the carceral bubble – started moderately (1996-00) and accelerated in the following 10 years – up to its peak of 77,000 in 2010. By contrast, recorded offences remained at stable levels, and even decreased from 2002 to be 20 points under the EU average in its most relentless punitive period. The rate of arrests grew 2.4\% in 2005, up to 130 arrests per 1,000 recorded offences. The prison population grew by 34.7\% between 2002 and 2009, while delinquency rates decreased by 21\% (IOE 2011, 185-6). This reduction mainly involved minor infractions or offences against property – the minority of crimes against individuals slightly increased. Evidence shows that any statistical attempt to correlate delinquency and incarceration rates is, therefore, irrelevant (Lappi-S. 2011, 308)\textsuperscript{333}. Data from 2004 presented by P. Cabrera\textsuperscript{334} distributed 80\% of offences against property, 6\% against individuals, 4\% against collective security and 1\% against sexual freedom among the prison population (2005, 10). The vast majority of prison sentences involve crimes ‘against public health, properties and economic order’ (Peres 2009, 239) committed by lower class people, mostly against other lower class people.

As if it were a scale replica of the American model, Spain has shown how an accelerated increase in the prison population can coexist with much lower, stable or even decreasing delinquency rates (González Sánchez 2011, 8). In the main part of the neoliberal period, the number of prisoners is due to an exaggerated increase in the length of the sentences (Cid 2008), which came to outweigh the actual decrease in imprisonment rates\textsuperscript{335}. In addition, the lack of statistic reliability fed some xenophobic discourses blaming certain social groups for the problems revealed by the penal bubble. ‘Penal policies have proven to be an effective tool for governance and a very effective method for electoral profit’ (González Sánchez 2011, 17; cf. Rivera 2005, 151). The low relevance of the criminal question reveals how published statistics can affect public opinions, as well as the ‘primacy of political-electoral goals’ (Peres 2009, 240). Abusing the signifier consensus conceals the abolishment of cohesion, just as invoking the rule of law underpins exceptionalism. In a status quo inherited from Francoism, democratic bipartisanship imposed a competition prone to ‘govern through the crime’ (Simon 2007), which combined public security, war on terrorism, penal management of immigration, and punitive management of inequality. As I. Mendiola sums up, the triangular framework of ‘torturability’ involves ‘neoliberalism, colonialism and securitarism’ (2014).

In the first decade of the 21\textsuperscript{st} century, published opinions on public security worsened and litigations increased. More and more recourse to courts was being made, while media exploitation of the hard core of punishable acts included neither political corruption nor millionary white-collar crimes, but prioritised homicides, sexual offences, juvenile violence, illegal immigration and an expanded definition of terrorism\textsuperscript{336}. This exploitation

\textsuperscript{332} Regarding juvenile justice institutions, more than 2,500 children lived in juvenile prisons in 2006: although the number of arrested children did not grow in 2000-2005, the number of prison places for children multiplied by eighteenfold in 2000-2006. Around 60\% of those places were closed.
\textsuperscript{333} Furthermore, Lappi-Seppälä survey on 35 countries show a reverse tren in the correlation between recorded offences and incarceration rates (2011, 309).
\textsuperscript{334} Based on crimes recorded by police bodies.
\textsuperscript{335} Statistics published by the Ministry of are incomplete and unreliable. Not even a mix of statistics can help us know the extent of delinquency recorded by different police forces across the Spanish territory – see Aebi & Linde (2010), cf. Rechea et al. (2004), Serrano Gómez et al. (2006), García España et al. (2010).
\textsuperscript{336} ‘According to the Special Rapporteur on the promotion and protection of human rights while countering terrorism Martin Scheinin, the vagueness of some provisions in the Spanish Penal Code entails a risk of
of serious offences and moral panics became a key feature of Spanish media coverage since the early nineties, under the paradigm shift from the junkie to the alien invader as a threat to public safety – not to mention terrorism as the ever-present internal enemy. The triple bond between pornographic exploitation of tragic events, penal reforms and imprisonment rates provides a clear picture that allows us to understand how permanent exception works: every punitive momentum spreads its effects across a carceral mass of deprived individuals whose rates of serious offences remain far below the European average.

Indeed, however we compare them to our European neighbours, neither low homicide rates nor low victimisation rates matched the number of incarcerated people in Spain. Spain’s confidence in political institutions is low, as is the influence of social alarm, although the link between published opinions and public opinion is clearly tight (Medina-Ariz 2006, Varona 2009, González Sánchez 2011). Compared to most neighbour countries, fear of crime is lower than distrust in politicians, punitivism is lower than political disaffection and confidence in police forces and judicial power exceed the average of the countries studied (Lappi-S. 2011, 313-8)337. In a nutshell: if we take a list of Western European countries, the relative position of punitive attitudes in Spain would not be comparatively high, thus turning imprisonment into an even more disproportionate issue.

This confirms a remarkable combination of social consensus around the myth of insecurity – to levels similar to those of Anglo and Baltic societies – and an apparently healthy level of social tolerance. This apparent contradiction is also confirmed across ‘Anglo-Saxon’ countries – foci of neoliberal development –, while the Spanish case combines a Mediterranean or post-totalitarian body – hence its fragile protection system – and a neoliberal or neo-totalitarian mind – hence its counter-reformist and criminalising vocation. Spanish political elites redefined democracy as a system where ‘those who win must rule’ and institutional stability in power requires absolute majority at the polls. As shown by Lappi-S.338, social policies always ‘survived’ best under consensual formal procedures. Extreme competition and confrontation are not the best democratic engines when truly political debates are censored and punitivism becomes a central tool. Although this does not mean that these factors directly determine the severity of penal policies, there is no doubt that punitivism has long been the neoliberal key to political legitimacy. For years, Spain has shown a glaring example of how ‘the project of the opposition is to convince the public of the urgent need to replace the governing party’ (ibid. 320). The link between the media production of alarm and political satisfaction of social demands is not an exclusive feature but an important ideological key under Spanish neoliberalism. The first phase of the prison bubble (1980s) had more to do with the collapse of community networks, the transformation of working-class neighbourhoods into what Wacquant described as ‘hyper-ghettos’ (2013), job destruction and heroin consumption. It is in the second phase (nineties) when government through crime was institutionalized.

Most countries exceeding the European average imprisonment rate also exceed the average number of police officers per 100,000 inhabitants, and Spain is the third country with more officers in Western Europe, with 506 per 100,000 inhabitants in 2009 (after entering a slippery slope, namely the progressive widening of the concept of terrorism to conduct that have nothing to do with the commission of violent acts (Behatokia 2009, 3).

337 Data from WVS – http://worldvaluessurvey.org/
Cyprus with 672 and Montenegro with 865. This figure remained in 2013 (505), despite replacement ratios were reduced to 10% under austerity measures (La Gaceta 23.06.13). The National Police Force had reached its highest number in 2010 with a total of 62,569 officers (El País 26.02.10). The number of Civil Guard and National Police officers began to shrink between 2011 and 2012. However, an important part of the strengthening of police and security forces undertaken over the past few years has been due to the intensification of (both internal and external) border controls, surveillance operations (Romero 2010), street control fostered by so-called ‘civil regulations’ (OSPDH 2003) or illegal harassment based on racial profiling.

Police and social budgets tend to have an inverse relationship. If some figures on imprisonment and welfare indicators are put together, we can easily realise that ‘smaller gaps in welfare, higher levels of social and economic protection, and more generous state provisions lead to lower levels of punitivism and repression’ (Lappi-S. 2011, 310-1). The Gini index on income inequality can demonstrate the efficiency of income redistribution mechanisms and the coverage of basic needs in three levels: (1) labour incomes, (2) wages plus other transfers, (3) and wages plus transfers plus state provision of health and education (Babones 2012). The difference between Gini1 and Gini3 shows how wealth concentration is reduced through taxation and public health and education. Thus, a list including Europe and the US shows that Spain and – of course – the US are the two leaders in inefficient compensation of inequalities (data of 2011) and ‘effective incarceration of poor’ (data of 2010). At the other end (maximum redistributive effect and minimal rates of imprisonment) we find the Scandinavian countries.

The smaller redistributive effect of state intervention on primary wealth concentration (namely gross inequality), the higher workforce exploitation (Husson 2013, 55 et seq.), as well as the harder legitimising effort by ‘a state of opinion whereby it is believed that such action [read non-action or action on behalf of the market] may be seen as benefactor, do-gooder or praiseworthy’ (Guerrero 2006, 78). As ‘political addressing of social problems’ (Peres 2009, 211) is curtailed, the state legitimises itself through delinquency. In 2004, Spain was ranked ninth on the list of the ten OECD countries with highest imprisonment rates, and the seventh poorest social balance among those ten countries (ibid. 232). The preceding year (2003) had recorded the largest deficit in social protection on GDP under democracy (ibid. 226). Spanish social indicators show a high level of underdevelopment with respect to most countries in Western Europe. Paradoxically or not, 2010’s indicators were lower than those of 2000, while those in 2015 were even even lower. In terms of social spending – according to data from the golden years of the financial bubble –, Spanish neoliberalism built a sort of hybrid system between ‘Anglo’ States and Eastern countries that outranked only the Baltic countries in social spending. In 2012, Spain was already the country with greatest inequality in households disposable income in the EU-27 (OECD 2014). The Spanish virtual welfarism was underpinned and hampered at the same time through sectoral reforms, structural adjustments, privatisations and indebtedness: from late Francoism to the crisis of the early nineties; from the first depression to wealth

339 See Eurostat (2012), UN Department of Economic and Social Affairs (2010).
340 In Barcelona, for instance: ‘Civic Ordinance’s 5th birthday beating the record of sanctions. Street selling and botellón (drinking) amounted to 44% of offences since 2006. The enhancement of community policing increased interventions to 118,368 in 2010’ (El Periódico 22.01.11; cf. Jiménez 2015, 137 et seq.).
342 ‘Social Balance’ = deficit of public budgets for social protection on each state GDP with respect to OECD average spending.
effect of asset price Keynesianism; from the bubble years to the ongoing debtocratic end of cycle.

Spain was also the third recipient of economic migration from impoverished countries in the world during the first years of the 21st century (after USA and Saudi Arabia; IOÉ 2008, 71). This brings up another necessary comparison between Spain and the US in terms of class, ethnicity and state – as analysed by Wacquant (2014) and De Giorgi (2012). Between 2008 and 2011, the unemployment rate of the foreign population increased by 15% – compared to 9% among native workers –, and foreign over-representation among long-term unemployed was 30% (ibid.), almost the same level as we find for their over-representation in prison. In 1998, the percentage of foreign prisoners was 11 times bigger than the proportion of foreigners in the Spanish population. In 2010, this ratio was only three-to-one. Up to 2010, the foreign reserve army had grown much faster than the number of foreign prisoners. In turn, native unemployment decreased, although the punitive turn kept on reinforcing the thesis of a reverse relationship between unemployment and prison. In other words: underemployment appeared to be directly correlated to imprisonment from 1986 to 2010. 27% of imprisoned foreigners represented 50% of pretrial detainees in Spain – while the European average was 24% (Delgrande & Aebi 2012b). All these figures reveal how over-represented foreigners are in prison, and how sensitive imprisonment can be to a small variation in penal expulsions of foreigners.

Female overrepresentation in Spain also holds the European record. The female proportion among foreign prisoners (40%) was only exceeded by Cyprus in 2010, and the total ratio of women in the Spanish prison system is the highest in Europe (ibid.). Half of imprisoned women are sentenced for drug-related offences (Manjoo 2012, 9), and most of their biographies include having been abused by men. This obviously reveals a tight interaction between exclusion, sexism, violence and stigma, all the more so as special vulnerability is suffered by women who live under absolute distress and cannot access (or trust) the help of the police. Several studies made from a gender perspective have shown how relevant this approach is to clarifying the notion of delinquency, the role of punishment and the consequences of incarceration: ‘to analyse female imprisonment is to observe gender dynamics as zoomed by a loupe’ (De Miguel 2014, 86). Again, incarceration as a mirror of our society, replaying a disadvantage due to structural, institutional and cultural ways of segregation. In the climax of this phenomenon, gipsy women in Spain came to be the most overrated collective in prison around the world (Barañí 2005).

According to a famous and false saying, ‘delinquents enter prisons through one door and walk out the other’. Spanish prisons ‘welcome’ fewer people a year than many other countries, but hold them twice the average time spent by convicts in Europe. The European average length of imprisonment was 9 months in 2009, and in Spain it was 18 months. Between 1983 and 2009, the average effective length of sentences increased in most European countries. In 2009, only Portugal – with a lower but rising imprisonment rates – overtook Spain in the EU-15. Spain (Δ412% in 25 years) and Portugal (Δ337%) were the countries that lengthened their sentences most in this period, although as we have seen, their prison populations evolved in almost opposite trends.

343 Regarding youth and childhood, foreign prisoners were 22% in 2009 and 27.3% in 2011 – see INE, Register of Criminal Responsibility of Minors: http://www.ine.es/jaxi/
344 For a summary of available data in 2012, see Delgrande & Aebi (2012).
There are no foolproof causal models to describe the evolution of the penal-penitentiary system, but we can draw a (physical and political) map of the (institutional and ideological) structure whereby the history of hyper-incarceration unfolded. Three decades of neoliberalism consolidated the Spanish penal system as one of the most punitive in Western Europe. The factors analysed above are nothing but puzzle pieces involving punitive influences, political dislocations, economic impositions and social polarisation. Post-Francoist neoliberalism has addressed both ‘the unfinished genesis of the post-industrial precariat’ (Wacquant 2014, 1688) and ‘the reproduction of a global reserve army of labor’ (De Giorgi 2012, 160). Traditionally, minor offences against property have been the only item with relatively high values in Spain. In turn, after thirty reforms of the Penal Code in two decades, life sentence has always been a fact. On 1 January 2007, the average length of life sentences was 23 years in France, 15 years in England-Wales and 19.9 in Germany. French prisons held 20 convicts under sentences over 30 years, while Spanish prisons held 345 convicts – terrorism not included (GODPP 2010). In the eighties and nineties, a significant percentage of sentences for these offences have to do with drug-related problems, and therefore with the AIDS epidemic and its lethal effects on the prison population (Jiménez 2015, 109-10). Deprivation determines to a large extent the selective criminalisation of certain behaviours. Drug consumption, possession or trafficking are the categories that best reflect class and race biases in the criminal selectivity. The US are not a unique case: drug trafficking and consumption among middle and high classes is extremely under-represented in criminal records, just as small offences against property are prosecuted over crimes systematically committed by ‘people with high socio-economic status who violate the laws intended to regulate their professional activities’ (Sutherland 1949, 330).

In the late nineties, the paradigm of the junkie starts giving way to foreign-delinquents-reluctant-to-integrate-who-invade-Spain-attracted-by-wealth. The following statement by ex-minister J.M. Michavila poetically synthesised this political redefinition of the scapegoat: ‘economic growth makes some people come to certain countries to commit crimes and take advantage of others [...] Wealth attracts delinquency, this happens everywhere’ (El País 24.11.03). However, research for the General Council of the Judiciary by the Laboratory of Legal Sociology of the University of Zaragoza revealed how positively goofy the Minister’s view was: ‘while the percentage of accused-arrested who are finally sentenced reached 76.1%, the percentage of complainants-victims hardly reached 23.1%. In turn, the percentage of accused-arrested among provisional dismissals is 23.7%, while the percentage of complainants-victims is 75.6%. [...] Immigrants are not only passive subjects (accused-arrested) of the penal system, but also active users (complainants-victims) [...] The number of procedures concluded by sentence is much higher when immigrants are accused-arrested (76.1%)’ (Calvo García et al. 2004, 198 et seq.), but sentenced procedures where foreigners play the role of the complainant-victim amount to 23%. With regard to sentences, 60% of accused foreigners are condemned and 75% of people denounced by foreigners are absolved (ibid.). Prison sentences in penal courts reached 50% for accused foreigners and 27% when the complainant-victim is a foreigner (ibid. 203-4).

The recent history of the Spanish penal state rested on an ideological work that promotes social consensus through crime, while social underdevelopment remained under the post-Francoist government of social surplus. Thus Spain became the most neoliberally punitive (or punitively neoliberal) state in Southern Europe. This confirms the absent correlation

345 https://www.diagonalperiodico.net/estado-espanol-ya-existe-cadena-perpetua.html (Diagonal 7.06.10).
between poverty, delinquency and imprisonment, as well as the tight bond between poverty and imprisonment. Crime rates have maintained a downward trend since 2003, down to their lowest level in 2010, and maintaining that descent – despite the crisis, according to the collective imagination – over recent years (Rodríguez & Larrauri 2012, 10). Despite severe inequality and high unemployment rates, delinquency rates remain among the lowest in Europe. Despite all this, Spain is one of the states that imprisons the highest proportion of its population over the past thirty years. Once the financial bubble burst, the gap between rich and poor widened by 10% and the Gini index rose by 2.7 points – from 31.3 to 34. In 2011-12, high level incomes were 6.8 times bigger than those of the poorest sectors, before Latvia (6.6) and Lithuania (5.8) (Aragón et al. 2012). Despite that, the Spanish prison population has decreased at an unstoppable rate since May 2010.

‘With 1996 as the base year, the number of prison sentences fell significantly – down by 20% less entries in 2000-2005 –, although it was precisely when the upward trend in the number of prisoners became stronger’ (Cid 2008, 4). Measured as a percentage of the number of sentences, prison admissions fell drastically from 83.5% in 1996 to 53.7% in 2005 (ibid. 10) as the percentage of suspended sentences increased. Since 1996, the toughening of sentences overcame the downward trend in admissions. Obstacles to access ‘grade three’ and probations increased and new crimes of abstract danger were included in the new Penal Code of democracy. Pre-trial detention was abusively applied to foreigners, who were also particularly affected by ever-increasing police presence in the streets. These are some elements that came together in the Spanish phenomenon of hyper-incarceration, although there are some structural or socio-economic factors to add to the analysis, without which we cannot fully grasp this dramatic phenomenon.

Since the early eighties – or even earlier –, the Spanish economic structure suffered a progressive weakening, but private accumulation did not stop gaining weight and power. The fierce restructuring of the eighties was built upon the shaky foundations of the Francoist economic order. Thus deepening privatisation, precarity and unemployment. Within this restructured framework, the connection between production and job creation has long been a dramatic fallacy. In this vein, the link between punishment and social structure takes a peculiar shape. Since the late eighties, unemployment evolved in inverse proportion to imprisonment – as if job destruction and penal confinement could perform like connected vessels – while precarity and imprisonment did vary in a sort of parallel trend. Profit rates relied on the alleged improvement of labour productivity – read on further exploitation – and the efficient disciplining of the mass of labour. Thus, the patrimonial and speculative rationale of the neoliberal ‘end of cycle’ promoted a close relationship between profit accumulation and punitivism. The important ballasts of the

Indeed, if incarceration implies confinement in legal prisons, a broader view must include those who are sent to alien internment centres, children imprisoned in ‘juvenile institutions’, and people living in psychiatric facilities – prisoners in any case.

Contrary to what one might expect, violent crimes and crimes against property have diminished, particularly since the beginning of the crisis, with one only exception: recorded crimes related to money laundry increased 65% (ibid. 2012, 11). With or without crisis, regardless of imprisonment trends, delinquency rates have not grown.

8% to 27%, with juvenile unemployment over 55%.

Less severe regime within the prison system, which allows for day release.

Along with the lack of alternative measures and other means for reintegration – with drug addictions (Cid 2008, 16-7) as the most dramatic example.

Spanish productive model favoured a predatory strategy aimed at joining the train of global capitalism, hence the move of late-Francoist openness to a flourishing neoliberal power.

The sustained increase in the prison population took only two breaks in four decades: the crisis of 1992-1994 and the current recession since 2010 – read the bursting of the first and second bubbles. Between both breaks, the second bubble fed the Spanish GDP up to the world’s ninth position. In the eighties, delinquency still did not play a relevant role in the electoral agenda (Medina-Ariza 2008, 184). After the first bursting of the early nineties, the birth of Organic Law 10/1995 (new Penal Code) coincided with the dawn of the second neoliberal chapter and the boom of punitive populism. Between 2000 and 2008, with the macroeconomic parameters competing in the champions league, a latent social crisis was already flogging the surplus population. Official unemployment rates reached the minimum in 2008, but poverty levels were not corrected by such apparent good news. Meanwhile, the prison population grew more than ever and touched its ceiling in 2010. From the middle eighties, the Spanish prison reflected a dual process of exploitation and expulsion, which used to support the financial and real estate bubble and subsequently has adapted to the depression.

The connected phenomena of foreign labour exploitation and over-representation of foreigners in prison cannot be analysed without understanding the phase of financial and real estate hyperactivity. In the countryside, the fall in labour demand did not lead to an increase in its price. On the contrary, exploitation soared. Entrepreneurs in the agrarian sector sub-proletarised their workforce down to semi-slavery. Differences were racialised in favour of the native workers, but the latter found it more and more difficult to prevent being the victims of a double threat: their aggressors/employers and their competitors/invaders. In the ongoing ‘reconfiguration of the nexus between state, market and citizenship’ (Wacquant 2014, 1690), intraclass ethnic conflict and state segregative controls made social conflict functional to private accumulation. Before that, the abuse of inverse redistribution (reverse Keynesianism) had required the collapse of community networks and popular mobilisation. The change of profiles in the carceral sphere reflected two different geographies of exploitation, and punitive populism made the foreign poor functional to extending the neoliberal process of banishment. In the first years of the 21st century, a short-term inflection reduced the wage share in total national income, increased operating profits, imported more and more cheap foreign workers, and led to growth in imprisonment rates. These were also the years of the economic consensus. Following the steps of the Labour Party in the United Kingdom, Spanish social democrat candidates resorted to an alleged increase in delinquency rates to claim for ‘more public police’. J.L. Rodríguez Zapatero accused the government of privatising security and blamed it for the alleged increase of insecurity. The government's reaction was to blame immigration. If the figures of the recruit and the inmate invoke the political status of the employee and the convict, the alien poor is labelled as the main risk category. The ideal type of the employee is left to exploitation, the ideal type of the inmate is left to banishment, and the foreign non-person embodies the sub-human mix of both previous types. The current biopolitical order becomes an vast no-law area whereby a growing sector of surplus population is being abandoned or expelled.

A story

As we have seen above, the history of what Rodríguez and López called the ‘Hispanic end of cycle’ (2011) can be split into three phases: 1978-95, 1996-07 and 2008-today. The spectacular increase in unemployment between 1976 and 1986 demonstrated the capacity
of job destruction in the Spanish economy – and some important productive sectors were dismantled during the eighties. These were the years of a hard attack on the working class, the degradation of community support networks, the formation of hyper-ghettos and mass demobilisation.

After the struggles of the COPEL (Coordinator of Spanish Prisoners in Struggle) (Lorenzo 2013b), the Spanish state sent a technical team to study the US prison construction model. A series of conflicts had revealed the poor means of institutional abduction in Spain. The first outcome of that visit was the prison of Herrera de la Mancha, a ‘successful’ high-security facility built away from the urban centre of Ciudad Real in February 1979 and opened in June of that same year (Salhaketa 2011, 8). In November 1979, 13 new prisons were already under construction. A democratic decade later, the prison policy of the late eighties would opt for three main criteria: containment, governance and business (ibid. 9). It is no coincidence that the late seventies (76-79) and the early nineties (89-91) saw the biggest protest mobilisations within the prisons. The statements released by the COPEL and the APRE (Association of Prisoners under Special Confinement Regime) reflected very clearly the tragic consequences of penitentiary policy on the prison population.352

The historical reference point for the emergence of an inverse relationship between unemployment (around 20%) and imprisonment (25,000 people) can be set around 1985. Until 1985, both rates showed the ‘typical’ trend of the Fordist disciplinary model: unemployment rate showed a linear and sustained upward trend, while imprisonment growth was less regular but relevant. The most substantive difference is that protective structures of European Keynesianism were visibly lacking in Spain. Heroin use grew quickly. GDP grew very slowly. From 1986 (start of the first economic bubble), the prison population kept on increasing as unemployment started to shrink, thus kicking off a new reverse correlation (the lower unemployment rate, the higher incarceration rate) as a result of a more graphic and immediate link: faster GDP growth, a higher imprisonment rate.

Thus, the first recovery of active population took place in the late eighties. The first bubble created two million jobs, mainly due to the rise in foreign and public investment, tertiary activities, infrastructural works and real estate businesses. What followed was the celebration of the 500th anniversary of the invasion of America, the Universal Exposition in Sevilla, the Olympic Games in Barcelona, the European Capital of Culture in Madrid… GDP grew at an unknown pace in democracy and unemployment fell to 16% – still too high to be approved by the economics as ‘structural rate’ – but pockets of deprivation hardly declined. Moreover, the hangover of the first bubble (1993) put a brake on GDP and a new recession pushed unemployment above 24%. Immigration was still irrelevant (1.5%) in the active population, and the junkie was still the dominant profile in prison. It could be said that, due to its incoherent, unsustainable and dysfunctional character, the Spanish economy lacked a rate of structural unemployment clearly identifiable in normal economics standards, just as there seemed not to be any limits to imprisonment or speculation.

The early nineties had been the years of the pre-Olympic bubble, anti-terrorist repression, the ‘Corcuera Law’ (on public security), imprisoned objectors and deserters, prison construction plans, the FIES regime, and the birth of Spanish government through (fear of) crime. The State Society of Penitentiary Infrastructure and Equipment (SIEP) was created in 1992 with a key role in the promotion of carceral inflation. SIEP would also undertake the transfer of public money to private businesses, while the mass media apparatus became

an important influential actor for promoting punitivism. SIEP was given the mission of ‘building and equipping prison facilities under the principles of the General Prison Organization Act (LOGP)’ by its owner, the Ministry of Finances and Public Administration. SIEP is one of the few companies whose only shareholder is the Spanish state. From its foundation until late 2012, SIEP built 29 prisons, 28 social integration centres, 3 units for mothers and 38 units for custody in public hospitals, along with security systems and more than 325 improvement work files. Some of its main corporate contractors (in Spain and abroad) are Acciona, ACS, Comsa, FCC, Ferrovial, Indra or Sacyr. 353

In the meantime, despite its still low statistical representation among the native population, foreign prisoners were already overrated in the nineties. All these events were analysed in the third chapter as parts of a process whereby the legal frame and the political ground of the punitive management of social surplus were set up in Spain. The whole preparatory process would culminate with the enactment of the ‘Penal Code of the Democracy’ in 1996, thus consolidating new measures for the penal management of the underclass, as well as the reinforcement of punitive populism. The scene was therefore set for a new, exponential, increase in the prison population.

The first Prison Construction and Amortisation Plan generalised the exceptional regime of macro-prisons. The macro-prison is an architectural and social complex that was imported from USA between 1988 and 1993. The General Director of Penitentiary Institutions A. Asunción who was in charge of this plan created the FIES regime and institutionalised dispersion of prisoners to prevent them communicating and organising themselves. A system of independent units meant that effectively a group of prisons was established within the same facility, thus reducing contact between inmates and enabling constant monitoring. Shortly afterwards, the prison population started growing at rate of 20 prisoners per day (ibid. 10). The key feature of that prison policy was schizophrenic: isolation units and ‘direct control’ versus ‘respect programs’ or UTEs (‘Therapeutic and Educational Units’): inhuman torment versus ‘therapeutic accommodation’. Meanwhile, conflicts were tense within many facilities: anti-terrorism was a key tool for political legitimacy and a new media business niche emerged to support the next punitive turn through pornographic treatment of moral panics and social alarms.

Macro-prisons implied the explicit violation of the LOGP (Article 12.1), since geographic mobility and social rootlessness were imposed on convicts – i.e. ‘90% of prisoners in Norte II came from other provinces and countries, which aggravated and uprooted prisoners and entailed the loss of family support due to long travelling distances and other financial costs for families and prisoners’ (Salhaketa 2011, 16). Within the institution, the idea of reintegration was abolished by pure disqualification or reduced to soft disciplinary control, while protection of fundamental rights (supervision courts, legal assistance, in-court representation) failed systematically. In a pure Goffmanian sense, those prisoners who were not privileged by selective devices of ‘good behaviour’ were forced to choose whether they would submit to arbitrary discipline or resist isolation torture.

The Organic Law 10/1995 abolished the remission of sentences through work – which, in practice, had shortened the length of many stays in prison. To this day there is no such remission: sentences must be entirely executed. Paradoxically, the Penal Code of democracy would enable a brutal increase in the prison population. Although some sentences appeared to be shortened with respect to the Francoist regulation, this democratic law was much harsher and de facto stays in prison for the same offence are now much

longer than they were. Since 1996, every penal reform has paved the way ‘to other penal purposes, such as general prevention, incapacitation or retribution’ (R. Yagüe 2013, 14). This trend also designed ‘extraordinary systems of compliance as exceptions to the general regime’ (ibid. 15), both exogenous (through legal reforms or changes in the caselaw) and endogenous (through changes in the penitentiary system on behalf of internal security).

In 1995, the Popular Party voted against the Organic Law 10/95. The post-Francoist conservatives predicted that prisons were being emptied and public insecurity was thus becoming a dramatic problem. The real consequence was that the spiral of imprisonment – initiated in the eighties – would exceed all expectations. Prisons were being filled much faster than new facilities could be built, and not precisely due to a low pace of new constructions.

The second bubble (1996-07) drove the fastest GDP growth in Spanish history and a rise by 185% in the wage bill – from 11 to 19 million employed workers – based on high levels of labour exploitation, poverty and intraclass division of precarity. Wealth redistribution was regressive, hence the gap between capital and labour incomes widened. Capitalist regulation of the alien reserve army quadrupled the number of over-exploitable recruits in ten years. The second means to discipline the workforce lies in consumption credit: households’ indebtedness came to be 14 times higher than their savings capacity. GDP grew by 4% a year between 1994 and 2007, but the negative evolution of Gini coefficients contrasted with the increase in national income. It is much more than a metaphorical signifier to observe that the rapid rise in substance use in the second bubble was this time due not to heroine but to cocaine consumption.

The turning point in the Spanish punitive turn can be located in the global aftermath of 11 September 2001, under a political maelstrom induced around the Political Parties Act (OL 6/2002) and the upcoming legal tsunami of the ‘Penal Code of Security’ (Organic Laws 1/2003, 7/2003, 11/2003, and 15/2003). ‘The Parties Act took Batasuna [the Basque independentist-communist party] out of the mainstream and prevented it accessing the resources and privileges that our democracy gives to the parties’ (ex-minister of Justice Á. Acebes, El Faro de Vigo 26.08.06). Also in the heat of the economic upturn and a media campaign for constitutionalism and democratic unity, terrorism was equalled to independentism, nationalism, federalism or to any constitutionalist approach ‘which might prioritise reading constitutions over sanctifying them’ (Campabadal 2012, 73). At a global level, the war on terror and the ‘axis of evil’ monopolised an absolute majority of the media space. In the local plane, the Spanish government moved harmonically between economic optimism, centralist nationalism, anti-terrorism, and the debate on immigration as a key source of conflict and insecurity. This strategy was thus adopted as a unilateral discourse on three aspects: global war on terrorism, war on ETA and broad securitarian arguments (Chaves & Monedero 2003, 80). Terrorism and its useful effects constituted the main ‘engine of a jurisprudential change’ (R. Yagüe 2013, 15) to transform what the legislator said in the Prison Regulation and the Penal Code, as well as what the penal-penitentiary system did to generalise the exception.

The punitive spiral also reinforced the status of ‘second-class citizen’ of a prison population with ‘devalued rights’ (Rivera 2006, 540). Any rationale providing or supporting the denial or devaluation of citizenship raises a conflict between the most elementary notion of human rights and the legal tools that should preserve them. In the Spanish carceral sphere, the most contradictory examples are the FIES scheme (Files for Inmates Under Special Surveillance), isolation regime, and the production of new penal
types regarding terrorism or crimes against the state institutions\textsuperscript{354} – since it is legally understood that ‘being one of them, even just spiritually, is enough’ (Cancio 2003, 102). As remarked by Cancio, ‘individual terrorism is a type included in the Spanish Penal Code of 1995 that does not fit at all with the principles of the Spanish regulation in this area, since regulation focuses on the special dangerousness of terrorist organisations’ (ibid.). The ‘diffuse expansion’ (Brandariz 2007, 299) of this demonising label promoted a ‘penal exception subsystem’ (ibid. 199), which swallowed the hard core of the prison population, along with many of those who were not supposed to join this war.

Unproductive growth laid the foundations for further social underdevelopment rather than the means to underpin any stable and prosperous economic structure. In the first half of this decade (1996-01), unemployment rates fell sharply, although the increase in GDP had not yet reached its peak and wealth redistribution (Campo et al. 2004, 9) remained far below the OECD average. In the second half (2002-08), unemployment rates decreased at a much slower pace but national income and private profits rocketed. While GDP growth accelerated, Gini indexes kept showing a worsening redistributive effect of state intervention. Subsequently, once the induced crisis was officially recognised, wealth concentration increased.

In 2005, Zapatero (PSOE) government extended the Prison Construction and Amortisation Plan to 2005-12: 15 jails, 56 other facilities, and some improvement works were planned on a budget over €3 billion (Jiménez 2015, 89 et seq.). The particular version of the Spanish real estate bubble involved a deadly symbiosis between market, state and punishment through which the government from the market imposes its own interest and addresses the social effects of accumulation by dispossession. The replacement of urban facilities with macro-prisons enriched many speculators and businessmen.

Even when the wealth effect – fuelled by unleashed indebtedness – was celebrated by the government, neoliberalism kept focusing on job destruction as ‘one of the proper operating conditions of the capitalist labour market’ (Romero 2010, 86). As anybody could see, post-Fordist job creation can only rely on social exclusion, precarity, credit consumption or undeclared work. Sustained increases in profit rates require a convenient volume of negative social surplus. In the current context, this exclusive rationale leads to the systematic destruction of wage labour and social security. Since the ongoing induced crisis is extending across all Northern capitalist societies, social exclusion seems to be replaced by massive expulsion of precarious workforce and hyper-expulsion of the social waste. The loss of state autonomy required to perpetuate accumulation seems to be reaching its peak: nation-states of the European periphery are being self-colonised. Supranational centres of power rule on the future of their province-states.

The last update of the Prison Construction and Amortisation Plan (2009-12) projected 11 new jails for a net growth of 8,029 new cells\textsuperscript{355}, which was not enough to compensate overcrowding – 200% in 20 facilities around the country in 2009. The plan also included some amortisations in the SIEP’s capital in order to ‘co-finance’ new works.

All that being said, the Spanish prisons have undergone a striking emptying in recent years. Penal confinement seems to be losing part of its role as a punitive device, as austerity turns into the main source of economic exceptionalism and public policy-making constitutes a

\textsuperscript{354} Included in Chapter III, Section I (crimes against the State Institutions and the division of powers), Title XXI (crimes against the Constitution) of the Penal Code – Arts. 492-505.

\textsuperscript{355} Efe (6.04.09), SIEP (www.siep.es).
systematic focus of social harm. Expulsion is gaining importance as a punitive means. The link between punitive policies and profitable management of social surplus was a basic factor for analysing hyper-incarceration, and will also be a key element for analysing the new rationales under debtocracy. The neoliberal essence of this link was born in the capitalist cradle of racism, accumulation and incarceration (USA), but the Spanish case shows a particular hybrid between the aftermath of forty years of fascism and the sudden landing of neoliberalism. After 2008, underdevelopment emerged once growth was interrupted. Unproductive accumulation won, and constitutionalism lost its veil of legitimacy. Sustainable violence gave way to explicit overproduction of social harm, which was deemed as ‘inevitable’ by most political and economic discourses. The great depression came to reissue all hidden lacks, gaps and flaws that the golden years of financialisation had temporarily concealed.

This is partly why private businesses search for new niches abroad as soon as local expectations get lower. As stated by the SIEP, its big ‘accumulated experience provides advisory services’ to other national authorities and ‘supports the Spanish industry as a technological partner in international operations to build new prison infrastructures outside our borders’356. Playing the role of a powerful real estate developer, the SIEP celebrated the ‘permanent modernisation of the Spanish prison system, to the extent that the Council of Europe assumed that the Spanish prison network is one of the best systems in the world’. In 1993, Spain signed its first bilateral agreements with Israel and five Latin American governments to export prison technologies on behalf of Spanish corporations. Spanish officers travelled to Argentina ‘to start the prison reform plan in this country, where the Ministry of Justice signed a consultant agreement. The Secretary of Penitentiary Affairs established similar agreements with Israel, Chile, Colombia, Venezuela and Mexico. The practical goal is to enable the Spanish corporations to win the contracts to build and to equip new facilities, which represents an estimated deal of 20,000 billion pesetas’ (El País 14.08.93). In 2010, FCC and the Spanish government negotiated a $100 million bid with Panama (Cinco Días 19.03.10).

As pointed out by C. Manzanos and recorded in the State General Budgets, the annual cost for each penitentiary place is around €30,000 and €36,000. Half of this cost implies direct profit for the companies in charge of building and equipping every facility. Of the remaining €18,000, 12,000 are paid for staff costs and €6,000 cover current expenses and services also provided by corporations. As an economic impact study by the SIEP showed in 2008, a macro-prison with 1,008 cells occupies some 35,000 hectares, creates more than 684 direct jobs and €17.6 billion in salaries – 501 officers, 83 employees and 100 civil guards, now also private security agents. Thus, two years under construction ‘create’ about 850 jobs. The state pays around €110 million to private builders in every prison. ‘The same value of business as 400 luxury houses, albeit prisons do not need to be sold in a recession’ (Diagonal 5.12.11). However, so many people speak of ‘the price we pay for each prisoner’, as if prisoners earned the budget invested to punish them. In the field of juvenile justice, this bubble of criminalisation and building euphoria grew as much or more than in the prison system: ‘45,000 pesetas per child a day, namely 16,425.000 pesetas child a year, or about 246.5 millions for 15 places’ (M. Reguera 2003, 120).

356 Angola, Argelia, Argentina, Belgium, Colombia, Costa Rica, El Salvador, Arab Emirates, France, Guinea Conakry, Ireland, Mexico, Mozambique, Nicaragua, Panama, Paraguay, Puerto Rico, Qatar, Senegal, Turkey, Uruguay, Venezuela... – see www.siep.es
At the very moment when it would like to give lessons in democracy to different traditions and cultures, the political culture of the West does not realize that it has entirely lost its canon [Agamben 2003, 32].

The imperialist conquest of the planet by the Europeans and their North American children was carried out in two phases and is perhaps entering the third phase [Amin 2001, 1].

As we have seen throughout the previous chapters, the post-Fordist evolution of economic policies and penal trends is related to – and fed back by – certain basic structural elements. Firstly, those relating to financialised accumulation and therefore to massive job insecurity. Secondly, those regarding a political regime ruled from the market, whereby debt acts as a key weapon, and scarcity-austerity becomes a key feature for symbolic domination. Thirdly, a new bio(necro)political dynamic related to mass production of social surplus.

After the crash of 2008, a political economy of punishment reveals a new link that had been reinforced during the previous decades: the trend to an inverse relationship between unemployment and prison population. In other words: economic growth and imprisonment rates evolved in parallel, with the heading ‘state fiscal health’ as the axis of such trend.

Taking the market-state-prison framework as our reference, this study of the neoliberal penal sphere includes the concepts of underdevelopment, over-surplus and accumulation as its paramount features. Below is a list of tentative conclusions on the evolution of the penal sphere during the last three decades. This will be then revised on the basis of the ongoing new normal, in order to review the functions of the penal system under Debtfare – read the current debtocratic end of cycle. Since the beginning of the current great depression, the average rates of imprisonment stagnated in many ‘Northern-Western’ countries. Meanwhile, the punitive character of most public policies imposed in those same years has not decreased, but in fact has grown harsher. These factors may lead us hypothesise a shift in the priorities of control, hence the eruption of some new relevant developments in the penal field.

IV.1. Debt, Debtocracy, Debtfare

May this nation, under the guidance of God, see freedom being reborn, and may the government of the people, by the people and for the people not disappear from the face of the Earth [US president Abraham Lincoln, 1863].

Here a debtocratic reformulation of Lincoln’s famous speech in Gettysburg battlefield (Pennsylvania):

May this state, under the guidance of the market, see its subjugation consummated, and may a government from the market, by the market and for the market sweep the peoples off the face of the Earth.

357 ‘This combination of capitalism with austerity is impoverishing the labouring classes without restoring growth to a level that can meet the crisis of unemployment... This is the new normal’ (McNally 2014; cf. Charnock et al. 2014, 2).
As a ‘mechanism of redistribution of wealth from the poor to the rich’ (Gordillo 2011), public debt reveals a depletion of exploitation and accumulation mechanisms whereby the government from the market finds new ways of state decapitation. A collective punishment of massive impoverishment is being applied with unprecedented intensity in peacetime: ‘The fundamental question is to know whether current instability is being unleashed on the axis of inter-capitalist conflicts or through social clashes’ (Husson 2009, 4). ‘Under capitalism, especially in financial capitalism, debt is infinite, priceless, non-expiable except through political redemption – as Benjamin would say – and never through monetary refund’ (Lazzarato 2013, 85). Debt is the main political weapon under the current post-Fordist end of cycle, although ‘end of cycle’ does not mean ‘end’ at all: capitalist contradictions keep on pressing ahead. A short-sighted view of such categories as senile capitalism or financialisation may divert the critical analysis from a conflict-based approach to a sterile debate on the survival-reform of the system. With Harvey, the social crisis in advanced capitalism includes various forms of exploitation based on the massive impoverishment. These are predatory practices conducted on wages, consumption, speculation, property and credit: ‘For most poor urban populations, the exploitation of his labour force and the dispossession of their scarce assets constitutes a perpetual drain of their ability to hold minimally adequate conditions for social reproduction’ (2013, 57). And most prisoners and other ‘internal exiles’ (Simon 2007, 243) are recruited from those dispossessed populations.

On the one hand, the signifier austerity legitimizes a governmental rationale focused on facilitating this permanent drainage, thus dissolving the representative principle of the state as the home of popular sovereignty. On the other hand, the term debtocracy refers to the financial subjugation of all governments by an over-accumulation crisis that succeeded the ‘last long cycle’ (Hobsbawm 1994, 260) – whose golden welfarist period lasts from 1950 to 1973. The current depression is the pinnacle of a 40-year systemic crisis, which takes us back an endemic problem: ‘what used to be called class power is now (wrongly) called market power’ (Navarro 2011).

Actually, there’s been class warfare going on for the last 20 years, and my class has won. We’re the ones that have gotten our tax rates reduced dramatically [W. Buffet, The New York Times 26.11.06].

The only part of the so-called national wealth that actually enters into the collective possession of a modern nation is national debt [Marx 1867, ch. XXIV; cf. Gordillo 2011].

Debt is the spell of a fake sovereign pact officiated by state institutions before its consumer audience. Debt leads to crisis; the crisis worsens debt; reducing debt is deemed essential ‘for the nation’ to emerge from the crisis, which means reducing the deficit through saving measures, impoverishing the majority, and removing basic rights. No comprehensive political approach is allowed in a sacrificial ritual that is presented as inevitable, beneficial but painful, binding but destructive. After all, therein lies the historically unheard feature of capitalism: ‘in that it is a religion which offers not the reform of existence but its complete destruction’ (Benjamin 1921, cf. Agamben 2012). When owed in exclusive benefit of private capital, public debt turns into widespread disgrace – that part of national poverty produced by a ritual feeding corporate wealth: trust, risk premium, liability, and general interest. From the individual burden of debt on the debtor’s shoulders to the allegedly patriotic ‘need of collective sacrifices’.
Under neoliberal globalisation, all developed economies were also subjected to a progressive weakening, while a transnational corporate expansion ruined millions in the ‘developing periphery’. The project for economic totalisation imposed by the EU was nothing but a friendly version of that global process, through which public policy-making left the institutional spaces of formal democracy – namely the state of law. Monetary and financial dependence, technical limits to deficit, inflation and public debt, high European institutions – all those factors set up the stage for a criminal (financial) conspiracy. This process has been essentially supported by large corporations, those angelic entities with a unique personality and special license to parasitize state budgets and multiply public debts.

The term ‘economic crimes against humanity’ (Benería & Sarasúa 2011) has been in use for several years. An older useful theoretical category is economic organized crime, given that connivance between state agencies and corporations is an essential condition for the commission of those crimes and the subsequent production of social harm: ‘a particular type and mode of actions requiring a criminal organization of legal-illegal business with a certain political-juridical complexity, with the necessary participation of individuals or private companies, but also institutions and/or state officials. These actions produce a significant financial reward for their participants, along with social and penal impunity and immunity, while contributing to a permanent and extended reproduction of social order under the wide transformations taking place within most Western societies’ (Pegoraro 2010, 94).

When the time comes to find new productive areas, or just for short-term convenience, some business sectors are hypertrophied through their bets on rising shares and investment securities. Once these speculative bubbles reach a maximum level, titles are sold-off, the inertia of the market tends to cheapen prices, and the rating agencies add a risk premium to the national debt. The interest rates paid by the state to obtain liquidity grow exponentially in order to cover the speculators before potential insolvency is generated by lack of confidence. The same investors who first had bet on rising shares will buy them at a much lower price, because they are sure that governments will spend public funds to rescue the economy through adjustment plans. The same cycle has been undertaken over neo-protectorates like Latvia, Portugal, Greece or Spain, whose economies have been destroyed and restructured in the interest of financial colonisation – namely on behalf of new private businesses under the political economy of health, education, social security, pensions, housing, transports, energy, communications, etc.

Conclusion: in the universe of trust, any problem arising from unsustainable profit rates can be socialized and charged to the working classes, while the conflictual essence of inequality is dissolved in neo-fascist apologies for ‘national unity’. We are ‘all in the same boat’ at the mercy of economic providence, but some never come adrift. The idea of a self-regulated market – as long as the government can ensure the money-gold conversion – hibernated into disrepute between 1930 and 1970. Richard Nixon’s decision in 1971 to unpeg the dollar from precious metals entirely, eliminate the international gold standard, and introduce the system of floating currency regimes that has dominated the world economy ever since meant in effect that all national currencies were, henceforth, as

358 See II.2.e above. ‘The risk premium does not grow because of deficit or public debt, but because of degradation in the country’s confidence and the subsequent attacks by speculators to take profit through different financial operations. A high level of deficit or public debt can be used to erode confidence in a country, but this link is not relevant at all. A country can present itself as economically solid, thus preventing speculative attacks, regardless of its worrying deficit and indebtedness levels’ (Garzón 2012).
neoclassical economists like to put it, *fiat money* backed only by the public trust’ (Graeber 2012, 53/361-8). The restructuring and adjustment plans deepened all structural contradictions: social indicators plummeted, income and wealth concentrations were boosted, and a massive transfer was undertaken from the countries suffering the exchange rate fluctuation to those keeping their gold reserves.

Debt and deficit are often illustrated by a ‘surgical metaphor’: sick economies, convenient therapies, entering the operating room, amputation required... but ‘countries cannot be rescued just by buying a small part of their debt so that they can pay the rest back. Instead, those countries borrow funds at under-5-year high interest rates, thus adding them to their high indebtedness, which makes it even more difficult to repay. [...] This solution imposes an even tougher fiscal discipline, because it is based on the idea that the country that spent more money must be punished, and those that spent less must be rewarded’ (De la Dehesa 2011).

‘In contrast to the Marshall Plan’s government-to-government grants’ (Hudson & Sommers 2010, 78), neoliberal policies have resorted to commercial bank loans in order to financialise almost all productive activities – hence the marketisation of all public services – through credit bubbles ‘on real estate and existing infrastructures, rather than financing production and tangible equity’ (ibid.). This is obviously a political decision, and bailout therapies are its worst farce359, which implies a criminogenic shift: private debt is transferred to the ‘public’ sector to induce state fiscal crisis. Induced crises feed state financial leverage – namely *credit/equity* ratios. Accrued interests and stagnated incomes turn debt repayment into an impossible challenge. Europe dismantled the main industrial areas across its Eastern and Mediterranean peripheries360, while banks manufactured the flow of a bullish spiral, ‘as if bank loans and foreign capitals could lead to a greater homogeneity and not to financial polarization’ (ibid.).

This phenomenon has nothing to do with any natural catastrophe or biblical plague, and debtfare is not an unavoidable solution: this is a long-term colonisation process carried out by state-corporate powers – namely ‘social murder’ (Engels 1845, cf. Tombs 2016). Let us remember that Germany is the European country that refused to pay its debts most successfully, adamantly and repeatedly in the last century. And this is not even about any ‘debts arising from mere speculation, but debts arising from war compensations’ (Olalla 2012): 226 billion gold German Marks to the allies after Versailles Treaty (1919), and more than $1 billion in credits from USA (1924-29) – partly used to pay compensation. In 1930, as part of the Young Plan, this enormous payment obligation was formally cut to half – $112 billion. In 1932, Germany had a net reduction over 98% of debts due to having lost WWI. In 1939, when Hitler launched WWII, all payments were unilaterally suspended. In the London Treaty (1953), twenty countries (Greece included) agreed to write-off German debts that had resulted from WWII, but Germany kept on claiming against its debtors, including Greece, where German troops had invaded and killed hundreds of thousands. In 1964, the Greek government assumed that debt plus a high risk premium. While Greece keeps on paying its increasing debt, Germany refused (again) to pay its old debt in 1990, when German unification could have implied a revision of the London Treaty to retake the payment of ‘frozen’ compensations (ibid.).

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359 ‘Hegel remarks somewhere that all great world-historic facts and personages occur twice, so to speak. He forgot to add: the first time as tragedy, the second time as farce’ (Marx 1852, 6).
360 *Post-soviet* republics in the nineties and Mediterranean (Greek, Portuguese, Spanish) *post-dictatorships* since late seventies.
The history of debt, as regular war, is full of renegotiations, agreements, cancellations and reconstructions, but also arbitrariness, abuse and extortion. This is the constituent violence of really existing democracy.

Debt is an apparatus for capturing and redistributing social wealth through interest payment. The capture of capital gains is not exclusively channelled through profit anymore. This is, in fact, just a part of the rent. [...] Debt ‘sucks’ social gain and distributes it, thus breaking the relationship between work and incomes for the rentiers’ exclusive benefit – also including corporations. The rest are condemned to forced work, precarity or unemployment. Through cuts in social expenditure, wages and incomes, we all pay the ravages caused by the creditors. And we do not only pay for them, but we also keep on enriching them in the crisis and thanks to the crisis [Lazzarato 2013, 71-2].

Badiou was right in his assertion that, today, the fundamental enemy is not capitalism, nor Empire, nor exploitation, nor anything similar, but democracy: the ‘democratic illusion’, the acceptance of democratic mechanisms as the final and definitive framework for any change, is what avoids any radical change within capitalist relations [Žižek 2011, 36].

The alleged tension between capitalism and democracy is the engine of a program of political economy which imposes an illusion of freedom and, at the same time, subjugates its subjects. The neoliberal mantra is imperative (be free!), but its rhetoric censures any feasible alternative as impossible. If the Keynesian-Fordist regime embodied a disciplinary apotheosis in the best possible situation to legitimise the contractual myth – a feasible social and democratic state of law – the neoliberal order brings back the ban (see Introduction; ch.I.1; footnote 269). If the history of capitalism started by deploying war as the main resource for states to accumulate wealth and to open markets, neoliberal globalisation has reversed that order. Now the accumulators – the so-called markets – ‘open new spaces’ to ‘drain’ profit by all possible means. The main historical continuities presiding over this process share the logics of invasion, subjugation and looting.

There is still a lot to be done. The markets and Europe only expect a positive vote to the economic package. Italy needs reforms, not elections [H. Van Rompuy, president of the European Council, 2011].

Neither did Van Rompuy need any election to be named the president of the European Council.

IV.2. Punishment(s). Expulsion as a (Necro)Political Paradigm

Prison becomes the punishment par excellence of a commodity-producing society; the idea of equivalent retribution finds its maximum realisation in the prison sentence, since (temporary) deprivation of liberty can represent the more simple and absolute form of exchange value – read the value of salaried work [Melossi & Pavarini 1987, 17].

The factory with fences meets the prison without walls [Wright 1998, 152].

Once the paradigm of social contract has been questioned, the analysis of the new sovereignty has to move back to ban. As a result of a deep transformation in the labour market, the penalty ‘par excellence’ tends to constitute a mixture of banishment and death. Failed consumers are lifers. The neoliberal identity ‘par excellence’ is that of the slave-debtors whose commitment to the ‘values of democracy’ helps them believe they are
citizens, even as exploitation and segregation pushes their status closer and closer to *bare life*: their bodies are expelled, their political attributes are naked, their rights are cancelled, and their lives are left behind as objects of ‘humanitarian intervention’. If the state of exception ‘separates the rule from its application in order to make the latter possible’ (Agamben 2003, 56), the current crisis of legal efficiency and political legitimacy is unveiling ‘the original structure of the sovereign relationship’ (ibid. 1995, 71).

‘Owning slaves means nothing’, Diderot exclaims; ‘what is intolerable is to have slaves and call them citizens’. Owning slaves is the natural order of force in a world where freedom is an aristocratic privilege; but as soon as freedom emerges as a value in politics, its divorce with reality appears, and then reality is perceived as intolerable violence [Domenach 1981, 35].

Slavery has never disappeared. At present, ‘in numerical terms, about 75% is in Asia – taking into account that the Asian population is the world’s largest. Latin America comes next, with around 1.3 million people. But this scourge also exists in the developed countries: around 600.000 people in the EU, USA and the ex-soviet countries’, says ILO director Juan Somavia (BBCMundo.com 16.05.05). With that in mind, how to describe the rationale of work camps for unemployed people, or the cuts in unemployment benefits to encourage the search of a not existing job?

How to explain the proliferation of walls and fences (Brown 2010) against the multiple itineraries of displaced bare life? What form does the *treadmill rationale* take in the 21st century? What about the principle of less eligibility? Where is its limit? What is the difference between juridical and political fields in the 18th, 19th, 20th and 21st centuries? Does it make any sense to speak about ‘national unity around a great goal’ in the midst of job destruction, plundering, capital concentration, and systematic violation of fundamental rights? Does it imply a global process of political regression to banishment? Since the social functions of punitive practices grow more and more fiercely classist, the mere status of a debtor becomes punishable: as pointed out by David Graeber, ‘In colonial days, an insolvent debtor’s ear was often nailed to a post’ (2012, 16). ‘In January [2010], a judge sentenced a Kenney, Illinois, man to *indefinite incarceration* until he came up with $300 toward a lumber yard debt’ (ibid. 17). A woman living in Fuerteventura, Canary Islands, with 5 dependants ‘will be sent to prison for not demolishing her house in a protected area. […] the social services had asked her to fix up her house because it was in bad condition, or else they would take her children’ (InfoLibre 20.08.15).

The classical definition of progress requires a serious act of faith. Hence the criticism of the signifiers *order* and *progress* has defined our epistemological framework. Subsequently, the notions of debt, austerity, looting and expulsion underpin our analysis of a criminal-punitive process that produces and manages massive harm. Last but not least, democracy must be redefined as a sort of ideological key of neo-colonialism:

‘Democratic’ integrates from civic ordinances to immigration laws, as well as community police and informer culture. ‘Democratic’ is a mixture of war-state that turns politics into a permanent search for enemies to eliminate them, and postmodern fascism that limits freedom to personal choices. Difference is only tolerated when submissive. ‘Democratic’ is the air

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361 The [new] Hungarian constitution cancels the workers’ right to strike, and sends unemployed people to work camps.

362 In the midst of the worst period of the job destruction in democracy, ‘Rajoy announces budget cuts in unemployment subsidies’ (Europa Press 17.06.12).
that we breathe. This can be improved, cleared, regenerated (these terms are not casual), but
we will never be allowed to try if we can live by breathing fire. ‘Democratic’ itself is pure
violence in its double face: repressive and inclusive; as well as the alibi of self-called
‘legitimate’ violence. Before the question on condemning violence or not, it is evident that
we must shut up. Silence itself is a way of speaking, because the greatest violence is
exercised by those who decide what violence is and try to force us to define ourselves in
relation to this [López Petit 2011].

In a nutshell: Debt as a weapon, Debtorcacy as a system (namely economic regime) of
order, Debtfare as a state (namely political regime) of control, and ‘Democratic’ acts as
their tight ideological framework. Hence current punitive rationales, ongoing accumulation
dynamics, and subsequent reproduction means. Let us discuss what this may have to do
with policies, institutions and agents of control. At this point, our approach on the market-
state-prison triangle might need some rethinking.

Too much depends on the proper servicing of the boundary to leave the task to the discretion
of the dustmen alone. [...] Immigration officers and quality controllers are needed. They are
to stand guard on the line separating order from chaos [...]. They are the elite units of the
frontline troops in the modern war against ambivalence [Bauman 2004, 44].

The concept of expulsion synthesizes a common feature of all policies applied under the
pretext of austerity. The withdrawal of state responsibility, along with new forms of
chrematistic management, evidences the collapse of all constitutional principles regarding
fundamental rights. This also implies a displacement of punitive methods that may not need
more prison but a prison system under better managerial efficiency. This is what has
been happening in USA, Spain, United Kingdom and many other countries during the last
decade.

The basic rationale of a consumer society is universal destruction rather than universal
exchange. Its basic outcome is absolute misery rather than abundance: ‘its own need of
unlimited production and its own inability to make differences turns it into the first society
without things in history, and therefore the opposite of a world. Capitalism is nihilism’
(Alba 2007, 173). Hence consumption is an antisocial and nihilistic solution at the mercy
of globalised dispossession. The fundamentalist rhetoric of neoliberal ideology coexists
with a new boom of mechanical repression. Inequalities grow, and ‘middle classes’ disappear; poor hyper-ghettos expand and the wealthy ghetto retracts. ‘Whereas the latter
[read prison] is designed to keep dangerous people in, the former [read gated community]
is designed to keep them out’ (Simon 2007, 241), thus the broad contours of control
defore: punitive rationales pervade policy making and law enforcement, while the classic
spaces of punishment include new (and relevant) elements. If the means for exploitation
and accumulation change, so ‘should’ punitive control.

Legally defined crime, and mostly the anthropomorphically labelled offender, are the
elements that attracted medical knowledge to prison, first to isolate, then to inabilite, then
to heal and to rehabilitate, and finally to re-socialize or re-educate [Bergalli 2002, 347].

This path described by Bergalli took another turn under neoliberalism to recover
confinement and incapacitation as the two paramount elements of the political economy of
punishment. How to redefine the role of penal systems in an accumulation regime that

363 ‘The ideological-totalitarian class in power is the power of a world turned on its head: the stronger the
class, the more forcefully it proclaims that it does not exist, and its strength serves first and foremost to assert
its nonexistence’ (Débord 1967, 106).
seeks to solve its own crisis through the reinforcement of exploitation-dispossession cycles and the ex-ante expulsion of an increasing number of individuals? How to keep Article 25.2 of the Spanish Constitution\textsuperscript{364} alive, when spaces of reintegration and the dynamics of inclusion are being jeopardised? What is the role of imprisonment when the paradigm of the camp spreads across the whole social body? With an eye on the by-product of a regime ‘defined by surplus’ (De Giorgi 2000, 90), considering that capitalist exploitation has already colonised most of the reproductive spaces (Harvey 2013, 57/66), a new debtocratic painfare undermines the classic disciplinary notion of ‘getting a docile inmate for the sole purpose of maintaining order and discipline’ (Bergalli 2002, 347). Incapacitation trespasses the walls of imprisonment in order to pacify inequality. Efficient-profitable management is the new hegemonic rationality (Forero & Jiménez 2013, 15/24).

In the current accumulation regime, social surpluses are managed through a dual, self-referential, and utilitarian rationality: asepsis and profitability. The fact that ‘prisons will appear more and more as deposits and, occasionally, to landfill’ (Feeley & Simon 1994) has proved the triumph of a class-based project. In other words: the success of imprisonment within capitalist modernity was due to its contribution to social discipline and industrial production. The real value of prisons was to endanger ‘the legitimacy of the political order that promoted it’ (Simon 2007, 207). However, ‘when things worked well, both prison and state provided functional inputs to each other. They also produced by-products that were destabilising to each other’ (ibid. 210). Under a productive government that fostered expectations of consumption growth, imprisonment and unemployment used to grow at a similar pace. But that evolution changed as accumulation rates slowed down, from rational management of labour force to overproduction of social residues\textsuperscript{365} in an ‘apparently de-bordered’ (De Giorgi 2012) camp. The growth in luxurious consumption is almost simultaneous to that in under-consumption by the lower classes. Deprivation, under-employment, working poverty, and absolute dispossession are four levels of everyday exception. In the flexible ‘limits of project exile’ (Simon 2007, 243), the punitive spiral moved from the penal sphere to education, housing, pensions, and labour relations. Banishment as expulsion without walls is being redefined as a ‘technology of exile’ (ibid. 240). However, three decades of punitive populism have not de-legitimised the political order – as predicted by Jonathan Simon a decade ago – and a crucial aspect of this evolution must be highlighted.

In the new period of austerity and potential overcrowding, fiscal crises are forcing penal states to replan their strategies in order to maintain the efficiency of imprisonment. The same institutions that used to ‘practice crime prevention through prophylactic exclusion of rule breakers and other risk makers’ (ibid. 243), now face a dilemma: how to optimize the economic performance of imprisonment without eroding its symbolic (legal, moral, expressive) functions.

Under global neoliberalism, the extension of hygienist and disabling discourses has justified tougher penalties – either in a legislative plane or in the area of penal execution – more preventive or precautionary measures, and a wider range of criminal acts and profiles. At the same time, ‘social alarm’ – a basic ideological concept in securitarian management – gives the audience two basic complementary roles: as potential victims of

\textsuperscript{364} Let us remember: Punishments entailing imprisonment and security measures shall be aimed at rehabilitation and social reintegration and may not consist of forced labour.

\textsuperscript{365} ‘The social expands throughout history as a rational control of residues and a rational production of residues’ (Baudrillard 1978, 178).
ordinary offences and violent crimes; and as mere passive spectators of state-corporate crime. Thus, the citizen audience of consumers is expected to ensure consensus around punitive populism and ‘law-and-order pornography’ (Wacquant 2009, 419). Media manipulation of expressive justice fosters expansive punitivism, retributive inertias, and claims for a ‘limitless penal law’ (Iruin 2008). In the legal sphere, absolute or retributive doctrines are ‘based on the idea that responding to evil by evil is fair’ (Ferrajoli 1989, 254). Revenge, expiation, and rebalancing are ‘three basic religious ideas that never disappeared from the criminal culture’, hence our ‘philosophically absurd’ (ibid.) conception of the functions of the penal system. Close to that same conception lies a ‘moral discourse of debt’ (Graeber 2012, 514), which assumes the ideas of consolation and revenge under an equally absurd approach: to pay for what has been done, instead of comprehending what has happened, as Nils Christie said.

The bipartisan confluence of political attitudes towards crime described ‘an escalation whereby nobody is able to discuss penal policies in the Parliament, while indiscriminate demands for more and more effective [read severe] penalties is not a political taboo anymore’ (Cancio 2003, 12). These demands share a post-political stupid axiom: ‘good ideas are ideas that work’ (Žižek 2009, 32). The death of politics was thus embodied in a perfect contradiction: penal justice is asked to prove effective, while political discourses keep on promising ‘more public security’. And the vicious circle keeps on rolling: ‘The clearer way to appreciate the dimension of this phenomenon is to remember that such notions as neutralisation are being reissued’ (Cancio ibid.). This unjustifiable contradiction of the penal system has never drawn the attention of published opinion – namely publishers of opinion. However, the current context has already changed. Cancio’s thesis is still valid, but published opinion came to exploit the ongoing depression under the implicit assumption that – responding Žižek – good ideas are dead. In a nutshell: we are living in a time of shock therapies, lesser evils, efficient management, actuarial calculations and situational prevention. Security devices are concerned with managing behaviours within a range of social spaces; hence they [i.e. security devices] are ‘oriented not to disrupt the social and economic flows, as well as to maintain deviated behaviours under admissible levels’ (Brandariz 2014, 49).

Cost-benefit calculations focus ‘administrative management of risks’ on the isolation of an offender who is depicted as ‘immune to intimidation and unable to resocialise’ (ibid. 14). ‘The ideology of risk distribution between the individual and the society is a discourse based on technocratic terms to disguise the insolidarity that inspires it. […] the society does not admit, or notably restrains, its own responsibilities in the origin and addressing of delinquency. This is one more example showing how volitional discourses supersede structural approaches in the analysis of delinquency’ (Díez Ripollés 2005, 17). When community life turns into a merely passive act of submission to law, the citizen audience finds consolation in the retributive promises of the state. Nevertheless, in the new great depression, this punitive spiral is also enforcing expulsion as a governmental strategy in broad terms – much beyond the penal system. If ‘the status of victims is experienced mainly as a feared future rather than a present status’ (Simon 2007, 381), recent dynamics of hyper-expulsion are refocusing the source of fear where good citizens used to ‘buy’ protection: the (corporate) state. Self-perceptions among more and more ‘non-delinquents’ (García-Borés & Pujol 1994) are affirming their experienced status of victims of debtfarist expulsion through public policies – thus redefining some elements of their feared future – although the classic ideological figure of the criminal is too rooted not to lose its perverse connotation: ‘They treated me like a criminal’, ‘We are workers, not terrorists’, ‘We are teachers, not criminals’, are some slogans repeated throughout street protests against the
adjustment’, ‘restructuring’ and looting policies imposed in recent years. It is not in vain that main changes in the penal field over the last decades contributed to set up an epistemophobic scenario: to discuss the problem of crime in emotional terms (Garland 2001, 271) is to close all chances for a political discussion on penal policies. The process of governing through crime abolished the ‘political dilemma’ (Simon 2007, 224) in the context of the claim that nothing works – first in times of fake prosperity, indebted growth and hyper-incarceration, and now under a debtocratic global regime.

Foucault studied the history of ‘a simultaneous system which prevailed over legal deprivation of freedom; a four-term system involving: prison as a disciplinary supplement; the production of an objectivity, a technique, a penitentiary rationale; the factual extension, if not the accentuation, of a criminality that prison should destroy; in short, the repetition of a reform which, despite its idealism, is isomorphic to the disciplinary performance of prison’ (1975, 276). Foucault’s theses, along with those by Rusche, Kirchheimer, Cohen, Mathiesen, Baratta, Melossi, Pavarini, and others, have not expired. However, their premises must be updated to resume the critique of imprisonment beyond its ‘certificate of death’ (Rivera 2011, 48). The political dimension of imprisonment remains effective, because the official discourse on economic (dis)order is still valid, even though prisons seem to be losing their central position within the sphere of punitive control. Applying Foucault’s terms to today’s imprisonment: the disciplinary supplement is being overcome by nude containment and banishment; theoretical production, scientific principles of personalisation, or other forms of discursive legitimisation are being neglected, as is the ideal of resocialisation. In short: the performance of prison needs less and less reform because productive discipline – as we knew it – is not a key element of current social order.

According to Wacquant, ‘to the single oversight of the poor by the Left hand of the state succeeds the double regulation of poverty by the joint action of punitive welfare-turned-workfare and a diligent and belligerent penal bureaucracy’ (2009, 411-2). Negative surplus has powered the nostalgia for those good old times when, as argued by Graeber, the predominant idea was that everyone could enjoy the life ‘of a worker in Turin or Michigan’s automotive industry in the sixties’ (2012, 495). Instead, neoliberalism and painfare perpetuate themselves on account of exclusion and expulsion, although the dissolution of Fordist productive spaces and relations did not completely overturn labour ethics as a disciplinary reference. ‘Punitive containment offers relief not to the poor but from the poor, by forcibly disappearing the most disruptive of them, from the shrinking welfare rolls on the one hand and into the swelling dungeons of the carceral castle on the other. […] incarceration takes its place at the center of the spectrum of state programs trained on the precarious fractions of the postindustrial proletariat’ (Wacquant 2009, 295). The paradigm shift from discipline to control cannot eliminate some links between yesterday’s normalised practices and today’s cultural universe. ‘Disciplinary societies are [still] our immediate past, what we are ceasing to be’ (Deleuze 2006).

For an adequate deployment of labour exploitation under the new debtocratic normal, poverty must also be working poverty, just as more and more workers are needed to be poor workers. Hence unemployment rates lost their validity as a measure of social inclusion for a majority of working class individuals. The fallacy of ‘full employment’ gave way to a full unemployment paradigm. Public policies enacted early expulsion through the introduction of accumulation by dispossession in most areas of social

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366 On the implications of this discourse, see ASAPA (2013), García-Borés (2008).
protection – formerly known as welfare. A residual sector of labour surplus will remain disabled, but confinement spaces also modify their social and material conditions according to fiscal priorities. The era of hyper-incarceration – heiress of large closures from 19th century, and successor of welfarist reforms – is currently overlapping with the era of great expulsions. Prisons with porous walls, jobs with miserable salaries, and declining levels of social protection, are three signals of a poverty-deregulation process, while the camp expands as the ‘nomos of the political space’ (Agamben 1998, 52). A general administration of pain emerges, both within and outside the walls. Expulsion is the direct result of a criminal regulation of the social body, and this (necro)biopolitical process is breaking and cancelling out the universalist mirage of human rights.

Trying to clarify the term mass incarceration, Wacquant speaks of hyper-incarceration to emphasize the selective impact of imprisonment on some populations, through vectors such as class, age, gender, ethnic-cultural affiliation or spatial distribution. The use of the terms mass expulsion and hyper-expulsion responds to the same distinction. Mass expulsion activates a widespread process of surplus overproduction from the basic levels of public policies. Hyper-expulsion marks ‘secondary’ processes of policy-making, which have a serious impact on double victimization of certain social groups, including administrative or penal expulsions of non-national members of social surplus – or non-citizens.

In the current context of global recession, and in the absence of a defined recovery horizon, the legalistic mirage turns its symbolic function upside down. The reaction of the governed against the regime that dispossesses them appeals to an empty notion of citizenship in a collective conditioned reflex. This proves the weak material base of citizenship as an segregating category: the so-called ‘middle class’ came to include a growing mass of precarious consumers who stake a claim for their formal rights, beg for the restitution of an unrecoverable status quo, and thus strengthen the marginal position of non-citizens as potential victims of hyper-expulsion. ‘Precarity feeds misanthropy and erodes empathy and reciprocity, which are preconditions for solidarity. Instead, it stimulates an intimate feeling of indignity among the dispossessed’ (Wacquant 2015, 265).

Prisons are not rational instruments to fight crime, but rather the result of cultural traits, political influences and social conditions [Christic 2013, 14].

According to the dominant cultural representation of war on evil367, a righteous hero acts as the enemy of our enemies, thus legitimising the rollback of human rights, liberties, and legal guarantees. And we must praise our hero while we accept the ‘collateral damage’, provided ‘we [read the innocent citizens] have nothing to hide’. The normalising function of penalty gives in to ‘brute neutralization, rote retribution, and simple warehousing – by default if not by design’ (Wacquant 2009, 418). Outside the walls, mass media broadcast ‘law-and-order pornography’ (ibid. 419) on behalf of citizen consensus. Although the actual novelty here is that painfarist administrations turn punishment into the ethos of all public policies368, the post-Fordist paradigm still provides some analytical keys. The point is to reshape our critical approach onto the link between punishment and social structure within an updated framework: productive decline of economy, ‘de-bordered’

367 ‘War, in the sense it has been used in phrases like war on crime and war on terror is a marker […] that a transformation of the means and rationalities by which elites justify and set the desired dimensions of their own governance’ (Simon 2007, 355).
368 ‘To govern is often to deliver pain […] I cannot hope to have the applauses and smiles of those who are being asked to sacrifice’ (A. Ruiz Gallardón, Efe 12.12.12).
financialization of corporate power, and biopolitical ‘re-bordering’ (De Giorgi 2012) of territories. Once this historical leap turned ‘labour recycling’ into ‘spatial distribution of social waste’, the prison started operating within a broader framework. This thesis on the loss of centrality of imprisonment might explain the reinforcement of its hard core and its symbolic/political performance – general-positive prevention. De Giorgi has addressed some keys of political economy of punishment under this ongoing re-bordering process. Among other contributions, De Giorgi argues that Rusche & Kirchheimer’s perspective on the principle of less eligibility needs to be updated in the light of a new economic disorder. Ideologies, practices, and penal institutions flow through ‘the lines of a historically contingent relationship with the development of capitalist accumulation structures’ (De Giorgi 2012, 142).

In today’s job market, the inclusion of an ever-smaller minority expels a growing amount of people – or throws them into shadow economies. Less eligibility can only vary in a context of scarcity, dispossession and expulsion. The transformation of this principle will depend on what may happen outside the walls, and what strategies may maintain living conditions in prison below the worst ‘free’ standards. A particular symptom emerged a few years ago in Portugal – among other stricken countries –, whose trend to imprisonment in the recession contradicts the evolution of its neighbouring countries: ‘we are in such a situation of scarcity that many prisoners do not even want to leave the prison, because there they can have their meal paid. It’s the first time I see this, but it looks like the families do not have the means to host their prisoners at home’, says the president of a Portuguese union of prison officers (Minder 2012). This has happened in Spain too. Painfare policies contribute to reduce – and even to reverse – the gap between the inside and outside the prisons.

We should also redefine the principle of less eligibility under the political-spatial transition from imprisonment to the camp. The pornographic optimization of the hard core of imprisonment seems to strengthen, while the punitive devices focus on repressing any organized expressions of social unrest – which are, in turn, reactions against production of bare life. Let us take two examples, Hungary and Greece. The first case: the Hungarian state declared ‘compulsory work for long-term unemployed people, including a high amount of Roma (gypsy) people, within closed and monitored labour camps’ (Negrete 2012). ‘Perhaps we shouldn’t regard Hungary as an aberration, in a continent where democracy has already been suspended in Greece and Italy’ (Rowlands 2012). One year later, social unrest and the electoral rise of far-right extremism (UK, Netherlands, France, Austria, Croacia, Germany, Scandinavia, Greece) seem to confirm all suspicions of a democratic regression. The second example: in April 2013, in one of the farms of Nea Manolada (Greece), ‘three foremen shot 150 workers, mostly Bangladeshis, who were protesting because they had not been paid for months’ (Paone 2013) – a wage under 3 euros per hour. ‘This area of Greece exports most of its production to Northern Europe. A productive model celebrated by PM Yorgos Papandreu in 2011 as a success that deserves to be followed. […] 35 people were wounded, and in the most serious incident of a series of abuses hidden behind this economic miracle’ (Paone 2013). ‘In 2008, the workers had gone on strike against these inhumane conditions. Other attacks had previously occurred’ (BBCNews Europe 18.04.13).

Let us therefore ask if austerity policies led to a simultaneous degradation and expansion of the regimes of deprivation of liberty. The aforementioned image of the ‘porous walls’ refers to both this expanded trend of degradation and the rise of various extra- penal forms of detention, exile or punishment for economic reasons, either the lack of purchasing
power among the punished individuals or the economic rationale within punitive agencies and institutions. Either in the penal, labour, welfare, health, education, housing, or judicial structures, the generalisation of this logic turns the state into an administration of penalty without crimes and criminalisation of ‘deviant’ expressions of discontent. The current ‘expansion of punishment’ (Simon 2007) is not accompanied by any expected rise in the imprisonment rate – which had been a faithful indicator of neoliberal punitivism during the last 30 years.

Expulsion is already a priority at all governmental levels. Some ‘benevolent’ decisions taken by current governments would have been inconceivable in a previous context: ‘In the UK illegally? 106 last week in your area. Go home or face arrest’, reads a sign on the cabin of a truck in one of the six areas of London where a ‘friendly expulsion’ program (2013) was carried out under the pressure of xenophobic UKIP’s success. ‘We know that voluntary returns are the less costly way to expel illegal immigrants’, said a government spokesman (Metro UK 29.07.13). In Spain, some months earlier, ‘one of the main objectives of establishing the expulsion of foreigners who committed a penal offence is to download the Spanish penitentiary system of foreign prisoners, thus fulfilling the objective of security [...] Expulsions are much more effective than imprisonment’, said the Justice minister A. Ruiz Gallardón (La Razón 14.10.12).

IV.3. What Only Austerity Can Achieve. The Example of USA

In May 2011, the US Supreme Court – Brown vs. Plata – concluded that overcrowding in California prisons violated the eighth amendment constitutional right against ‘cruel and unusual punishment’. The decision sided with a Court of First Instance in 2009, which required the State of California to reduce its prison population by more than 33,000 inmates to reach a capacity of 137.5%, or around 110,000 inmates. In May 2011, California held 3,259 prisoners in Security Housing Units (SHUs)369, and hundreds under administrative segregation – waiting for available isolated cells. Some prisoners have spent more than 30 years under this regime (California Prison Focus 2013). Only a month after that resolution, 40 years after Attica (New York), dozens of prisoners confined in SHUs started a four-week hunger strike at Pelican Bay state prison. 6,500 prisoners joined the strike in California. On 26 September, after failed negotiations with the authorities, about 12,000 prisoners started again a three-week strike. Two years later (July 2013), the biggest hunger strike in the history of the Californian prison system involved 30,000 strikers. Another 1,336 inmates supported the protest by refusing to participate in workshops or educational activities. Life conditions, torture, or solitary confinement were some reasons for the protest370. The strike was declared in 24 of 35 state prisons, along with four outsourced and profit-oriented facilities (Vargas et al. 2013).

The Californian prison population exceeded 130,000 people in 2013 – 146% overcrowding, far from the limit of 137.5%. 9,000 were under private management. The profit motive had first contributed to hyper-incarceration, and then was taken as an alleged means to curb overcrowding among state prisons under austerity needs. California’s prison

369 SHUs and supermax facilities are the two main confinement sites for indefinite 23-hour solitary confinement in 7m² cells without windows. Those sites reproduce the practices of 19th century, and the conditions defined as a means of torture by international regulation, and an extraordinarily cruel punishment by the US Constitution.

system had been designed to hold about 80,000 inmates, and the clearing strategy had been already declared by the state governor in 2006, through a ‘proclamation of state of emergency due to prison overcrowding’ (ibid.). Corporate leader CCA (Corrections Corporation of America) exploited both situations: the location of some of its facilities in Arizona, Mississippi, or Oklahoma implied a double punishment through economic and physical barriers between the prisoners and their environments. Including the number of individuals under probation and parole, the Californian population living under penal control diminished from 7.3 million (2007) to 6.9 (2011).

The US case, especially California, fore-shadowed a similar trend throughout its ‘European colonies’ (Wacquant 2012). In 2007, the US prison population experienced its first decrease in 36 years – through closing some facilities, cancelling or reducing new construction projects, reinforcing extra-penitentiary treatments for drug abusers, abolishing mandatory minimum sentences (for drug offences) and moderating Three Strikes laws (Davis 2001, 64 et seq.). Two basic reasons for these measures were the order by the Supreme Court to cut 27% of prison population (Wacquant 2012, 7-8), and the adoption at the Congress of the Fair Sentencing Act (2010), which removes some effects of the Anti-Drug Abuse Act of 1986 to reduce the divide between sentences for possession of cocaine and crack (from 1/100 to 1/18) – thus eliminating the minimum 5-year sentence for the latter.

If the overall growth of neoliberal imprisonment started in USA and then moved to most Western countries, its reduction after the financial crash also started in the USA. Prison populations have decreased in the UK and France since late 2007, Sweden since 2009, Germany since 2006, Finland since 2005 and Greece since 2008 (Karstedt 2013, 8). Some exceptions can be found in Ireland, Italy or Portugal. The prison population grew up to 10% in Portugal between 2009 and 2012 (Minder 2012), after a 20-year downward trend – with 14,000 prisoners in 1998 and 10,500 in 2007-08. Only Portugal and Austria lowered their imprisonment rates during the neoliberal decades (Council of Europe 2011).

Although the general landscape is not homogeneous, the average decline of imprisonment has been a fact across most OECD countries, especially since 2009. However, this general trend did not affect the global figures: the world population prison kept on growing in 2010 (World Prison Population List 2011; cf. Brandariz 2013, 2), mostly because of some emergent countries whose GDP growth was faster.

Again, following Rusche & Kirchheimer (1939, 5), recent trends relate to the notions of austerity, scarcity, and fiscal crisis. Although such arguments had been already present in the neoliberal propaganda, the problem of overcrowding was solved through building prisons. Paradoxically, the alleged virtue of new public management was precisely its review of the role of the public sector through cost-benefit efficient rationalisation. But the actual crux of this story has to do with an enormous transfer of wealth from the state budget to the private sector. Austerity was more firmly applied in the same US states where privatization had been promoted and developed in a more predatory way. Indeed, neither scenario seems to provide an insurmountable obstacle for the prison industry: Although the ‘imprisonment of America’ (Burton-Rose, Pens & Wright 1998) has become a macro-business and companies like CCA make enormous profits, the private sector can also eventually assume their alleged commitment with austerity as a ‘patriotic duty’: According to CCA’s 30th anniversary propaganda, the contributors’ taxes will be efficiently and austerely invested in penitentiary policies. Since 2008, many US states have
reduced their prison budgets. The closure of twelve facilities saved $65 million for the state of Florida (Porter 2012; cf. Karstedt 2013, 7).

While both the political class and the think tanks coincide in criticising the expensive cost of the prison system in US, a new coalition in the British government announced some austerity measures in 2010-11 – including the promise to reform penal policy, reduce police personnel and moderate the upward trend to imprisonment (Karstedt 2013, 5). Something similar happened in Germany, where the high cost of prisons seemed to justify a project to reform the penal justice system (ibid.).

The basic features in the construction of USA as the ideal type of a capitalist state were already analysed in the first chapter. Some data presented in the second chapter translated those basic features into a globally hegemonic project whereby the US also became the ideal type of a neoliberal state. However, despite being the world’s leader in the field of market-rational vs penal-practices, the USA also kept some differential elements. Another report by CCA (2013) on the expected macroeconomic recovery in USA – and thus the subsequent increase of prison population – provides an excellent example. After a decrease in the average incarceration rate, which for now seems to be cyclical, the prison industry lobby announced that economic recovery would ‘increase the prison population’. This is how CCA titled this optimistic report, hoping that the end of the recession would mean a return to normal, since austerity had entailed ‘earliest releases and fewer arrests’: CCA predicted a ‘suitable’ growth of the prison population due to the recovery in tax revenues (Hickey 2013).

Although it is hard to compare the explicitly tight business-punishment link in US with the market-state relationship built within European prison systems, the first represents an important reference to the latter. This is how Europe followed the influence provided by the macro-business of US imprisonment (Wacquant 2009, 345-406). First, the American case presented the ethos of profitability as a paramount contribution ‘to the increase of public budgets and mass incarceration, and not as a part of any viable solution to urgent problems’ (Shapiro 2011, 42). Second, despite European diversity, the Spanish process can be compared to that in the US, given the absent correlation between delinquency and imprisonment rates – along with a reverse relationship between unemployment rates and imprisonment – in both contexts.

Regardless of an eventual short-term recovery, CCA is one of the most qualified sources to analyse the evolution of the carceral sphere in USA. While tax revenues largely depend on economic activity, imprisonment showed a general upward trend which runs parallel to economic growth – including some ‘short breaks’ in the early 1980s, early 1990s, early 2000s, and the ongoing global recession. All of these breaks in the growth of imprisonment have coincided with a slump in tax collection at a federal level – which is in turn aggravated by fiscal privileges for the wealthy groups. At the same time, economic activity – broadly represented by GDP – led to reverse variations in the unemployment rate, because any increase in economic activity is supposed to produce a subsequent rise in employment rates. But therein lies the most contested of all correlations: except for the 1974-85 period, the trend to hyper-incarceration has been apparently unrelated to the labour market (Holleman et al. 2009, 7).

Both prison-accumulation and prison-work links are two factors of a seeming paradox, which implies that we must look for new answers to the old questions in Punishment and Social Structure, beyond the stage of spread insecurity whereby workfare meets prisonfare
(Wacquant 2009, 409 et seq.). On the one hand, within the current financialised and tertiarised economies, labour is not the central reference for the strategies of less eligibility anymore. On the other hand, penal justice systems guage their dual role towards political legitimacy and social insecurity. Unproductive accumulation – i.e. a production system that creates more dispossession than wealth – and punitive management of insecurity – i.e. managing poverty against the poor – approach their own point of no return. However – maybe due to this – E. Holder (US Attorney General) stated in 2013 that it might be better ‘not to lock up people and forget about them’, thus supporting an argument that it might be better to build fewer prisons and support more community reintegration programmes, since ‘exaggerated punishments to drug-related crimes promote injustice and contribute to insecurity’ (cf. Gandásegui 2013).

IV.4. Spain, 2010. The Bubble Bursts

While neoliberalism replaced the motto of laissez faire, laissez passer with a sort of faîtes faire, laissez dicter, the dramatic framework of punitive control was being extended by two global rationales: abandonment and expulsion. State-corporate production of social harm becomes the common governmental denominator among all these factors. The global race for wealth accumulation, power concentration, and mass dispossession has been conducted through criminal technocratic solutions. The government from the (global) market needs a general administration of social harm in each of its province-states. ‘Crime’ strictly means
production and management of social harm at the service of private accumulation of wealth and power. The basic question remains: What is the maximum dislocation between state-corporate crime and selective criminalisation that can be sustained by a province-state without declaring the state of emergency? How much social harm can be produced and delivered before the state of exception is imposed to a society? Do we already live under soft-permanent-exception?

This new type of criminal, that actually deserves the qualification of hostis humani generis, commits his crimes in such circumstances that almost prevent him to know or guess that he is performing an evil act [Arendt 1964, 123].

They have no idea of the deeds that power must commit to ensure the well-being and development of the country. [...] perpetrating evil to guarantee good [Il Divo. P. Sorrentino 2008].

Now this is an anthological crisis: that of a left which is incapable of giving an answer to match the fraud committed by the right wing, whose two only worries – political support and public pacification – are assigned to the Troika and the repressive bodies [Velloso 2013].

The identity between obedience and support attributed by Arendt (1964, 127) to the world of politics is effectively embodied by Spanish state institutions. Ideological convergence to the ‘extreme centre’ (Ali 2015) and the tendency to legislate by decree are two key factors dissolving the notion of conflict under Spanish neoliberalism. The post-Francoist democratic regime was built on consensus as a sovereign signifier, which repeals the principle of cohesion, obsessively invokes ‘stability’ against fundamental rights, defends so-called ‘public safety’ against social security, repeatedly resorts to punitive policies against social justice, and appeals to the rule of law while imposing permanent exception (Agamben 2003, 18-9).

All that being said, the relationship between market, state and prison in the Spanish democracy can be interpreted through three primary keys.

First, a post-political key: a sort of ‘democratic anomaly’ presides over the capital-power bond and its realisation through state-corporate criminality, within a political framework combining social failure and penal hypertrophy – two limbs of the same sovereign body. If the gap between normative (constitutional) levels and lower-ranking regulations ‘implies the risk of turning the constitution into a simple façade, with mere functions of ideological mystification’ (Ferrajoli 1989, 851), the current ‘post-historical striptease’ (Escobar 2013) should not surprise us. The expression ‘Leviathan of proximity’ (Maroto 2013) describes this process: debtocracy concentrates permanent repression against the underclasses. Civic laws and zero tolerance are the main exponents of a ‘political economy of the territory’ – whereby the Leviathan of proximity divides, narrows and privatises the urban space. The penal system has never reduced impunity at a level that ensures legal effectiveness; hence ‘punishment has never been exemplary enough to prevent the commission of crimes’ (Arendt 1964, 117). The classist and racist breach continues to grow.

Second, the accumulation key: the material context of the Spanish neoliberal anomaly displays a decimated productive structure. Its penal bubble – the greatest incarceration phenomenon in Western Europe, especially during the first decade of the 21st century – is a double symptom of financialization and productive destructuring, along with their double impact on the labour market (exploitation) and the geographical distribution of poverty. Since May 2010, all governments have integrated the capitalist diktat within their
adjustment policies. ‘I said that I would take all necessary decisions for the good of Spain, at any cost’, declared the former president after his party’s electoral defeat in 2011 (El País 21.11.11).

Third, the ultra-political key: punitive exception and belligerence are two constitutive elements in the Spanish government of social surplus. The Spanish prison system had not experienced modernity or Fordism as its neighbour states did, but Spain celebrated the arrival of neoliberalism as direct substitute of late Francoism. Due to forty years of dictatorship and the stunting of capitalist growth, the Spanish link between punishment and social structure cannot be considered under a welfarist-Keynesian paradigm, but this does not prevent Spain from quickly entering the new punitive order – which replaces reintegration and exclusion with incapacitation and expulsion, thus the foreign poor become the new ‘migrant’ scapegoats.

Bourdieu and Wacquant’s theses – on the right and left hands of the state – cannot literally apply to Spain. The Spanish relationship between welfare and penalfare was not built on the same terms through which welfare states entered neoliberalism. Both social and penal spheres grew with each other, as two parts of a governmental project. All resources and institutions belonging to the third (social) sector grew hand in hand with new forms of marketisation and ‘public-private management’, thus functioning as connected vessels – in permanent contact with the penal system. This development led to a new custodial market that could only remove some minor effects of social insecurity, but not their structural causes. The disintegration of traditional community networks – thus the weakening of informal social control – has much to do with the growth of formal control and, lastly, with the deployment of institutional abduction.

Since the beginning of the great depression, while the Spanish economy was destroying jobs at a frenetic pace, delinquency rates declined. One of the more punitive penal systems in Europe – which combined few entries with long stays in prison and de facto life sentences – reduced its prison population, while structural unemployment doubled. In the meantime, street control or ‘bureaurepression’ (Oliver coord. 2013) multiplied administrative sanctions (Maroto 2013). Budgetary restrictions imposed by austerity are the only factors that seem to have managed to slow down – and even reverse – the upward trend to imprisonment in the last three decades. After an approximate increase of 800% over those 30 years, the number of prisoners has decreased by 20% since May 2010 (76,951 prisoners at the time). According to Delgrande & Aebi (2012), Spain was the only EU member whose penitentiary system met the five risk factors371. If resocialisation had been a mere myth in times of economic growth, scarcity announced a general devaluation of living standards in prison. In addition to the fiscal crisis, an ideological crisis attacks the principle of scientific individualisation and the ideal of reintegration (R. Yagüe 2013, 183 et seq.). The last penal reform (2015) provides a good picture of that process.

Neither the number of convictions, the penal reform in 2010 (LO 5/2010), the higher amount of ‘alternative’ sanctions, the slower application of pre-trial detentions, nor increasing expulsions can provide an explanation for such a relevant decrease in the number of prisoners (Forero & Jiménez 2013b). Although the time elapsed does not allow a firm conclusion, certain suspicions are raised, such as the end of an alleged correlation between the destruction of welfare and the punitive management of social insecurity – at

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371 Read: prison population growth rate, higher rate of foreign prisoners, success rate (recidivism under 40%), pre-trial rate (x 100,000 inhabs.), and average length of imprisonment over 8 months.
least in the form of mass incarceration. The decrease in the prison population started with widespread austerity policies, but medium-term variations will tell whether the link between social policies and punitive control is undergoing a permanent change, or whether we face a simple impasse before next upturn of incarceration – namely a sort of ‘prison jubilee’ through which incarceration rates adapt to a new scenario of austerity and extra-penal punishment. If punishing the poor remains the basic paradigm, the harmful effect of austerity may be paving the way for a sustained increase of expulsion – within and outside walls and fences. Anyway, the key issue seems to be that punitive rationales keep on expanding in the framework of the neoliberal ban.

The same process took place in the Spanish and US contexts: While the umpteenth penal reform in the Spanish democracy was being designed – including the fourth state Pact against terrorism – some institutional representatives made ‘innovative’ statements. In July 2013, the Secretary General of Penitentiary Institutions expressed ‘the need to revise the penalty custodial prison’. [...] ‘It is necessary to undertake alternative actions to the custodial sentence, mainly for two basic reasons: its high cost and the existing doubts on the effectiveness of this measure’ (Efe 22.07.13). Ángel Yuste spoke of the ‘crisis’ of prisons and advocated shorter penalties – just as the penal reform of 2015 came to do.

Another factor in this scenario of confusion is the entry of new public management into the penitentiary sphere. No deep change has been applied to the penal policies that led to hyper-incarceration, but the fiscal adjustment proved unable to keep those policies. The penal justice system does not seem less active now than in 2008. Austere measures contribute only to a certain relief of fiscal emergency against those living under penal control of the criminal system. At the same time, outside the walls, the feedback between exploitation and expulsion is extending the neoliberal ban to so-called middle classes – whose standard of living used to be based on exploiting the underclasses. This implies a double (physical and political) process of expulsion produced by state-corporate crime against fundamental rights. Thus, in its current form and conditions, the carceral drain cannot afford a new chapter of hyper-incarceration in the short term. The administration of social harm extends in a much broader plane than penal punishment stricto sensu. The redundant debtfarist motto – this is painful but for the good – has been transformed into a concise it’s inevitable. A new government through harm delivers more punishment with less imprisonment. The iron fist of punitive control is adapting to new budgetary restrictions. Against this general trend of austerity, the main increase in spending has been on public security, i.e. a disproportionate investment in anti-riot equipment and materials, along with some ‘special groups’ for police intervention (Forero & Jiménez 2013).

Austerity did not only suspend or postpone the construction of new prisons. Staffs and material resources, treatment programmes, and medical attention were also trimmed or ended at the expense of fundamental rights: Cataluña planned to end mid-afternoon snacks (Europa Press 3.07.13), the Spanish ministry of Interior promoted ‘austere prisons’, construction plans were cancelled, non-contributory pension beneficiaries started having to pay for their meals in prison (Apdha 2013c), Andalucía suspended the Penitentiary Orientation and Aid Service (Apdha 2013b), medical treatments against hepatitis C were limited (Chasco 2013), private security was contracted to monitor prisons peripheral areas

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372 Signed by PP and PSOE on 2.02.15, assumed next day by a Bill for a Reform of the Penal Code – including Revisable Life Sentence against mortal attacks, and approved by OL 2/2015 to amend OL 10/1995.
In the same vein, a deterioration of (already precarious) labour conditions in prison was expected. In May 2012, the Catalan government offered cheap labour force to Catalan companies to recruit prisoners without having to delocalize their productive centres, since access to reintegration programmes was more and more difficult for prisoners. ‘We want Catalan industries to come back to Catalonia, and the Center of Initiatives for Reintegration (CIRE) can be an alternative to offshoring’ declared the Councillor of Justice. ‘Work in prison is very important for them, because this helps them not to get bored, and increases their chances for reintegration’, says the director of CIRE (Europa Press 11.05.12). The goal: improving cost competitiveness for the companies through ‘entertaining’ (sic) some ‘imprisoned human resources’, and ensuring a reproduction of the prison institution – which must be compatible with that selective limitation of resources. Now words and facts tend to converge: the penal reform of 2015 demonstrated the influence of Law and Economics on punitivism. The key is not the subject anymore – not to mention the act – but rather the ‘cost’ of her/his dangerousness. Figures (efficiency) on penal interventions matter more than actually reducing (efficacy) offences (Brandariz 2014, VI-VIII).

Austerity produced a punitive schizophrenia in the state administration. The multiple reform of 2015 re-criminalised protest through penal and administrative means, and lengthened prison sentences for a hard core of offences – and individuals. The effect of this reform not only widened the upper limits of prison sentences or replaced them for flexible life sentences with high minimum levels (25 to 35 years), but also prevented flexible enforcement of the law. In turn, some other changes in the Penal Code tended to downgrade the deployment of prisons through removing new offenders, foreigners and inmates with short sentences. Indeed, this reproduces the actual text of the law: as influenced by a sort of legalistic enlightenment, the principles of minimum intervention and ultima ratio are now invoked. Some ‘back door strategies’ (Rodríguez & Larrauri 2012) are applied for reasons of urgency or managerial practicality, although they had already been in practice for some years. It is time to emphasise this chapter’s heading and remember, with J. Simon or Rusche & Kirchheimer, that the basic question is: how many people can ‘we’ afford to confine? Now prison overcrowding is being balanced, pecuniary sanctions are being administratively enhanced, and certain actuarial tools are being used – which does not mean that offences are not being punished, but that administrative punitivism is imposing more sanctions and collecting more money. Media controversies around the reformable permanent prison are in fact much less relevant than the cancellation of the third and fourth degrees of prison regime. The 3rd degree became a risk-based privilege; parole and probation are now regulated as a way to suspend the execution of a sentence, and the exceptional expansion of dangerousness – which is radically incompatible with the principle of guilt – is being applied in the name of ‘security’. Penal exception starts in the eighties, grows in the nineties – with the Penal Code of 1995 – and focuses on certain criminal types – mainly terrorist activities –, thus breaking the principle of scientific individualisation – Article 72 General Penitentiary Organic Law. Later on, the OL 7/2003 lengthens maximum sentences up to 40 years, reforms some conditions – penitentiary benefits, probation-parole – according to the range of offences, and applies

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374 This judicial periodical review of the convict’s personal situation [...] removes any doubt about the inhumanity of this sanction, since it guarantees him/her a horizon for freedom (OL 1/2015 amending 10/1995 of the Penal Code – Preamble, II).
new anti-constitutional changes. The Penal Code of 2015 maintains this illegal exceptionist trend.

When explicitly asked about the ways that the government might circumvent the application of the Strasbourg Court decision, [minister of Interior J. Fernández Díaz] he responded: ‘Some legal engineering can be done’ [El País 20.03.13].

The state seems much more concerned with how to control the effects of social insecurity and to exploit the symbolic effects of zero tolerance than how to deal with reported delinquency rates (Jiménez 2014, 111). The ‘executive legislator’ imposes more and more ‘coherent, appropriate and benign’ sanctions and types, while adding some useful ambiguities: the intellectual authorship of a protest; reinforcing someone’s willingness to commit an offence; a new definition of attack involving all types of commission, aggression, use of violence, or serious threats, an abstract crime of endangerment; criminalisation of protests – i.e. the escraches deemed as ‘violent, undemocratic, nazi, and pro-terrorist’. ‘The Popular Party in power described the escraches organised by victims of evictions as pure Nazism due to totalitarian and sectarian spirit of the thirties’ (El País 13.04.13). A report by the Human Rights Rapporteur to UN Council accused the Spanish government for limiting the right to expression and access to media, stressed the legitimacy of social reactions against the crisis, and suggested that those reactions should be heard (DESC 2008).

The pre-legislators keep on creatively criminalizing. The minister of Interior, also responsible for the term ‘legal engineering’, is the leader of that creative trend: ‘Jorge Fernández Díaz proposes a new definition of terrorism including passive training’ (Ministry of Interior Press Cabinet 7.06.13). Shortly after, the concept of self-indoctrination was already in operation.

There is no reason to expect a short-term moderation in punitiveness. Improvised management of austerity reordered the state repressive priorities: populism, re-criminalisation, exception, endangerment, hygiene theories, ad hoc repression were some features of the multiple penal reform of 2014-15.

An extended consideration suggests that crises admits two opposing but complementary readings – one emphasising the risks and another focusing on opportunities – not to mention that ‘much of the damage that occurs in societies is determined by inequality and social division, which have become structural violence’ (Bernal et al. 2012, XLVIII). With a third of the population living in poverty, the number of prisoners in Spain has fallen to ‘pre-crisis’ levels. The government of the penality leads to efficient management of institutional abduction, within the framework of mass expulsion. Under the neoliberal Ban, the global reserve army turns into the transnational recipient of ‘naked labour’ (Whyte 2009). Neoliberal production-management of ‘surplus population’ (De Giorgi 2002), which once supplanted the welfarist paradigm of inclusion, now seems to give way to pure expulsion as the ethos of a government from the market. The exploitation of the foreign poor, general devaluation of labour force, antisocial division of productive activities, shadow economies and under-employment, reverse Keynesianism are some key features that propose a theory of a political economy of harm in the Spanish case. However,

375 Regarding the case Inés del Río Prada v. Spain, Strasbourg European Court of Human Rights concluded that the Parot Doctrine violates Articles 7 and 5.1 of the European Convention of Human Rights – principle of legality and right to liberty. See a ‘chronology of 197/2006 Doctrine’ in Naiz (21.10.13).
recognising this governmental change of paradigm does not undermine the validity of Rusche & Kirchheimer’s theses – neither under neoliberal penalty, nor under current debtocratic transition. The purpose, as mentioned at the outset of this book, is to read the present context according to those methodological tools.

(tax) / Every system of production tends to discover punishments which correspond to its productive relationships [...] and the intensity of penal practices as they are determined by social forces, above all by economic and then fiscal forces.

(class) / The criminal [or better: criminalized] population is recruited predominantly between the lower classes of the society.

(less eligibility) / True deterrent effect of a penalty depends on the degree of decline in the conditions of existence of the convicted person.

(exploitation) / The most decisive economic category in our analysis is labour market, with the volume of labour force, the forms of reserve and exploitation as its main variables.

(economic-fiscal alternation) / When the basic economic needs of a commodity-producing society do not directly determine the creation and forms of punishment, i.e. as long as the prison population is not used to cover the needs of the labour market, the choice of punitive methods is predominantly influenced by fiscal interests [R&K 1939, 5].

If the four premises considered by Wacquant in Punishing the Poor are included among the main references of this study, its findings need to include two fundamental assumptions about the neoliberal Leviathan. Those assumptions confirm the endemic character of the segregationary practices imposed by modern sovereignty. Their contemporary climax is due to the global triumph of neoliberalism as the hegemonic ideology, and both premises are confirmed in the Spanish case:

The penal apparatus is a core organ of the state, expressive of its sovereignty and instrumental in imposing categories, upholding material and symbolic divisions, and moulding relations and behaviours through the selective penetration of social and physical space. The police, the courts, and the prison are not mere technical appendages for the enforcement of lawful order, but vehicles for the political production of reality and for the oversight of deprived and defamed social categories and their reserved territories [Wacquant 2009, 248].

The ongoing capitalist ‘revolution from above’ commonly called neoliberalism entails the enlargement and exaltation of the penal sector of the bureaucratic field, so that the state may check the social reverberations caused by the diffusion of social insecurity in the lower rungs of the class and ethnic hierarchy as well as assuage popular discontent over the dereliction of its traditional economic and social duties [ibid.].

Following R & K’s theses, both assumptions have to be read within the new market sovereignty. The loss of centrality of the prison in the penal apparatus, general administration of punishment, and abandonment of rights lead to other questions:

What about institutional abduction in a context of widespread expulsion? Is the paradox of neoliberal penalty being broken? Are we facing a new penal cycle or just a sort of prison jubilee? How can we fight the ongoing political normalisation of abuse? What do human rights mean? How to defend them? What about citizenship? Is it a powerful political tool or an ideological perversion?
Another question suggests the following potential shift: ‘How will the state react and handle this advanced marginality that, paradoxically, it has fostered and entrenched at the point of confluence of economic ‘deregulation’ policies and social protection cutbacks? And how, in turn, will the normalization and intensification of social insecurity in territories of urban deprivation contribute to redrawing the perimeter, programmes and priorities of public authority?’ (Wacquant 2013: 6). Moreover: is the public authority actually considering a redefinition beyond enlarging the perimeter, suspending the programmes and reformulating antisocial priorities, in order to face the expansion of social insecurity to other spaces than those of the underclass? Is there a policy?

Let us get back to the beginning. This is how this book ends. The formation of complex processes such as the punitive spiral of neoliberalism in the 1980-2010 period cannot be analysed through the poor and bidimensional approach of ‘written law’. The same can be applied to the ongoing debtfarist process of massive harm and expulsion, which proves how necessary is to be aware of any pre-constructed object (Bourdieu 1994, 52/76) delivered from economics and legitimated by law.

In the introduction, I developed a historical-political genealogy of the capitalist conflict in order to apply its core elements to the Spanish case, pointing out some of its distinctive elements in economic, political and penal terms – with the prison system at the center. The problematisation of the ‘state of social control’ (Melossi 1992) under Spanish neoliberalism provides solid arguments for a critique of the Spanish government of social insecurity (Wacquant 2009) as a tool helping sovereign markets to commit crimes and province-states to punish the social surplus (De Giorgi 2002). The problem does not lie in abolishing prisons per se, but rather in a genuine and anti-capitalist respect for the rights of every single human being and every single community. This respect is the indispensable root for a further abolition of the penal system criminal – either in its current form or in its future form. We deal with a political problem, whose fair management is a question of power, and whose object is life itself. None of the potential solutions can include a so-called reform in the current economic system – which has repeatedly proved to be incompatible with life – or in its political regimes of legitimation. The only valid goal, whatever the means and time this may take, is to change the former and the latter: to destroy that economic system through abolishing this political regime.
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