

Front page of the project report – 2nd semester, 2013:

Year: 2013

Semester: 2nd semester

House: 21.1

Project title: Prison Privatization – Profit and Human Rights

Project supervisor: Paul Stacey

Group No.: 7

Students:

49597 – Afnan Azzouz

49305 – Cenia Guldstrand

50747 – Quyen Lai

49594 – Yasmin Vieira da Silva

Characters excl. appendix: 160,678

Prison Privatization Profit and Human Rights

Supervised by Paul Stacey



Project Exam

International Bachelor Program of
Social Science
2nd Semester, spring 2013
House 21.1
Roskilde University

Group 7

Afnan Azzouz
Cenia Guldstrand
Quyen Lai
Yasmin Vieira da Silva

Abstract

In the United States, over the past four decades, imprisonment has increased enormously, spurred by criminal laws that put more people in prison for longer sentences. At the same time, the nation has seen the rise of for-profit prison companies, which benefit from keeping more people locked up. The mass incarceration that leads to an increase in cost of imprisonment has placed a heavy burden on government budgets confronting states across the nation. Private prison companies, however, essentially admit that their business model depends on locking up more and more people (Shapiro, 2011). While the purpose of the institutions are to serve the people, the private sector has influenced on the objectives of the government leading to the dominant of economic considerations in correctional institutions. The private prison companies came up with various strategies in order to cut corners to increase profit, which in turn, have resulted in violation of several human rights of inmates and furthermore put lives of under-qualified staff at risk. Using theories by Michel Foucault, Karl Marx and Max Weber in this project, we aim to analyze the conflict of interests between private prisons administrators and inmates thus to see if the economics incentives have actually led to a decrease in private prison conditions and violation on the human rights of the inmates.

Table of contents

1 Introduction.....	3
1.1 Problem area.....	3
1.2 Problem formulation.....	4
1.3 Working questions.....	5
2 Methodology.....	5
2.1 Disposition.....	5
2.2 How to read the project.....	7
2.3 Epistemology.....	8
2.4 Approach.....	10
2.5 Research strategies and data collection.....	11
2.6 Limitations.....	13
3 Theoretical framework.....	13
3.1. Punishment.....	14
3.2 Prison.....	15
3.3. Government-at-a-distance.....	16
3.4 Capitalism & The Theory of Value.....	18
3.5 State and Power.....	20
3.6 Alienation and rationalization.....	21
3.7 Authority.....	22
4 Historical background.....	23
4.1 Privatization.....	24
4.1.1 Nationalization and World War II.....	25
4.1.2 The time of privatization.....	26
4.2 The prisons in the United States.....	28
4.2.1 The prison industry.....	28

4.2.2 Privately owned prisons.....	30
4.2.3 Super maximum security.....	33
4.2.4 Case: The toughest jails in the United States	34
4.3 The Universal Declaration of Human Rights	35
4.3.1 Standard Minimum Rules for the Treatment of Prisoners.....	36
4.3.2 Human rights and the “get tough on crime” movement.....	36
4.4 CCA & ALEC.....	40
5 Analyzing.....	43
5.1 Capitalism & The Value of Theory.....	43
5.2 Power & Authority.....	45
5.3 State & Power: Prison as a model of State.....	46
5.4 Rationalization & Alienation in the “State Prison”: Punishment & Prison.....	47
5.5 CCA.....	49
5.6 Human Rights/Criminal Justice.....	53
5.7 The toughest jails in the United States.....	57
6 Conclusion	60
7 Reflections	65
Bibliography	67
Books.....	67
Online Materials	67

1 Introduction

The project will start out by introducing the problem area. This will lay out the groundwork for the project as well as explaining the basic information regarding the subject. Thereafter will the problem formulation be introduced, which is the base of the project and the question that is answered in the conclusion. At last comes the working questions, which each holds a part of the explanation of the problem formulation that, as well, will be answered later on.

1.1 Problem area

Today for The United States, one of the most complex and challenging missions confronting their criminal justice system is the overcrowding prison population of the nation. According to Cohn – a senior correspondent of The Consumer News and Business Channel (CNBC) – no nation on the planet holds more of its people behind bars: 2.3 million prisoners (2011) than the United States. Additionally, the nation's prisons employs nearly 800,000 workers, which is more than the auto manufacturing industry (Cohn, 2011).

In the 1980s, the public's frustration over the failure of the penal system to rehabilitate offenders and a reluctance to make necessary improvement, paired with the increasing demand for more jail space, quickly pushed the nation into a new-born crisis (Austin & Coventry, 2001). One proposed solution that emerged at that time was the privatization of prisons and jails by contracting out, in part or in whole, their operations (Austin & Coventry, 2001). These private prisons, or for-profit prisons, do not work completely on their own since they are, as mentioned, contracted by a government body. They typically enter a contractual agreement with the government and then pay a per diem or monthly rate for each prisoner confined. Nowadays, the privatization of prisons may also refer to the takeover of existing public facilities by private operators. In the United States in 2001, there were approximately 158 private correctional institutions operating in 30 states (Austin & Coventry, 2001). Despite the assurance from the analysts that allows the private sectors to operate, the penal system's facilities could result in cost reduction by 20 percent, prison privatization has shown no such effectiveness in generating any real cost savings or service quality improvements to the public (Austin & Coventry, 2001).

In the past few years, approximately 130,000 people were locked up in private prisons that had been run by for-profit companies, and that number have been growing very rapidly. Overall, the United States has approximately 25 percent of the entire global prison population, including both state-owned and privately-owned prisons, even though it only has 5 percent of the total global population. The United States has the highest incarceration rate on the entire globe so far. Securing and humanely housing, such a large population has placed an enormous burden on prison administrators as well as the federal, state, and local jurisdictions that must finance the institutional confinement of so many inmates (Austin & Coventry, 2001). Such financial burdens on the administrators of these private institutions bring consequences to the prisoners. The ways found to release the financial tension off their shoulders go, most of the times against the human rights of a person who is deprived of its freedom. Most prisons and jails already spend as little as possible on meals for prisoners. Regardless, some jurisdictions are targeting food services for further cuts due to the current economic crisis. It almost seems as if there is a competition to see how far food budgets can be slashed (Reutter, Hunter & Sample, 2013). Both state and privately owned prisons cut back on the amount of food served in prisons and jails by providing cold instead of hot meals (Reutter, Hunter & Sample, 2013). But cuts like these put prisons at a serious risk of riots as this leaves prisoners hungry for justice, and as a consequence, not only the health of inmates is being jeopardized but their safety as well.

When the situation at private institutions get to a state like this, with profit over human rights, the question that begs to be asked is, are private prisons really doing what they were set up to do or has the profit-making completely twisted the purpose of these institutions? Are such investments and drives for profit responsible for the adverse effects of the United States' jails- and prison policies on the life of inmates?

1.2 Problem formulation

To what extent do economic incentives influence prisons' conditions in privately owned incarceration facilities in the United States?

1.3 Working questions

- 1) How is privatization being legitimized?
- 2) What influenced the shift of governmentality from state-based to private sector in the field of criminal control?
- 3) To what extend does the private sectors cross the minimum standards on the human rights of the inmate?

2 Methodology

In this chapter an explanation of the choice of theories and empirical materials will be given. There will firstly be a disposition as a roadmap of the project. Thereafter, go in depth of how to read the project, in order to give the structure of the project. Afterwards, the epistemology and the approach will unfold how the concepts chosen for the project are compatible with our angle and the empirical material, and an explanation of the working questions will be given. In the end of the chapter the research strategies and limitations will be gone through to give an understanding of the use of methods in the project and the barriers that have been met throughout the paper.

2.1 Disposition

- Abstract
- Table of content
- Introduction
 - Problem area
 - Problem formulation
 - Working questions

- Methodology
 - Disposition
 - How to read the project
 - Epistemology
 - Approach
 - Research strategies and data collection
 - Limitations
- Theoretical framework
 - Punishment
 - Prison
 - Neo-liberalism and government-at-a-distance
 - Capitalism & Theory of Value
 - State and power
 - Alienation and rationalization
 - Authority
- Historical Background
 - Privatization
 - Nationalization and World War II
 - The time of privatization
 - The prisons in the United States
 - The prison industry
 - Privately owned prisons
 - Super maximum security
 - Cases - The toughest jails in the United States
 - The universal declaration of human rights
 - Standard minimum rules for the treatment of prisoners

- Human rights and the 'get tough on crime' movement
- CCA and ALEC
- Analyzing
 - Capitalism & the value of theory
 - Power & Authority
 - State & Power: Prison as a model of state
 - Rationalization & Alienation in the “State Prison”: Punishment & Prison
 - CCA
 - Human Rights / Criminal Justice
 - Toughest jails in the United States
- Conclusion
- Reflections
- Bibliography

2.2 How to read the project

To sharply show how we would organize this project, the structure is as followed. The first part of the project is the introduction, where there will be a brief presentation of the topic of the project that explains the details for the scope of the project further, the focus area and problem area or the so-called goals of the study (Flick, 2009, pg. 128). We decided that we are going to have the methodological chapter before the theoretical chapter since plenty of explanations about the choices of theories will be made in the methodological chapter of this project. Questions to be answered in the methodological chapter include the chosen analytical approach, how the choices of theories are made and how literature have been used and lastly an overview of the methodological procedure in collecting data - the selection of empirical material (Flick, 2009, pg. 128). Afterwards, comes the theoretical chapter, which is a crucially important part, since the role of theories in our project is not only to improve our background knowledge of the issue but also to give us inspiration in order to find the evidence for the debate we bring up in this project.

Thereafter, is the historical background and analyzing chapters, where the theory and the gathered empirical materials are mutually analyzed. Later on, to sum it up, a conclusion will take place in order to form an answer for the problem formulation of our project. Last but not least, a concrete chapter for the reflections will come due to its essentiality, since one in the end of the project realizes how it could have been done differently and how to continue the work with the topic if we had gotten more time.

2.3 Epistemology

In this section an elucidation of why exactly we have chosen the several concepts that are going to be used as analytical tools in the project will be given. Defined narrowly, epistemology is the study of knowledge and justified belief. As the study of knowledge, epistemology is concerned with the following questions: What are the necessary and sufficient conditions of knowledge? What are its sources? As the study of justified belief, epistemology aims to answer questions such as: How we are to understand the concept of justification? Understood more broadly, epistemology is about issues having to do with the creation and diffusion of knowledge in particular areas of research (Steup, 2012). The further we got with the research for relevant academic materials, we came to realize that we would want to investigate the definitions of the term ‘punishment’ and ‘prison’. How have they been understood in the United States and has their understanding of the terms changed? With this in mind, we chose the theorist Max Weber, Karl, Marx, Michel Foucault’s ‘Discipline and Punish’ and Garland’s article about “Governmentality” and the Problem of crime” for the project.

As Michel Foucault has explained in his study, the focus of ‘punishment’ is not only the convict himself but also the society, aiming to reduce the attraction of crime thus increase the interest that makes the penalty be feared. Secondly, Foucault defines ‘prison’ as a combination of a school, a workshop, and an army with the purpose of locking up, retraining and rendering the social body of the convict. The main goal of this form of penalty is to re-create the social body of the convict thus make the individual better and ready to re-enter the society after committing a crime (Foucault, 1995). In the project, we would like to apply these theories in our analytical

chapter, to find out how much effort that the private prisons have put into focusing on retraining the inmates and if the conventional concept of the prison or in general incarceration facilities in Foucault's study is applicable with the private confinement enterprises today. On the other hand, as we strive to see how the government and authority exercise their power on the prisoners, we are going to investigate in the treatment that the private incarceration facilities owners provide to their inmates, since there have been various cases of mistreatment and wrongly punishment on the prisoners in confinements operated by private correctional institutions.

Additionally, we also find the article of Garland about 'Governmentality' and the Problem of Crime' in which he uses theories of Foucault to support and analyze his research extremely relevant to our project. Garland described the shift in governmentality from the conventional idea of prison to the more marketized focus on the costs from operating prison, leading to the allowance of the state for letting the private sector take over their prison facilities (Garland, 1997). We aim to apply Garland's concept of 'neo-liberalism' in this sense to investigate the process of policy making between the private prison companies and state legislators. The purpose is to find out if the private sector have influenced the establishment of new legislations of incarceration by extensive lobbying and campaign supporting for those candidates that most likely would win to manipulate power. Meanwhile, we also use another of Garland's concept called 'government-at-a-distance' to look for the evidence that the private sector, in fact, has been allowed and governed by the government institutions to engage in their policy making. Keeping the economic incentives as their top priority, these private prison companies advocate the implement of numerous harsh sentencing and laws leading to mass incarceration today by keeping more people locked up behind bars in order to increase the amount of taxpayer money pouring into their revenue.

Furthermore, we explore the work of Karl Marx and Max Weber in sight of their theories of 'alienation & rationalization' as an attempt to 'get inside' the individual, into the mind of the incarceration actors. We also explore both of their writings about capitalism and Marx's theory of value in order to investigate how this distinguished characteristic of modern society plays a huge role from police making to prison conditions in the private sector. According to Marx, the

‘economy’ is the basis of society and therefore the discussion of functionality of capitalism and its role in privatization of prisons, is fundamentally relevant for our project.

The concepts of ‘state’, ‘power’ and ‘authority’ are also used in sight of these theorists’ work. They were chosen to reinforce distinct aspects of our project, from the legitimization of the process of privatization to the concentration of power in the prison system scenario. These concepts are intertwined, especially when applying them in this case, where, for instance, the authority attained is directly linked to the exercise of power of inmates keepers, and power, in connection to state, puts in light the prison as model of Power State in which the lives of the human beings involved are misvalued. These and the others, together, build the bridge to the understanding of how it is possible that the prisons in the private sector are capable of infringing several rules and human rights in relation to their administrators own benefit. The more sociological aspect of state power is connected to the human rights, when the population started to question the increasing use of governmental power. We aim to investigate whether the expanding of power of government in democracy is easier when it comes to punishing than in other arenas of government operations and if so how the state looks upon criminals when it comes to human rights and how that affects the conditions within bars.

2.4 Approach

At the beginning, we gathered basic knowledge of the subject we have chosen for the project in order to go further into the selection of theories later on. We engaged in discussions approaching each concept and from that, singled out the most relevant and valuable theories for our project. This step enabled us to develop a solid and concrete theoretical framework. From this line of thought, it is crucial to have a well-built theoretical chapter, to clarify all the theories and concepts, as they are the fundamentals of a good analytical work. Furthermore, with the data we collected during the research, we were able to establish our problem formulation as well as to develop a set of working questions.

The first working question: “*How is the privatization of prisons being legitimized?*” Our goal is to analyze how the privatization started, as well as how relevant decisions and legislations are

being made, thus the birth of private prison in the United States and how it emerged into an industry. We aim to give the readers an overview of the process of privatization in general, and specifically prison privatization, how it is defined and regulated.

Our second working question is “*What influenced the shift of governmentality from state-based to private sector in the field of criminal control?*” In this working question we are going to analyze the shift in governmentality thus to understand the mentality of both the government and the private sector, when the state-based provision started to hand over their correctional institutions to private companies for operation. This will enable us to draw a connection between the state and the private sector, thus analyze how the private sector is allowed to get involved or influenced on the making of regulations from which will make way for them to maximize their profit. This means we have been looking for evidences of such connection between state and private sectors on the basis of capitalism and bearing in mind the role economics plays in the in legislative prisons and the process of regulations of the aforementioned.

For the third working question “*To what extend does the private sectors cross the minimum standards on the human rights of the inmate?*”, we want to gather knowledge about the living standards as well as the minimum rights for a prisoner, thus using the empirical material we found about various cases of mistreatment on the inmates to bring up a debate whether the private sector operates the prison for the purpose of conventional prison or because of their economics incentives and the shift in governmentality.

2.5 Research strategies and data collection

We chose qualitative method as the main research strategy in this project, but it is essential to take into account that along with qualitative method, we will need to use a great amount of quantitative data as well, due to the economic angle of our project. Writing the project, we look forward to bring up a strong debate about whether the economic incentives of the private company, who are operating a large proportion of prisons in the United States, actually lead to mass incarceration. Furthermore, how they are able to have such impact on the making of

regulations leading to harsh sentencing and detention laws and the lack of concern about the human rights of their prisoners.

Since the choice of theories influenced our decision of what relevant evidences we were supposed to be looking for, our data collection is mainly based on the inspiration we found during the making of theoretical chapter. In order to bring up a case to our debate about the shift in governmentality, we aim to prove the relationship between the government and the private prison companies, as well as how the private sector in this field can influence on the decision of policy making process. Therefore we choose to analyze the connection between one of the biggest private prison companies in United States, Corrections Corporation of America, from now on referred to as CCA, and American Legislative Exchange Council, referred to as ALEC, an organization of state legislators that has advocated numerous harsh sentencing and detention laws. Using the papers prepared by American Civil Liberties Union , referred to as ACLU, *Banking on Bondage – Private Prisons and Mass Incarceration*, we elaborate and analyze the strategy of CCA about how, step by step, they get involved in the political institutions thus enable them to influence and take part in the regulation making process during conferences hold by ALEC. From this, we will be able to see the shift in governmentality from the purpose of punishment in conventional prisons to the dominant of economic considerations, thus strengthen our debate that economic incentives have actually made a large impact on the prison privatization leading to the prioritization of profit maximization and lack of improvement on the living conditions and human rights of the inmates in those prisons operated by private companies.

Secondly, to see if the government followed the concept of conventional prison, whether they perceive punishment as a tool of rehabilitation of the inmates, we are going to investigate in the 'human rights' topic to discuss whether the conditions that the inmates are giving within bars are humane and legal. We are planning on linking it to the cases with the toughest and second toughest jails as they are related to our project and therewith our survey since the owners of them, named Sheriff Gerald Hege and Sheriff Joe Arpaio, directly and proudly make statements about the conditions for the inmates is not about providing them with delicious hot meals and

plasma-televvisions. Subsequently, the understanding of their extreme understanding of punishing rather than rehabilitations will be taken up in the analysis by the help of the Declaration of Human Rights. The Declaration of Human Rights and the Standard Minimum Rules for the Treatment of Prisoners will in the project be brought into the analysis to make a discussion about whether or not the human rights are being crossed by the private incarnation enterprise. Furthermore the project will look into how the prisoners' conditions are influenced by the laws lying within the subject.

2.6 Limitations

The major limitation we had was the lack of primary communication with the social actors involved in the controversial issue that we are writing about in our project. This is due to the scope of our project as much as the geographical distance. Hence, we must be aware that materials provided by the government can be biased and therefore not enough equitable to hold on. In addition, we mainly use the term 'prison' in this project but in the analysis, since we bring in cases of jail, it may cause confusion to the readers. Being aware that prisons and jails have differences, we want to inform the readers that the cases we chose have common characters, such as both belongs to private owners and are famous of mistreatment of inmates, and we will not get deep in analyzing the differences. Last but not least, we chose two different cases involving some of the toughest jails in the United States - Sheriff Gerald Hege and Sheriff Joe Arpaio. We chose these two cases because it is some of the meanest places of confinements and thereby will give us an excellent understanding of how the private prison and jail enterprise in the United States are being runned by their owners. These two cases were chosen instead of two more 'normal' private confinements to gain a larger knowledge of the conditions regarding the violation of human rights in private confinements.

3 Theoretical framework

In this chapter we will define and explain the different theories that we are going to use in this project. We will furthermore define the different concepts used and explain our understanding of

terms such as state and authority. This chapter will start out with an explanation and discussion of the concept of punishment and prison. These two terms, at first, can be thought to be closely related but we distinguish them from one another by introducing the fundamentality of each. Next, we talk about neo-liberalism and the concept of 'government-at-a-distance' and their relations with governmental alienation in relation to policy making in the private sector of the prison system. We will then, move towards the discussion of capitalism and Marx's theory of value as to point out the pillars of the issue posed in this project. We then define the terms 'state' and power' that are also closely linked to the definition of the term 'authority'. From there we discuss the theories of alienation and rationalization by Marx and Weber, respectively, so to also have a point of view that aims into the minds of the incarcerator actors. These theories were chosen since they provide an explanatory model for many of the tendencies we have observed throughout the research.

3.1. Punishment

In his book, Foucault states that *'The misery of the people and the corruptions of morals have increased the number of crimes and convicted criminals'* (Foucault, 1995, pg.77). He also believes that criminal justice should just simply punish (Foucault, 1995, pg.74). It leads to the big question: How should the term 'punishment' be defined? Throughout the eighteenth century, both inside and outside the legal system, in both everyday penal practice and the criticism of institutions, the need of a new strategy for the exercise of the government to punish emerged, leading to the birth of 'reform', which in the many theories of law was formulated as *"the political or philosophical resumption of this strategy"* (Foucault, 1995, pg.82). Its primary objectives included: to make the punishment and repression of illegalities coextensive with society, not to punish less but to punish better with more universality and necessity, and lastly, to insert the power to punish more deeply into the social body (Foucault, 1995). The birth of 'reform', or 'punishment', therefore can be seen as a new sensibility in the penal apparatus, replacing public tortures and executions.

Foucault argues that in order for the punishment to be useful, the main objective of a penalty must be calculated in terms of the crime's possible repetition, not the past offence, but the future disorder (Foucault, 1995). The function of punishment is to look towards the future. Foucault debates that the 'pain' at the heart of punishment is not the actual sensation of pain, but the idea of displeasure and inconvenience – the 'pain' of the idea of 'pain', which must be able to prevent a repetition of the crime. To find the suitable punishment for a crime is to find the ideas that will make the crime less attractive. An effective punishment must consist of the following purposes: *“to reduce the desire that makes the crime attractive; to increase the interest that makes the penalty be feared; reverse the relation of intensities, so that the representation of the penalty and its disadvantages is livelier than that of the crime and its pleasure”* (Foucault, 1995, pg.106). Additionally, it is necessary to take into account that the convict is only one of the targets of punishment. According to Foucault, the penalty must have its most intense effects on those who have not yet committed the crime. Punishment is directed, above all at others, at the potentially guilty, in which *“rapidly and widely (...) they must shape the discourse that each individual has with others and by which crime is forbidden to all by all – the true coin that is substituted in people's minds for the false profit of crime”* (Foucault, 1995, pg.108). An economically ideal punishment, to Foucault, is minimal for the body that undergoes it and maximal for the body that represents it to himself. Punishment must be regarded as a retribution that the guilty individual makes to each of his fellow citizens therefore there must not be secret penalties thus punishment should be placed before citizen's eyes (Foucault, 1995).

3.2 Prison

“The prison, an essential element in the punitive panoply, certainly marks an important moment in the history of penal justice: its access to 'humanity'(...)” (Foucault, 1995, pg. 231). The self-evidence of the prison is mainly based on its role as an apparatus for transforming individuals by locking up, retraining and rendering the social body (Foucault, 1995). Since the beginning, the prison institution has always been a focus of concerns and debates: *“Is the prison still, then, a dark, abandoned region?”* (Foucault, 1995, pg. 235) Foucault pointed out the prison could be

described as a combination of a school, a workshop, and an army, which made it seem to be the most immediate and civilized form of all penalties. However, much more from all of the above, the prison is an exhaustive disciplinary apparatus which must always assume responsibility for all aspects of its inmates, from his physical training, his attitude to work, his everyday conduct to his moral attitude and state of mind. The birth of prison system is also an extremely important movement in the history of disciplinary mechanisms that in which the new class power started to colonize the legal institutions. At this turn, a new legislation was made in the need to define a new type of legal force that would be granted the power to legitimize the laws, the rules and the operation of prisons.

3.3. Government-at-a-distance

In Garland's study, he mentioned about the research of Rose and Miller, 1997, in which they developed some of Foucault's idea and made an analysis of 'power beyond the state' which brings up the argument in which they debate that power is not a matter of enforcing a complete sovereign will, but instead it is a process of enlisting the cooperation of numerous concatenate actors involving in 'translating the power from one locale to another'. Thus power should be perceived as a web of networks and alliances through which the 'center of calculation' exercises 'government-at-a-distance'. In this sense, 'action-at-a-distance' is required in order to make way for mutually comprehensible communication among actors of the chain, which there must not be misleading information, leading to the establishment of standardized statistical representations, unit of measurement, categories, etc., as means of reciting, stabilizing, transmitting knowledge in legalized ways. The development of these standardized units enables information to be combined, compared and consolidated through time and space thus links locales where action occurs to the 'center of calculation', which could be interpreted as the accumulation of knowledge and from which action may be directed (Garland, 1997). In the analysis, Rose and Miller added that in the time of 'power beyond the state', policies are made to unequivocally maximize entrepreneur's activity, to empower the chain of actors thus replace state governance with market mechanisms. It led to the issue when private groups problematize various prospects

of economic or social life aiming to seek for an alignment of their specific aims with the political objectives of the state. Rose and Miller, 1997, argue that this form of empowerment destroys the logic of the social concept, which create a contradiction from states to civil society, the public to the private, the coercive to the consensual and so on. However, they did not deny the fact that objectives of government power are several, that the inevitable shift from state-based social provision to a more entrepreneurial social organization is a major fact of our time. Under the influence of this shift, 'governmental rationalities' comes into existence due to the change in government's previous way of thinking and their new set of practices. In response to the new emergent area of 'power beyond the state', a new rationality for the governance of crime appears, together with a new rationality for the governance of criminal justice, which, in a broader term, can be perceived as a new governmental style that is revolved around 'economics form of reasoning' (Garland, 1997). Additionally, it is clarified in Garland's study that the term 'economic rationality' doesn't simply mean profit considerations and fiscal restraints holding the dominant role in crime control practice; it literally can be interpreted as *"the increasing importance of objectives such as compensation, cost control, harm reduction, economy, efficiency and effectiveness, and the increasing resort to technologies such as audit, fiscal control, market competition and devolved management to control penal decision making."* (Garland, 1997, pg.279) This kind of thinking developed first in the private sector, in the practices of private security firms due to the concerns of costs of crimes they have to carry, and only began to influence state agencies in the 1980s, when they started to view crime 'as a matter of opportunity'.

Continuing with his study, Garland brings in the term 'responsibilization strategy', indicating the instrument whereby state authorities seek to enlist other agencies and individuals to form a chain of coordinated action which the centric idea is to assure all the agencies and individuals who are making contribution to these crime-reducing ends eventually see it as their own interests to do so. Whereas older strategies attempted to govern crime directly through an apparatus of criminal justice, this new strategy comes into existence as a more indirect form of 'government-at-a-distance' involving numerous interlaced agencies, private organizations and individuals. Moving on to the present and more into the criminal justice system, Garland places a question on which

degree official attention has become centric not only upon the government of crime but also upon the problem of governing criminal justice. The rising number of committed crimes and offenders resulting in crowded court and prison population concerns the government about the upcoming problems such as costs, efficiency and coordination in criminal justice. This gives rises, in turn, to the development of new strategy of controlling the problem. If in the past the criminal justice was loosely based on coupled series of independent agencies - which is police force, prosecution, court, prison - each with its own ideology and action, now it came to be seen as a 'system', which is governed by the government and constituted itself as a 'center of calculation'. The shift in government rationality about the prison has opened up a new era for the growth of the private sector.

3.4 Capitalism & The Theory of Value

The system of capitalism is a system of private property, in which the benefits of ownership belong to private individuals and groups and the capitalist class itself limits the freedom and exercise of power by the state (Dale & Orum, 2009). Marx's overall definition of capitalism is private ownership of the means of production. Both Weber's and Marx's writings about capitalism imply the generalization that a 'spirit of capitalism' pervades modern society, though their texts differ as to its origins. In his first theory of capitalism, *The Protestant Ethic and Spirit of Capitalism*, Weber notes that capitalism itself did not lead to the spirit of capitalism; rather, capitalism was preceded by a kind of capitalistic spirit which arose, partially, from a doctrine which prized systematic work and the accumulation of wealth (Morrisson, 2006). However, Marx suggests the opposite, proposing that one must analytically understand capitalism as a whole before interpreting the ways in which it can affect the lives of certain individuals. To Marx, capitalism is self-maintained, and its ideology, which he believes has arisen from capitalism itself, is reinforced by a set of inextricably interwoven social, economic, and political systems (Morrisson, 2006). Both theorists, however, propose that this intervening ideology of capitalism – that which here, both are put under the same category of capitalistic spirit - has become fundamentally insoluble from modern society.

If the state does not clearly govern in favor of the capitalists, Marx believed it means only that “*There is not yet a single dominant social class(...)*” (Dole & Orum, 2009, pg.16) The state machinery of capitalist societies, comprised of “*organs of standing army, police, bureaucracy, clergy and judicature,*” (Dole & Orum, 2009, pg.16) plus the parliament, develops policies that generally serve to the advantage of the capitalist. Marx’s view of the nature of politics extended his notion about the role and importance of the economy in any society. Under modern capitalism, since capitalists represented the dominant social class, they were also the dominant political force. By the same token, their opposite number, the proletariat was the mere subordinate or powerless group (Dale & Orum, 2009). It is easy to understand these concepts when linking them to the substructure – that which is consisted of the economic foundations of modern capitalism, these are the means, modes and relations of production; and the superstructure of society – that which consists of politics and the state, religion and philosophy. Marx generally believed that the economic substructure of society exercised powerful limits over what could and could not be done by political institutions and leaders.

Marx’s study of capitalism is unrivaled as a work of social theory, it is also an enormously complicated work due to its immense historical coverage and is theoretical scope. Marx’s work *Capital* (1856) where he elaborated on these ideas, can be divided into three main sections: (I) the economic analysis of capitalism, (II) the historical analysis of capitalism, and (III) the social consequences of capitalism (Morrison, 2006, pg.83). In this work, Marx’s overall argument becomes clearer in terms of the way it fits into the plan of the work as a whole. One important concept discussed in this work, is Marx’s theory of value, namely, that Capital is generated and regenerated for the owner of the means of production - the capitalist - by surplus value, which that is quite dissimilar of use value - or what price a commodity fetches on the marketplace. The profit, is what marks the distinction between surplus and use value, since the capitalist may then roll it back into their production process (Morrison, 2006). That is how the capitalist is able to ‘cut corners’ and minimize production costs and maximize profits at every turn; purchasing more labor power for lower prices, extracting more hours of work without pay and the hiring of under skilled staff. Marx maintained that capitalists secured their profit, or surplus value, simply by

providing worker only minimal wages while they reaped huge amount of profits, much like many corporate CEOs today.

3.5 State and Power

To Marx, as to many modern neo-Marxists, the state is a very powerful social institution. It concentrates a considerable amount of power and resources in the hands of a relatively small numbers of officials and institutions (Dale & Orum, 2009). To all appearances, police, courthouses and prisons, such institutions can exercise decisive power over the lives of people. Weber, admitted the power of individuals, he also believed that institutions did take life of their own, remaking society and life in their own outlines. The principal feature of the modern state, according to him, is that it exercises the “*monopoly of the legitimate use of physical force within a given territory*” (Dale & Orum, 2009, pg.41). Such a monopoly provides the state a power that no other institution or agency possesses in modern society; it enables the state, and its officeholders, to wield its power in a way no other group, including large social classes or firms, possibly could. On matters, then, of force and might, the state is the ultimate authority.

For Weber, there were two critical features to the organizational dimensions of the state. The first is the state bureaucracy itself. From this point of view, this bureaucracy is central to the organization and administration of the state. It provides the articulation and implementation of the laws and policies on behalf of the larger society. The second dimension of power is that of particular groups of officials who gain ascendancy over others. Such ascendancy grows out of their expert knowledge and skills in administration of politics. (Dale & Orum, pg.42, 2009)

In Weber’s vision of society, what determines the manner of its organization, is the distribution of power, and classes and status groups are phenomena of the distribution of power. Economic and market terms exclusively determine class and class situation while the social order is defined through the social distribution of honor, which in turn, defines status groups. It becomes visible that for Weber, as well as differentiation and stratification, these are an inevitable component of complex modern societies.

3.6 Alienation and rationalization

Karl Marx defined 'alienation' as the estrangement of individuals from themselves and others. It is a condition of separation or disintegration from the surrounding society. On the other hand, Max Weber claimed that 'rationalization' is a vital concept looking into modern capitalism. (Morrison, 2006, pg. 116) Rationalization refers, to the different kinds of significant processes by which each feature of human action becomes dependent on calculation, measurement, and control. Like Marx's notion of alienation, rationalization implies the separation of the individual from community, family and church, and his subordination to legal, political, and economic regulation in the factory, school and state. (Morrison, 2006, pg. 278) Thus, Marx's concept of alienation is similar to Weber's notion of the dehumanizing consequences of rationalization.

Weber also worked with another concept, 'the rationalization of life', which signifies that all life is subject to a common form of assessment calculability, that is, the assessment of the most technically efficient means for attaining particular ends (Dale & Orum, 2009). Thus, in the marketplace the most efficient means for purchasing goods and services can be calculated with precision; for instance, in the courts the form of penalty or obligation incumbent on the lawbreaker can be made almost exactly. He also puts emphasis on the nature of rationality in the modern world and makes the distinction between technical rationality, which seemed to characterize the essential element of modern capitalism, with a specific emphasis upon technique, efficiency, calculability, and substantive rationality, that which was concerned with the ends, the goals, and the values towards which action was targeted (Dale & Orum, 2009). One special characteristic that Weber implies as being 'equally oppressive under modern capitalism' is that all action, in virtually every sphere of society, has become dominated by a concern with the quantitative and calculable assessment of the costs involved in reaching a particular end rather than with the substantive meaning of the end itself.

It is said that Weber considered himself a kind of antithesis to Marx. The popular two-person effects of Weber's rationalization theory and Marx's alienation theory, tend to think that Weber is rational and representative of the West into the modern theory and Marx's theory of alienation is

not a completely polar opposites. They are from different starting points, different theoretical dimensions but of the same objectives, that is to say, the reality of the dilemma of industrial society had a profound analysis and fierce criticism. On this basis, rational theory is a response to the theory of alienation; the two can be at a deeper level, the wider the field of interacting with each other. Therefore, Marx's alienation theory in the context of Weber's can be a very good explanation and enrichment.

3.7 Authority

Authority played the same central role in Weber's work as the economy and ideology did in Marx's writings. Unlike Marx, who believed that the activities of societies were grounded fundamentally in their mode of production and economic institutions, Weber believed that the exercise of authority or domination, was central to modern societies (Dale & Orum, 2009).

In a democratic society, the rule of law obtains. Citizens must obey the law or suffer the penalties of disobedience. The grounds for obeying authority are written into their very foundations. In modern societies such authority rests on the rational-legal foundations of law. Law by itself does not guarantee compliance, or domination, in modern society; however, there must also be an administrative apparatus that helps to implement the law, to carry it out. Administration helps to enforce the obedience of people to the ruler by providing punishment for noncompliance with commands. "*Organized domination*," Weber remarked "*requires the control of those material goods which in a given case are necessary for the use of physical violence... [as well as] control of the executive staff and the material implements of administration*" (Dale & Orum, 2009, pg. 44).

To lessen the threat of usurpation of the ruler's power, there must also be solidarity of interests between the ruler and the staff; the burden for establishing such solidarity falls on the shoulders of the ruler. As in similar instances, such solidarity is insured through the provision of material and ideal rewards by the ruler: "*the fear of losing [material reward and social honor] is the final and decisive basis for solidarity between the executive staff and power-holder*" (Dale & Orum,

2009, pg.44). For Marx's understanding how it is that large assemblages of individuals are held together and operate, it had been a matter of ideology. For Weber, it became a matter of authority, or domination.

Reinhard Bendix, a neo-weberian sociologist, observes *"domination involves a reciprocal relationship between rulers and ruled, in which the actual frequency of compliance is only one aspect of the fact that the power of command exists. Equally important is the meaning that rulers and ruled attach to the authority relationship. In addition to the fact that they issue commands, the rulers claim that they have legitimate authority to do so....In the same way, the obedience of the ruled is guided to some extent by the idea that the rulers and their commands constitute a legitimate order of authority."* (Dale & Orum, 2009, pg.47). To Bendix, the exercise of authority, said as much, if not more, about the mindset of followers as it did about leadership.

Last of all, it is important to bear in mind the difficulty of categorize the concepts here discussed into primary or secondary due to their extremely tight connection with one another under the situation they are being applied. Other than that, we have doubles of concepts that can be considered as primary concepts. Authority and power, go hand in hand, as there is no domination without the combination of these two. The same goes for state and power when contextualizing these two concepts and noticing a clear formation of a model of power state. That in turn, in light of the distribution and exercise of power in this capitalistic power state, puts in light the means and ends of power holders or administrator of such private companies. But, as mentioned, the exercise of power requires authority domination as consequence. Under this dominance, there must be the dominated actor, and we also include these in our discourse, with basis on our secondary theories of alienation and rationalization, both of the self and of life.

4 Historical background

In this chapter we are focusing on the historical background of prisons and privatization to gain a better understanding of the subject of the analysis. The first section of the chapter of historical background is about the history of privatization, how it came forth with such a great power, how

it evolved from Britain to the rest of the world and furthermore how it in general is implied in the United States, in for example the prison sector. The prisons in the United States have a section for itself, where there is a more detailed and in depth historical background about the the prison industry and incarnation. Moreover, information about the subject of private prisons and the 'Supermax' prisons are given to get a better understanding of the number and rules about these particular enterprises. Then the chronicled background of the Corrections Corporation of America and American Legislative Exchange Council is explained to provide more information about these to organizations and their role in the prison industry. At last, the section about the Universal Declaration of Human Rights where the rules and laws of the treatment of prisoners and their facilities are being looked into and the 'get Tough on Crime' policy explained to gain more knowledge about the different ways in which the prisons and the owners of these have to maintain the facilities and inmates.

4.1 Privatization

Before going into the deeper history of privatization, in general as well as the United States, a definition of the concept is needed. A definition of privatization can be stated as follows: *"To change (an industry or business, for example) from governmental or public ownership or control to private enterprise"* (The Free Online Dictionary, 2013). This means that one gets control over something that usually is owned by the government in the given country. But the definition also states that it is not only the governmental owned enterprise that one can get control over, but also the areas of public space.

The governmental-owned properties can be exemplified as toll roads, bridges, tunnels, utilities and lotteries, which private stakeholders buy and/or invest in. Another form of area where the privatization can take place is the security sector; such as police forces, armies and prisons. In general, privatization is typically viewed to raise revenue in the form of boosting profits or increasing funds at the capital market. Privatization have before World War II and after the 1980s repeatedly been used because it creates increased quality products and a higher level of service.

Furthermore, is it seen to be more efficient and less political, since it creates more competition on the market and thereby a higher level of goods in the wider arena (McGowan, 2011).

4.1.1 Nationalization and World War II

Before 1939, World War II, the private sector was in bloom. It offered the transportation also called the railroad industry, the security sector and the health care to the general population and many wealthy families and stakeholders bought and invested in exactly these areas of service. But, after World War II, the government became more focused on the area of service to the public (McGowan, 2011). This happened because of the many injuries on the infrastructure after the war, which meant that the private stakeholders became discouraged to invest in the different areas. The government had to build a country up from destruction and thereafter maintain these service sectors. This was the general time of nationalization, since the government had to take control of the country.

Nationalization as a concept can be defined as the following: *“To invest control or ownership of in the national government”* (Merriam-Webster, 2013) and it is usually seen in cases of bankruptcy, for security reasons or when the state needs to make a revenue (McGowan, 2011), which means that nationalization frequently is used for political or economical reasons. Furthermore, nationalization is occasionally seen to create equity and in cases equality, since what is government-owned by many individuals can be seen as being publicity-owned (McGowan, 2011) and this can for some create a feeling of cohesion.

Overall, nationalization can be an option to accelerate development, since the state/government is able to undertake project that otherwise would not have gone through because they in one way or another is too risky to invest in for a private sector (McGowan, 2011). This economically way of seeing nationalization is important, since it historically speaking has been seen all over the world, in for example developing parts of Asia, Africa and Latin America. The government can, as mentioned, use nationalization as a way of funding project in society (McGowan, 2011), which often was done after World War II. The case of the United States is a difficult one, because

the policy of nationalization in their political system is hard to pass through. Since the political system in the United States is a bicameral legislature and a three-branch setup, it makes it difficult to pass a policy of nationalization, whereas this is much easier done in a country like The United Kingdom (McGowan, 2011). On the other hand is the reverse case also a challenge in the United States, since the system is as complex as mentioned is it also difficult to reverse a policy that already have been passed.

But even though most companies by the 1980's where state-owned, the economic problems kept increasing in many different countries. The unsuccessfulness of the state-owned enterprises led to a falling faith in them from societies side, since they could not meet up to their own requirements regarding social, political and economic goals (McGowan, 2011). Furthermore, did the public not believe the nationalized companies' goods and services to be good enough and viewed them as low-quality. This called for a need for change, and that change seemed to be one of privatization (McGowan, 2011).

4.1.2 The time of privatization

The 1980's happened and the general conception about privatization from the ending of World War II in 1945 began to change. All countries regardless of economic development and political ideologies began to wish for more private-owned companies (McGowan, 2011). The economies globally were suffering, which meant that the faith in the governments all over Earth were falling and the public therefore turned to the private sector. The inefficiencies of state ownership had been exposed and many conditions set up for the perfect opportunity for more privatization (Brubaker, 2001). In general the market structure were changing as well as the managerial class, which includes knowledge from both the technical and managerial areas that had not been available before this time period. Furthermore, money had began to bloom again for the investors (McGowan, 2011), which meant that the financial resources again were accessible for the private industry. In general, privatization of state-owned enterprises as a trend was inspired by the United Kingdom (Brubaker, 2001). It started out with privatization of telecommunications and utilities such as electric power, but soon also the utilities of water and wastewater were being

made into private-owned enterprises. The faces of the privateers were many and they came from “*all regions of the world*” (Brubaker, 2001, pg. 1) and were covered on local, provincial and national governments.

The case mentioned about the inspiration from the United Kingdom, started out with a state-owned enterprise regarding the British Telecom (McGowan, 2011). It, as many other companies in the world, was not meeting up to the standards that a state-owned enterprise had to meet or in other words: “*Financially stressed communities with inadequate infrastructure cannot meet tough health and environmental standards on their own.*” (Brubaker, 2001, pg 5). This meant that the service standard that the British Telecom had to encounter was far from reality, which again led to unsatisfied consumers. This failure to meet the standards did not satisfy Margaret Thatcher, a British politician who was the Prime Minister of the United Kingdom from 1979 to 1990 (BBC, 2013), and her Conservative Party, which therefore proposed a broad change regarding the almost non existing privatization in 1980 (McGowan, 2011). Thatcher was keen to the idea of reducing the size and power of the state, because she believed that a big government would weaken the economy, whereas a smaller government would increase it (McGowan, 2011). Overall, the privatization that Thatcher started in the United Kingdom lead to more competitiveness in the areas of goods and services, as well as more benefits to the shareholders. Furthermore, was the public Treasury also benefitting, since the increased revenue set it in a stronger financial position.

Altogether, the case of privatization of the British Telecom in the United Kingdom set the lead for more privatization in all the state-owned arenas in the world. Both other European countries became influenced by the privatization, as well as America, where both utilities and the security area have been exceedingly impacted. The area of the prison sector being one of them, where it suddenly not only was the government who owned the prisons, but also different stakeholders and investors making this particular enterprise bloom with private prisons.

4.2 The prisons in the United States

There is no doubt that there have always been people who violated the norms in the society. The history of incarceration has undergone major changes. Before the eighteenth century, the prison was the only part of the system of punishment. Moreover, it was marked by alterations in appearance and developed to an organization. In the 1820's to 1830's when incarceration became the central feature of criminal justice in America. People were proud of their equitable society system where the convicts of crimes would be confined behind walls and had nothing else to do but to follow rigid and unyielding routines under severe discipline- this became the hallmarks of the captive society (Morris and Rothman, 1995, pg. 111). The prisons in the 1830's were organized by the principles of order and the regularity, where the prisoners were put in a cell each to enforce them total silence and unquestioned obedience. Afterwards in the 1990's, the prison became a testing ground for judging readiness for release after affording inmates the opportunity to be together and work in groups. It continued developing and getting specialized; the juveniles entered one type of institution, women another, the mentally ill another one. It was eventually confined to the severity of their offense and the extent of their criminal record where they were parted to either minimum-, medium-, maximum-, or even maximum-maximum security prisons (Morris and Rothman, 1995, pg. vii).

How is the prison industry working in the United States? This section is going to look further into the prison industry with specific focus on the private prisons, where we are going to describe the basic facts and investigate further into this particular kind of enterprise. How is the understanding of punishing and does it affect the offenders' conditions?

4.2.1 The prison industry

Incarceration in the United States is one of the main forms of punishment, rehabilitation, or both for the commission of felony and other offenses. Like mentioned before, the United States has the highest incarceration rate in the world, over 2.3 million Americans, about 1% of the population, are currently incarcerated (Aizenman, 2008).

When over half of all federal prisoners are being incarcerated for drug offenses, it is not too hard to crack out how the United States has become the world's leading jailer. In the midst of the 1980's the federal new policies were enacted by the federal government to be adopted by state and local governments. These were the "Tough on Crime" policies- that are being explained more in depth later later on; new policing tactics and sentencing schemes that resulted to an increase of a million prisoners in less than a decade. The drug war intensified under The Sentencing Reform Act, also called the SRA, of 1984 that gave law enforcement officials nearly unrestrained power to enforce federal drug sentencing laws. Police and Prosecutors were handed this power by new laws, but no effective legal procedure for monitoring this new sentencing system was formalized. States adopted the same or portions of the federal experiment called 'sentencing reform'. The power to punish leads defense attorneys to counsel defendants to plead guilty; the government wins about 97% of drug cases brought to trial. Legislators have limited the role judges play at sentencing as a response to a 'moral panic' driven by fear-mongering media and politicians, fueled by wealthy conservatives' intent on more policing and confinement of lower class people. These methods of sentencing are under new inspection in higher courts, but the prison industrial complexes continue growing because the drug war rages on. (ACTL, 2004) The United States incarcerates five times the world average and once released from prison, two out of three are rearrested within a year. With a growing and persistent jail population like that there are two factors that are directly affected by it and also directly affect one another: prison conditions and prison budget.

In 1982, state prison budget was 9 billion, in 2009 that numbers spiked to 60 billion. Over the course of the last 20 years, the amount of money spent on prisons increased by 570%, while for instance, the money spent on education increased by only 33%. The United States spends six times more on prisons than education, and this also has a strong link with the jail population, since over 75% of state prisoners are illiterate at 12th grade level. In the past fifteen years, crime rates in the United States have been dropping while the prison budget has only increased. It also costs taxpayers around \$23,000 a year to house and feed each prisoner, even though crime rates remain stable (Robert Johnson, 2011) Furthermore, crime rates nowadays are similar to the rates

of the 'get tough era,' so for all the increase in enforcement costs, most people are not affected by reduced exposure to crime.

However, even though the prison system moves around \$37 billion a year (Myser, 2006), immigrant detention policies and somehow tight budgets have made the government unwilling to make the necessary investments in resources and staff to ensure the safety and humane conditions of confinement. Which in turn, leave prisons in horrible conditions and violate the human rights of *“all persons deprived of their liberty to be treated with humanity and with respect for the inherent dignity of the human person, and to be free from cruel, inhuman or degrading treatment or punishment.”* (American Convention of Human Rights, Article 5, Paragraph 2)

4.2.2 Privately owned prisons

Even though 'private prison' is not a very precise term it is understood as a place of confinement that is controlled by a private company. The term 'prison' is understood as the synonyms detention, confinement, correctional or penal facilities and the primarily residential facilities are as mentioned prisons but can also be detention centers, jails and reformatories. The term 'private', and in some terms "proprietary" implies private ownership, at least of the management company and sometimes of the facility's buildings and grounds if that is not owned by that company. However private prisons are not meant to be used instead of existing facilities but as widening and diversifying the prison system. Ever since the explosion of the number of prisoners, the government managers could see the need for alternatives in the prison industry and in the early 1980's, the response was starting a private sector where proprietary companies specialized in the management of correctional and confinement facilities. When this is said it is important to mention that no private prison nowadays is completely private, in the sense that it is independent of government authority, control and revenue. Private prisons reflect the fact that they are businesses. What they are having in common is that they are all private entities operating under government contracting as mentioned. It is contracted to the government hence it cannot operate on its own but is still a part of the state. The government might even refer a

privately owned prison as only a contractor, vendor or service provider. They perform government functions and may be in some cases regarded as 'quasi-governmental' but they do not have to act like the government (Logan, 1990, pg. 10-14).

To briefly describe what is meant by correctional facilities, one could divide them up into four types: Juvenile open facilities, juvenile institutional facilities, adult community facilities and adult confinement facilities (Logan, 1990). It is based on the degree of access to community resources and the degree of security provided to the person and physical plant, when the Bureau of Justice Statistics (BJS) categorize the juvenile facilities into 'open' and 'institutional'. The open facilities are often shelters, halfway houses, also called recovery houses, or group houses for chronic disabilities. And a few of them are placed as ranches, far away from the closest city. Institutional facilities are characterized by detention or diagnostic centers, training schools and ranches where most of the employees are. The adult facilities depends on whether the proportion of residents, who are allowed to depart unaccompanied to for instance work or study, is more than half or less than half for it to decide if it should be a 'community' or a 'confinement'. Proprietary facilities are under all four correctional points. The concept 'private prison' is often associated with confinement or institutionalization, as in they have a fixed and tradition-bounded framework, and they include open environment and community facilities as well (Logan, 1990, pg. 14).

The most normal kind of proprietary prison is the Adult confinement facility, where the access to the community is prohibited for most of the inmates. The private versions started to spread quickly from the 1980's and they incorporate a variety of 'high security' and 'low security' facilities (Logan, 1990, pg. 20). A classification system determines if the prisoner will serve time in either the high or low security center. The system undergoes safety and risk evaluations constantly to make sure that they provide each prisoner with their own individual rehabilitation program. The high security centers have a secure perimeter that ensures containment. The difference between the high and low security centers is the reliance on physical containment. It is much higher in the high security centers where approximately 90% of the State's incarcerated prisoners are held in. To give an example of how high security and control are maintained it is in

Weaversville by a fence with locked internal and external doors, intensive supervision with 35 for 22 inmates and room restriction when necessary. This could be for those who have failed in a run from programs and who have committed violent and serious crimes such as burglary, assault, robbery, sex offenses, arson, vandalism and theft. Even though the freedom for the inmates is counted, the atmosphere is relaxed (Logan, 1990).

Prisoners are managed according to their security classification and particular needs with the provision of opportunities for rehabilitation through participation in education, work, vocational training, and programs designed to address offending behavior. Many factors are used to determine each prisoner's security classification, including risk of escape and risk of harming others. The management of only adult prisoners is in the high security centers in which they are provided in 10 correctional centers, where two of them are private, example in Queensland. The Work Outreach Camps (WORC) program has been spread out to prisons and it offers the regional communities with useful source of labor that provides reparation to communities and gain valuable skills - The adult community facilities. The inmates perform many tasks within restoration and maintenance projects; maintenance of fences, cemeteries, playgrounds and show grounds and more. And this program has given the inmates a positive correctional experience that not only puts prisoner to work and help them develop personally but benefits the people in Queensland. Arthur Gorrie private correctional center, for instance allow prisoners to develop useful trade skills by printing, woodworking and textiles to assist reintegration and give the inmates the opportunity to get a job and thereby socialize in the society when they complete their custody, as long as they follow the strict rules. Obviously the low security is only given to offenders who are seen as close to graduated release and rehabilitation and there are here approximately 14% of the State's prisoners (Department of Community Safety, 2013).

The prisons also have a disciplinary tool called 'BMP', Behavior Management Plan. It works as when an inmate's behavior improves during his/her time in prison, his/her conditions are lightened - the treatment in general, the facilities and cost. However, if the person will not or cannot behave, the conditions get worse and worse until he/she has condemned to the worst treatment the prison system can devise; when saying worst it is literally meant (Elsner, 2004).

4.2.3 Super maximum security

Super maximum security, also known as 'Supermax' is about providing a long term separated residence for offenders who are classified as needing the highest security level in the prison system and who are major threats for the national and international security. Criminals who are placed in a 'Supermax' prison in the United States government are 'the toughest of the toughest': terrorists, gang leaders and spies (Elsner, 2004). The thing here is that even though it states that it is 'the toughest of the toughest' it is not only them. When the 'Supermax' prison were constructed in the 1990's they became the hottest trend in corrections. People liked the idea that they punished the most dangerous, violent, evil and worthless criminals in America by keeping them in places that was as bad as themselves and perfectly secure. Offenders who are sentenced for long term stays, such as 60-80 years, are being sent directly to a 'Supermax' prison and here again their behavior determines how long they are going to stay there. If they follow the strict rules the prisoner can be moved to a less restrictive prison, but it is up to themselves to make sure of it. The Supermax prisons which are known for their hyper-maximum security differ from the isolation units that were created in traditional prisons in essential points. All the cells and the other areas where the inmates is taken are designed for isolation to minimize the interaction between the prison staff and the prisoners since the staff might be vulnerable when it comes to physical contact.

There are several reasons why the head of a prison system might want to have a supermax prison. First, there are a lot of inmates who are either mentally ill, violent or disobeying the institutional rules and discipline and therewith difficult to maintain in standard conditions of imprisonment. Therefore special facilities would make the custody less difficult. The second influential reason is that owning a 'Supermax' prison was suddenly a matter of prestige as it was a good example of the symbol 'Tough on Crime' - a jurisdiction. As many of these prisons got constructed they needed criminals. Constructing a 'Supermax' would cost \$47.500 per inmate bed where the price of an average cost 28.700. The 'Supermax' prisons, which did not have that many tough inmates in them, started to get filled up with prisoners from overcrowded prisons,

which means that there were many that ended being preserved in extremely worse conditions, when they were actually sentenced for a 'mild' crime. This happened because the 'Supermax' prisons were far more expensive than the milder ones and thereby bigger than a regular institution, which meant that the government did not want them to stand half-empty (Elsner, 2004, pg. 140-144). And lastly the deterrence for the criminals. All of the prisoners know about the hyper-maximum security that exists in the supermax prisons and the mentality about making it an unpleasant experience so this might make it unattractive and prevent them in behaving worse (Tonry, 2004, pg. 167-168).

4.2.4 Case: The toughest jails in the United States

Sheriff Gerald Hege was known as running the second toughest jail in America, Davidson County, N.C in Lexington and was proud of it. The inmates were locked in their cells 23 hours per day with no exercise facilities, no television, no cigarettes, no coffee, no pencils or pens or magazines. Books were censored beside the Bible and only some approved texts were allowed. Family visits were limited to 10 minutes a week with no physical contact between the inmates and the visitor. Anyone would think that he must have had rules to follow, at least some human right laws. But Sheriff Gerald Hege did not have a boss, which meant that the jail was his to run alone. *"I want the prisoners in my jail to have a bad time. If prisoners have a bad experience, hopefully they won't come back"* (Elsner, 2004, pg. 8). The more the prisoners suffer the better according to Hege. Hege is known for the pinky painted cells with blue pictures of weeping teddy bears on the walls to make inmates feel like sissies and he also forced his prisoners to wear pink clothes. Statistics has shown that after changing the color to pink, the number of prisoners returning to prison actually decreased rapidly (CBS Television, 2006). Joe Arpaio, a tougher sheriff, however made hundreds of his offends even live in tents under the hot desert sun which was about 38°C and fed them only twice a day on green bologna. *"Our meal cost is 45 cents a day for an inmate. Our dogs cost more to feed than the inmates"*, Arpaio said (Elsner, 2004, pg. 5). If the owner of the prisons does not feel like the prisoners deserve decent meals, family visits, television and exercise, the owner can treat them as they want.

They kept talking about that their prisoners were of serious crimes, but who were they exactly? Was Davidson County that violently out of control that it needed these extremely conditions. Alan Elsner gave the website of the jail where Hege had posted a list of the county's most wanted a look and discovered that not only did the list only have nine but that there were no murders, no rapists or drug dealers- not a single one that is considered as serious felony. The most serious case it had was a man who were accused of first-degree burglary, kidnapping and robbery and the rest were not that menacing; there was even one wanted for failure to pay child support. They did not really seem worthy of Hege's tough rhetoric as Elsner describes it.

4.3 The Universal Declaration of Human Rights

In the aftermath of World War II in 1945 the United States determined that future generations of Earth should be saved from the destruction that international conflicts can bring and therefore stepped up as an intergovernmental organization. Later on, on December 10, 1948, The Declaration of Human Rights had been drafted by different representatives from every region of the world and had been formally adopted by the United States. This declaration covers thirty basal rights which is a part of the base of a democratic society (United for Human Rights, 2013). These basic rights covers racial, religious and various political discriminations.

According to the Office of the United Nations High Commissioner for Human Rights (OHCHR), the international human rights law should be abided by every states and their agents, which includes prison officials and other public and private figures. Additionally, there are some general principles from the human rights that have to be followed, whereas "*Human rights are a legitimate subject for international law and international scrutiny*" (OHCHR, 2005, pg. 1) and "*Law enforcement officials are obliged to know, and to apply, international standards for human rights*" (OHCHR, 2005, pg.1) are a few of them, which should be applied to not only state-owned prisons but also the prisons in the private sector.

4.3.1 Standard Minimum Rules for the Treatment of Prisoners

It is important to bear in mind that according to different conventions on the subject of human rights, all human beings no matter of criminal status have to be treated with humanity and respect and furthermore, shall no human being be subjected to torture or other forms of degrading treatment. Moreover, is it every prisoners right to have access to drinking water, health care establishments, sufficient and acceptable food and facilities where one can keep clean and in a proper condition (OHCHR, 2005). According to the Standard Minimum Rules for the Treatment of Prisoners “prisons shall be inspected regularly by qualified and experienced inspectors from a competent authority separate from the prison administration” (OHCHR, 2005, pg. 13), because this will give an objective view on the status of the prison and its prisoners.

Another policy that goes under the Declaration of Human Rights is the International Covenant on Civil and Political Rights, which is a multilateral treaty that is adopted by the United Nations General Assembly. It commits its parties to respect the civil and political rights of individuals, hereunder the right to life, religion and speech (OHCHR, 2013), while states that “the essential aim of the treatment of prisoners shall be their reformation and social rehabilitation” (OHCHR, 2005, pg. 14), which expresses the purpose of a prison is not only to lock the individual up evermore, but to make the individual able to get back out in society in a new and orderly way. The sentence is supposed to treat the prisoner responsibility and give the prisoner a form of self-respect by the help of a trained and foremost professional staff (OHCHR, 2005).

4.3.2 Human rights and the “get tough on crime” movement

“That the punishment enterprise is the boundary territory for the maximum exercise of negative government power explains the historic importance of criminal justice in the basic architecture of limited government” (Tonry, 2004, pg. 159). Whether the treatment of criminals is of huge importance to the reformer of the confinement centers has been a highly debated topic in the United States in the last decades where the study of criminal justice as human rights started. This is exactly because criminals are the most feared and therefore unwanted of the society’s citizens.

It is said that the high public hatred towards crime and criminals is the reason why the democratic government uses the extreme forms of power to suppress and punish the inmates. Especially when talking about serious offenders such as serial killer, the murderer of children, terrorist bomber, the sex offender and the drug lord, the government has no intentions of decreasing its power and the extension of the severity of punishments and lengths (Tonry, 2004, pg.157-161).

The sudden highlighting of street crimes was an attempt of conservative political leaders to reorient state policy into social control and away from social welfare (Political Research Associates, 2004). Barry Goldwater ¹decided to make crime a national issue even though the leading topics of the times in 1964 were the Vietnam War and Civil Rights: *“Tonight there is violence in our streets, corruption in our highest offices, aimlessness among our youth, anxiety among our elderly(...)security from domestic violence, no less than from foreign aggression, is the most elementary form and fundamental purpose of any government, and a government that cannot fulfill this purpose is one that cannot command the loyalty of its citizens. History shows us that nothing prepares the way for tyranny more than the failure of public officials to keep the streets safe from bullies and marauders. We Republicans seek a government that attends to its fiscal climate, encouraging a free and a competitive economy and enforcing law and order”* (Political Research Associates, 2004, pg. 45).

This leads us to the well-known movement in the United States “Get Tough on Crime”. The “get Tough on Crime” movement began in the 1930’s. It emphasizes punishment as a primary response to crime. Mandatory sentencing, Three Strikes, Zero tolerance and several other policies have resulted in longer and harsher penalties and has eliminated the previous programs of rehabilitation. Many activists justifiably argue that the United States government has always had a “get tough on crime” policy. Anyhow, these strategies means that the threat of punishments has been understood as a solution to crime and is liked to say an increase of arrests. This has been most obvious with the “Zero tolerance” policing, that has meant a 50% increase in offense arrests in New York (Political research associates, 2004). The reports of police brutality escalated

¹ A businessman and a five-term United States Senator from Arizona (1953–1965, 1969–1987).

throughout the 1990's, since it became more common for police to break up with those who were hanging out on the street corners (Amalgam80, 2010). And as in New York, communities across the country started to become more receptive to the "get Tough on Crime" movement and gave the police more reasons to question and frisk people which lead to an opportunity to, for example find drugs and therefore the American justice system gave it all the support it needed.

The beginning of the "human rights" perspective was most obvious in circumstances where citizens were concerned about the limits of the organizations and government power. All the major democracies in the world have significant constitutional limits on their government's power to punish criminals, including prohibition of torture but the United States, and Japan, is the only one who allows death penalty. The excessive use of force might be supported by the majority but in almost every nation, minorities are more into restricted governmental power because they fear popular control. The importance of limiting punishments in democratic governments is not much about punishment abuses but rather because the abuse of punishment is a threat to the positive liberal democratic values. And by the "get tough on crime" it has been somehow possible for the government to exaggerate the danger of crime and criminals and convince the citizens that criminals are greater threats to them than the government excess (Tonry, 2004, pg. 161). The number of violent crimes, as defined by the FBI as "*murder and nonnegligent manslaughter, forcible rape, robbery, and aggravated assault*" (Tata, C., & Hutton, N., 2002) has steadily decreased over the past few decades. But, in 2010, as violent crimes decreased, the public perception of these crimes increased. These misperceptions have led to public policy decisions that have worsen the problem and have resulted in overcrowded prisons, institutional abuse of power and criminalization of activities that are not even criminal (Amalgam80, 2010).

"Those being lynched were considered criminals and anti-lynching activists were viewed to be supporting their criminality" (Amalgam80, 2010). Richard Nixon² in 1966 blamed civil rights leaders for the civil unrest and crime in the nation. The attempt at linking crime to the Civil

² Nixon had previously served as a Republican U.S. Representative and Senator from California and as the 36th Vice President of the United States from 1953 to 1961

Rights movement, which continued from the 50's to the 60's, was characterized by the opponents that they supported criminals (Political Research Associates, 2004). After Nixon, the topic of crime started to vanish. Gerald Ford³, nor Jimmy Carter⁴, mentioned crime and therefore it was nearly non-existence in the national discourse. But Ronald Reagan⁵ made street crime a national issue by promising to fight crime by using federal law enforcement. He pressured the federal agencies to focus more on street crime (Amalgam80, 2010).

“(...) The supermax prison is a more difficult target for human rights reformer than caning an torture because the institution can be defended by government as merely another form of prison” (Tonry, 2004, pg. 162-163). Even prisons must be accepted by penal measures since the totality of the offender's life is under the imprisonment control and restraint. However they, the supermax prisons, have not gotten as much attention as they need. The method in making the prison more unpleasant, as intensifying the punishment of criminals and the construction of terrible conditioned prisons in the service of special security, is what needs to be outlined according to Franklin E. Zimring and Gordon Hawkins⁶ as the totality of state power over individual life in those prisons affects the conditions of the inmate (Tonry, 2004).

The “Three Strikes” policy also known as habitual offender laws, is about criminals who are convicted of three or more serious crimes will get harsher, longer and even life sentences. This have been taken by storm from 1974 and is now enacted in 28 states in the United States (Romano, M., 2013). There have been huge discussions about whether this contains a violation against the international law. Anne D. Goldin proposed to modify the policy of the “Three Strikes” to let it avoid possible extradition conflicts. *“First, the law should be changed to include a time limit on the number of years a felony may count against the defendant as a strike. Second, the list of serious and violent felonies that count as strikes should include fewer crimes. Third, only a serious or violent felony should count as the “triggering strike”. Finally, felonies*

³ The 38th American president

⁴ The 39th American president

⁵ Ronald Reagan was the 40th President of the United States, from 1981 to 1989

⁶ Debaters on the crime issues

committed while a defendant was a minor should not be counted as strikes” (Goldin, A.D., 2008).

4.4 CCA & ALEC

The modern private prison business first emerged and established itself publicly in 1984 when the Corrections Corporation of America (CCA) won a contract to take over a facility in Hamilton County, Tennessee. That was the first time in history that any government in the country had contracted out the complete operation of a jail to a private operator. The following year, CCA gained further public attention when it offered to take over the entire state prison system of Tennessee for \$200 million (Cheung, 2004). Until 1997, after the establishment of the first private prison contract between the Federal Bureau of Prisons (FBOP) with Wackenhut Corrections Corporation (WCC) to operate a facility in California, federal interest in the privatization of prisons has boomed, due in part to mandatory minimums and harsh drug sentencing laws, and consequent overcrowding in prisons. In the end of 1998, over 76 percent of the private prison sector was controlled by just two companies: WWC⁷ and CCA⁸ (Aman, 2005). Until now, the two companies have continued to remain as the two biggest private prison companies in the United States. By mid-2001, federal prisons were operating at 33% over capacity.

In the annual report of CCA in 2012, they represented themselves as ‘the nation’s largest owner of privatized correctional and detention facilities and one of the largest prison operators in the United States behind only the federal government and three states’. The company currently operates 67 correctional detention facilities, including 47 facilities of their own, with a total design capacity of approximately 92,500 beds in 20 states and the District of Columbia, along with two extra correctional facilities that they offer to lease (CCA, 2013). Apparently, CCA specializes in owning, operating and managing prisons with other correctional facilities as well

⁷ WCC changed their company’s name into The GEO Group (GEO) in 2003 (GEO, 2013).

⁸ Corrections Corporation of America (CCA) is a former subsidiary of Wackenhut Corrections Corporation (WCC) (Aman, 2005).

as providing inmate residential and prisoner transportation services for governmental agencies. In order to fulfill the mission of providing fundamental residential services to the inmates, they are said to offer various rehabilitation and educational programs, consisting of basic education, religious service, and life skills with employment training and substance abuse treatment with the intention to help reduce the crime repetition and get the inmates well prepared for their re-socialization upon their release. As in the end of 2012, CCA published their financial statement with the number of cash on hand of \$62.9 million and \$104.0 million available under their \$785.0 million revolving credit facility. Additionally the organization successfully generated \$283.3 million in cash through operating activities, and had net working capital of \$184.3 million. The target market of CCA business and service is the state, which takes up 50% of CCA yearly income, and federal correctional and detention authorities which largely consist of the Federal Bureau of Prisons (BOP), the United States Marshals Service (USMS), and the U.S. Immigration and Customs Enforcement (ICE) that contributes approximately 43% to their yearly revenue.

Despite their denial, CCA has long advocated, and had close ties with the American Legislative Exchange Council (ALEC), an organization of state legislators that has urged numerous harsh sentencing and detention laws, such as mandatory minimum sentencing statutes, operating by hosting splendid retreats that bring together state legislators and corporate executives which consists of 40% state legislators, representing a serious force in state politics (Shapiro, 2011). One of ALEC's primary functions is the development of model legislation that prioritizes implementing conservative principles, such as privatization. At ALEC annual conferences, *"companies get to sit around a table and write 'model bills' with the state legislators, who then take them home to their states"* (Shapiro, 2011). Moreover, ALEC provides a forum for private sector to participate in discussion state-level public policy issues leading to many controversial articles about ALEC making ways for corporations to join the process of legitimizing regulations for economic incentives, that is to benefit their bottom line. Legislators who want to attend ALEC annual conferences will have to only pay nominal fees - \$50 for an annual membership - whereas the corporate participants have to pay thousands of dollars in membership dues, *"The organization is supported by money from the corporate sector, and, by paying to be members,*

corporations are allowed the opportunity to sit down at the table, discuss the issues that they have been interested in and write 'model bills' with the state legislators." from which legislators return to their home states with ALEC model legislation (Shapiro, 2011).

ALEC's national Task Forces serve as public-policy laboratories where legislators develop model policies to use across the country. Apparently the eight Task Forces of ALEC focus on Civil Justice, Commerce, Insurance, and Economic Development, Communications and Technology, Education, Energy, Environment, and Agriculture, Health and Human Services, International Relations, Tax and Fiscal Policy. According to ALEC, they commission research, publish issue papers, convene workshops and issue alerts, and serve as clearinghouses of information on free market policies in the states. The 'so-called' uniqueness of their Task Forces is the public-private partnership, a collaborative coalition that discusses issues and then responds with common sense thus making new policies, that is proudly presented as following "*...legislators welcome their private sector counterparts to the table as equals, working in unison to solve the challenges facing our nation.*" (ALEC, 2013) Under their Civil Justice Task Force, ALEC has developed and helped to successfully implement in many states 'Tough on Crime' initiatives including 'Truth in Sentencing'⁹ and 'Three Strikes' laws (Cheung, 2004). The economic incentives of CCA and ALEC have led to the implementation of many harsh sentencing and detention laws, leading to mass incarceration and lack of focus on the human rights and conditions for the inmates, which will be introduced accordingly in the following chapter.

The chapter above described the historical background of prison privatization, two organizations CCA and ALEC, along with other relevant important historical events and law establishments that will respectively be analyzed in the following chapter.

⁹First enacted in 1984, "Truth in Sentencing" requires offenders to serve a substantial portion of their prison sentence, while parole eligibility and good-time credits are restricted or eliminated (Wilson & Ditton, 1999).

5 Analyzing

In this chapter, the sections from the historical background chapter and the sections from the theoretical framework will create an analysis of the head elements in the project. The chapter will first go through our primary and secondary concepts, these being capitalism, state, power and subsequently authority, and alienation, rationalization. They are analysed in duets as there is a tight connection between the concepts that braid the complex net of policy making and exercise of power in the capitalistic model of power state in the prison system industry. Secondly, we go through the relationship between CCA and ALEC; how they are connected and to what extent CCA is involved in the policy making process in ALEC's conferences and the lobbying strategy of CCA, in order to collect the support from official persons who have the ability to manipulate power. Afterwards, the focus turns to the section about Human Rights and the government's understanding of the inmates, where an analysis of the conditions in the prisons are being conducted with the focus on the government's lack of interference and interest. The two cases about Sheriff Gerald Hege and Sheriff Joe Arpaio from the historical background chapter will also be brought into a deeper analysis, where the question about whether their private confinements cross the minimum standard of the human rights will be taken into consideration. Another point that is being analyzed in this section is the idea of punishment and rehabilitation and why they see it that way.

5.1 Capitalism & The Value of Theory

In 1929, shortly before the crash on Wall Street that resulted in the Great Depression, 130 of 573 companies that did business on the New York Stock Exchange could be classified as corporations. Furthermore, these 130 companies controlled fully 80 percent of the assets in the market. In fact, it appears from research done by sociologist William Roy that the tendency for corporations to become the real players in the American economy had begun decades before, as a number of corporations began to accumulate large amounts of resources and to overshadow the wealth of other business (Dale & Orum, 2009). Before WWII and after the 80's, privatization was widely used because it increased the quality of products, the level of service and thereby

boosting the economy. Generally, privatization takes place when there is a need to raise revenue in the form of boosting profits or increasing funds at the capital market. And it was no different with the process of privatization of prisons. They arose after the 80's, after the time of the 'Tough on Crime police' when prisons and jails started to get overcrowded and governmental officials were allotted to release the overpopulation in facilities. But building facilities are not cheap, nor are the operating costs. In general, the main reason for why financial help from the private sector was accepted was so to "*find a way to house the growing inmate population while keeping costs down*" (Jean Mickle, 2013). In other words, they wanted to make a profit.

Although, having businessmen and enterprises, taking care of a service of this nature, may not necessarily be optimal for the sociological standpoint, as these individuals, the ones who are put in power, have an economical focus and purpose on this business while dealing with individuals who have nothing to profit from this, so to say, newly built system. A service that should, in theory, be primarily socially oriented, cannot be immune to the ravages of this shift of objectives, especially in sight of the wild capitalistic influence it comes with it.

By definition, a capitalist system, is a system of private property where the benefits of ownership belongs to private individuals and groups, and the capitalist class itself limits the freedom and exercise of power by the state (Dale & Orum, 2009). Or in this case, exercise power by the administrators or power holders of these private facilities, the same ones that are to have the so called 'benefits of ownership'. However, the issue and central focus of this project, is the ways in which the nation's 2 million inmates and their keepers are the ultimate captive market composing a protuberant \$37billion economy (Myser, 2006). That is when Marx's Labor Theory of Value (LTV), which is in fact, a set of economic theories, can be put under analysis so to bring about the ways used to achieve maximization of profit. The LTV claim that "*the value of a commodity can only be related to the labor necessary to produce or acquire that commodity and not other factors of production*" (Morrison, 2006). Seeing the so called 'commodity' as the capital envisioned by these actors, on a self-conscious generalization of this theory, we can understand that, at the costs of others, expansion of capital comes by. Put simply, the shrewd capitalist will pursue any possible incarnated human being in order to trim production costs in an effort to upturn the difference between surplus and user value in order to expand his capital base. And

they stand at a favorable position that goes beyond being part of a ‘perfect market competition’, where actors such as CCA, are big actors and not only they can afford to be the price-makers of this market, but this fact in turn, is what gives them the authority to exercise their power so to achieve their economic objectives. And the private prison industry’s tactics to do so, are most of the times, not complied to basic human rights guaranteed to an incarcerated human being by international laws, as pointed out, in the cases mentioned in this project, where there have been reports of deeds such as but not limited to cases of food shortage and the hiring of poorly trained security staff that not only is a hazard for themselves but for inmates as well.

However, the way in which this can legitimately be done is a mere exemplification of the exercise of the combination of two different but strongly connected concepts: power and authority. In other words, the ways in which CCA and other private prison companies, manage to ‘cut corners’ to maximize their profit is related to the power they have, the authority they were given and how they put both in practice.

5.2 Power & Authority

By definition, according to the online sociology dictionary “webref”, power understands for “*the potential to have an affect on ourselves, others or our environment in spite of opposition.*” and authority is “*the power assigned according to norms and generally accepted by those whom over it is exercised.*” These actors, have free pass to nearly act as they please, because the authority conceived to them by the state, under contracts, allows them to exercise their power as to better suits them and their purposes. However, according to Weber, in order to slacken the menace of usurpation of the ruler’s power, there must also be solidarity of interests between the ruler and the staff; the burden for establishing such solidarity falls on the shoulders of the ruler. As in alike occurrences, such solidarity is assured through the provision of material and ideal rewards by the ruler, in other words, according to Weber, it “*requires the control of those material goods*” (...) *[as well as] control of the executive staff and the material implements of administration* (Dale & Orum, 2009, pg.44). Straightforwardly speaking, these power-holders are eligible to exercise their power by elaborating the regulations of their facilities and deciding how they are going to

run it, because they have not only the authority to do so but they also exercise power over their staff, that simply has to obey orders, as they are bound to obedience by the position they place in this distribution of power, where the labor force, often comes out depleted. In Weber's vision of society, what determines the manner of its organization, is the distribution of power, and classes and status groups are plainly phenomena of it. To Marx the state is a very powerful social institution as it concentrates a huge amount of powers in the hands of a relatively small number of officials and institutions (Dale & Orum, 2009). To all appearances it would seem that institutions such as prisons, can practice decisive power over other people's lives.

5.3 State & Power: Prison as a model of State

The principal feature of the modern state, according to Weber, is that it exercises the "monopoly of the legitimate use of physical force within a given territory" (Dale & Orum, 2009, pg.41) According to Weber's interpretation of institutions and state, we can definitely dare to say that the system in prisons, especially in private facilities, can be seen as model of state, where there is concentration of power and given authority elects for an unaccountable facility. Nevertheless, in the context of misuse and/or usurpation of power in private incarceration facilities, the word 'solidarity' carries a different understanding; is the 'agreement' between these two parts, the dominator and the dominated. Still according to Weber, "*the fear of losing [material reward and social honor] is the final and decisive basis for solidarity between the executive staff and power-holder.*" (Dale & Orum, 2009, pg.44) Evidently, the staff bonded to their superiors because they are waged workers who depend on the paycheck at the end of the month. There are, although, other factors that make up for the accountability of these institutions and their way of retaining power. Although Weber admitted the power of individuals, he also believed that institutions did take life of their own, remaking society and life in their own outlines.

In Garland's study, he argues for a "*new new rationality for the governance of criminal justice, which, in a broader term, can be perceived as a new governmental style that is revolved around 'economics form of reasoning'*" (Garland, 1997) And in his study it is made clear that the term 'economic rationality' doesn't simply mean profit considerations and fiscal restraints holding the

dominant role in crime control practice; it literally can be interpreted as “the increasing importance of objectives such as compensation, cost control, harm reduction, economy, efficiency and effectiveness, and the increasing resort to technologies such as audit, fiscal control, market competition and devolved management to control penal decision making.” (Garland, 1997, pg.279) Still in Garland’s work, there’s the mentioning of Rose and Miller’s study (1997), where it argues that in the time of ‘power beyond the state’, policies are made to unequivocally maximize entrepreneur’s activity. And it is under this standpoint that we have more understanding of how the retention of power and exercise of authority within the prison ‘state-model’ is the path to the governments objectives.

Nonetheless, we cannot deny the fact that there are numerous objectives of government of power and that the inevitable shift from state-based social provision to a more entrepreneurial social organization is a major fact of our time. Thus, power should be perceived as a web of networks and alliances through which the ‘center of calculation’ exercises what it goes by the terminology ‘government-at-a-distance’.

5.4 Rationalization & Alienation in the “State Prison”: Punishment & Prison

The concept of ‘economic rationality’ stems from Weber’s worked concept ; the *rationalization of life*, which signifies that all life is subject to a common form of assessment calculability. – That is, the assessment of the most technically efficient means for attaining particular ends (Dale & Orum, pg.40, 2009). Therefore, in the marketplace the most efficient means for purchasing goods and services can be calculated with precision; for instance, in the courts the form of penalty or obligation incumbent on the lawbreaker can be made almost exactly. Or, in privately owned incarceration facilities, administrators can ‘cut corners’ as their ‘most technically efficient means for attaining particular ends’ or simply profit.

In spite of this, economic rationality not only stems from Weber’s ‘rationalization of life’ but also elicit Weber’s concept of rationalization. He puts emphasis on the nature of rationality in the modern world and makes the distinction between technical rationality – that which seemed to characterize the essential element of modern capitalism, with a specific emphasis upon

technique, efficiency, and calculability – and substantive rationality, that which was concerned with the ends, the goals, and the values towards which action was targeted (Dale & Orum, 2009, pg.29-30). Weber also points toward another characteristic, which he implies as being “*equally oppressive under modern capitalism*” is that all action, in nearly all aspects of society, has become dominated by a matter with the quantitative and calculable evaluation of the costs involved in reaching a particular end, any end, rather than with the practical meaning of the end itself. Colloquially speaking, these private actors are working on the basis of ‘means for an end’. Where they will proceed with handling and enforcing policies and rules as means for their ends, for the increase of their profit. Marx created a theory that, although, virtually different in theoretical dimensions, is of the same objectives as of Weber’s rationalization theory. It is the Alienation theory, that according to Marx, is defined as “*as the estrangement of individuals from themselves and others. It is a condition of separation or disintegration from the surrounding society.(...)and his subordination to legal, political, and economic regulation in the factory, school, and state.*” (Morrison, 2006, pg.116). But the process of alienation, is part of the punishment of the individual, and that is simply what they have to submit to. In Garland’s study, he does mention Foucault in light of punishment, and Foucault argues that the ‘pain’ in the core of punishment should not be accounted as for real pain, yet, the idea of displeasure and inconvenience – the ‘pain’ of the idea of ‘pain’, which must be able to prevent a repetition of the crime. Therefore, he continues, punishment must be regarded as a retribution that the guilty individual makes to each of his fellow citizens therefore there must not be secret penalties thus punishment should be placed before citizen’s eyes. In modern world, there is not a lot of thinking that is given into the idea of properly punishing a lawbreaker. But Foucault also emphasizes how prisons can be considered the most civilized form of penalty. He also argues that “*The self-evidence of the prison is mainly based on its role as an apparatus for transforming individuals by locking up, retraining and rendering the social body*” (Foucault, 1995). Such restraint of the social body will, understandably, bring consequences for the individuals that are submitted to this “transformation” or to the process of Alienation, which is a potential consequence of imprisonment, as it makes it available the perfect scenario, especially under the restrains of fierce power holders, administrators of private facilities. Thus, Marx’s concept of alienation is similar

to Weber's notion of the dehumanizing consequences of rationalization.

5.5 CCA

While problematizing aspects of economic or social life, the private sector strikes to align their aim with the state's objectives (Garland, 1997). First to take into consideration is their questionable economic incentive. On one hand, CCA has been supporting the implement of various harsh sentencing laws with the purpose to dignify criminal justice; on the other hand, it is important for such private prison companies as CCA to prioritize profit maximization in order to grow their business. CCA acknowledged in their 2010 Annual Report submitted to the Securities and Exchange Commission that *"Our growth is generally dependent upon our ability to obtain new contracts to develop and manage new correctional and detention facilities(...) including crime rates and sentencing patterns(...)"* (Shapiro, 2011). Thus it can be interpreted to higher profits require more inmates. On the other hand, because most private prisons operate on a per diem rate for each bed filled, there is a potential financial incentive that CCA not only wished to detain more inmates but also to detain them for a longer period of time (Cheung, 2004). It was reported that on an average day, CCA locks 81,384 people in their prisons and jails. Additionally, CCA refers to these human beings as a *"revenue stream"* or a *"unique investment opportunity"* in statements for their shareholders (Gupta, 2013).

It is undeniable that while mass imprisonment broke the state budgets, one special interest group, which is the private prison companies, has gradually emerged and rapidly made a massive amount of profit. The shift in governmentality can be seen at this point when the government, applying their 'responsibilization strategy', signed various contracts with the private sector to hand over a large amount of their correctional facilities for the private prison companies to operate, leading to a massive amount of taxpayer dollars from the public fiscal has been poured into the revenue of those private prisons since then. How come the private prison companies can benefit from the budget of taxpayer? As an example, by obtaining subsidies, enjoying tax exemptions, and receiving municipal services that cost taxpayer money, such as water, private prisons can properly legally impose their operating costs on local communities. On the other

hand, private prison operators sparingly return the support of the countries where private prisons are operated, “some receive less than \$2 per prisoner per day”, while they receive a much better payoff from the government; in 2000, CCA was paid almost \$90 per day for each detainee by the federal government. The result of such actions is the handsome rewards for the not only the private sector but also their top executives; in 2012, CCA total revenue was \$1,700,000 with their President and CEO received more than \$3.2 million in executive compensation. *“There is a much stronger incentive for private prison companies to save costs, not for the public’s benefit, but for their own profit.”* (Shapiro, 2011).

One day, as a 14-year-old boy was being released after serving his sentence [at a private prison operated by CCA], the guard offered him some friendly advice.

“Stay out of trouble,” he said. “I don’t want to see you back here.”

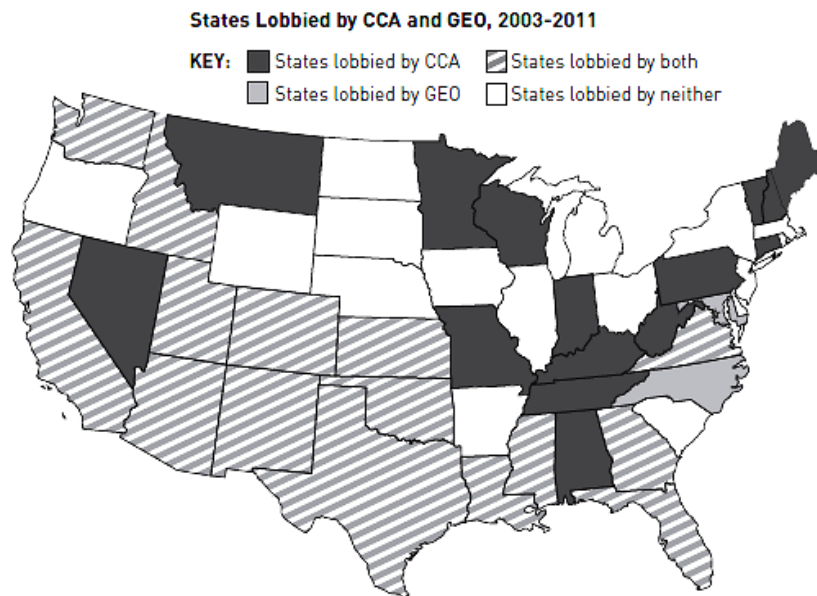
“Why not?” the kid responded. “That’s how you make your money.” (Shapiro, 2011).

The promises of private prisons about reducing costs, improving facilities and making the community a better place have miserably failed.

Secondly, CCA needs the support from the authorities in order to get involved in the correctional apparatus of the States, with the desire to become an active partner in the business of security and crime control, which is fit with the explanation of Garland about the concept ‘government-at-a-distance’, interlacing government agencies and private organizations. Despite the affirmative denial of CCA about their controversy firm bond with ALEC, the company has long pursuing legislation made by ALEC that would keep their private facilities filled for profit motive. ALEC has advocated legislation that benefits private prison companies by promoting policies that leads to mass incarceration. In the 1990s, ALEC succeeded in enacting ‘Truth in Sentencing’ and ‘Three Strikes’ legislations, certainly aiming to increase the population of prisoners, whether it’s public or private, and the amount of taxpayer money poured into prisons. In an annual report filed with the Securities and Exchange Commission, CCA stated that *“The demand for our facilities and services could be adversely affected by(...)leniency in conviction or parole standards and sentencing practices(...)”* while accordingly, Micheal Hotra, former ALEC Task

Force Director, explained the implementation of ‘Truth in Sentencing’ laws in his speech to the social media “*Now, Truth in Sentencing laws, based on an ALEC model bill, require inmates serve 80 to 90 percent of the sentences before becoming eligible for parole*” (Shapiro, 2011). Although CCA was reported to have left ALEC since 2010, it is believed that “*for the past two decades, a CCA executive has been a member of the council’s Task Force that produced more than 85 model bills and resolutions that required tougher criminal sentencing, expanded immigration enforcement and promoted prison privatization(...)*” (Shapiro, 2011). In addition, Brad Wiggins, then CCA’s Senior Director of Business Development and now a Director of Customer Relations, was the private-sector chairman of the Task Force in the mid- to late 90s when the organization produced a series of model bills promoting ‘Tough on Crime’ initiatives, and now including John Rees, a CCA’s Vice President. Additionally in 1999, CCA made the President’s List for contributions to ALEC’s States and National Policy Summit (Shapiro, 2011).

In order to gain more government contracts to increase the profit, apart from declaring questionable financial incentives, private prison companies also find use in extensive lobbying, lavish campaign contributions and the “revolving door” between public and private corrections. CCA alone spent over \$18 million on federal lobbying between 1999 and 2009, “often employing five or six firms at the same time,” and in 2010, CCA spent another \$970,000 lobbying the federal government (Shapiro, 2011). Lobbying not only several federal agencies, the company also lobbied heavily in statehouses across the United States. According to the National Institute on Money in State Politics, between 2003 and 2011, CCA hired 199 lobbyists in 32 states, while GEO Group hired 72 lobbyists in 17 states.



(Source: http://www.aclu.org/files/assets/bankingonbondage_20111102.pdf)

The revolving door between the state-based correctional institutions and the private sector has opened up a great number of opportunities for the private companies to imply their influence and try to align their economic incentives with the objectives of the States by their lobbying strategy. Economic incentives of the private sector has started to overshadow and overtake the role of conventional prison. As more and more harsh sentencing are established and enforced thus states continues to send more and more people to prison, they funnel greater amounts of taxpayer money to private prison operators leading to mass incarceration today.

“For thirty years, CCA's profits have grown because more people are behind bars. For CCA, the fact that America incarcerates more people than any other nation in the world isn't a human tragedy – it's something they celebrate, because it makes them rich.” (Gupta, 2013)

5.6 Human Rights/Criminal Justice

As Franklin E. Zimring and Gordon Hawkins states, the only situation where the citizens would cede authority to the government for control is for crime, since the criminals are the most unpopular citizens in a democratic state. The public hostility towards criminals is therefore supportive for harsh punishments administered by government force. The public are willing to approve conduct of harsh punishment and control of crime that they would hesitate to support in other situations or fields. The expanding of power in democracy is easier when it comes to punishing than in other arenas of government operations. The Bill of Rights to the U.S. Constitution has eight alterations that deals with the relationship between the government and the citizens and five of them - 4, 5, 6, 7 and 8 - are mainly about criminal justice (Tonry, 2004). One should not link the concerns about whether it is rational that the modern governments extinguish life as criminal to topics such as deterrence or incapacitation, since that is more about the effects of punishments or to consider how exactly a punishment might be morally justified by the commission of a particular act. Zimring and Hawkins together claim that the government is looking at the citizen as a potential victim of the criminal, hence the governmental power is to make the citizen feel secure and to threaten those who might turn out to be a criminal offender and to scare them away from committing a crime (Tonry, 2004).

To worry about whether it is proper for modern governments to extinguish life as criminal sanction have not really been questioned since the government tries to show the criminals that the American society is not easy when it comes to law breakers and thereafter to hopefully prevent them in doing more harm to the freedom of the society (Tonry, 2004, pg.160). This is very similar to the criminological theory “The Broken Window” that was introduced in 1982¹⁰, since a broken window and other instances of disorder are important causes of crime. The signaling effect is very important as it sends a message to the criminals that someone is watching and reacting upon the crimes to not lead to a progressive growth of wrongdoings (Political research associates, 2004, pg. 63). A typical example upon this; imagine a building with a broken window; if the window is not fixed immediately, there will soon be another one broken

¹⁰ “The Broken Window” by the social scientists James Q. Wilson and George L. Kelling.

because the criminals would think that it is abandoned and that no one is looking for it. The same happens if a criminal committed a crime and the punishment was not severe, other criminals might not get frightened and will keep repeating it since there are no harsh consequences, law and order (Amalgam80, 2010).¹¹ As Beckett and Sasson describe it, these policies were alarming. The local, state and federal governments had all adopted and implemented these policies that have resulted as mentioned in enormous increases in arrests but also more and longer punitive sentencing proposals, revival of the death penalty and lack of community surveillance. The reports of police's reaction and illegal behavior were reported continuously in the news media, but the "get tough on crime" wave had taken over that even reports of lower crime rates were excused to give extreme behavior of police departments across the nation and was supported (Elsner, 2004).

"The degree of civilization in a society can be judged by entering its prison"- Fyodor Dostoyevsky (Elsner, 2004). One would think that a country as the United States that have democracy and human rights as central parts of American values cannot at the same time be known for the major confinement complex. As Elsner states, there is no doubt that the way the government handle the criminals when it comes to human rights is out of control (Elsner, 2004). One keeps questioning: Now that there have been a lot of critic about making America's imprisonment more humane, thus safer why not reform it? The case is that the majority, as Tonry states is that since the criminals are the most feared and unwanted in the society, people might not see prisoners' rights as an obvious topic to bring up. It is simply not worth enough, which might be the reason why they have locked that many behind bars in the past years as mentioned earlier. *"The liberal approach of coddling criminals didn't work and never will"*- President Ronald Reagan (Elsner, 2004, pg. 1). The governmental and the public understanding in the United States is about getting tough on crime. Gerald Hege was titled as the toughest sheriff in America; everyone knew about him and he talked about the extreme inhumane conditions as a good thing. His county voted from him to take over and make the criminals regret their crimes when he won the sheriff's election in 1994 (Kraus, 2000). *"When I took over in 1994, the*

¹¹ Katherine Beckett is an associate professor at the University of Washington and Theodore Sasson is an associate professor at Middle-bury College.

prisoners spent their time watching color TV, smoking and playing poker for money. They could get their girlfriends in for the night for \$50. I changed all that,” the sheriff said (Elsner, 2004, pg. 8). He wanted them to have their worst nightmare ever, because that would hopefully keep them away from committing more crimes. He made the ‘get Tough on Crime’ as his symbol and had a TV show where he interviewed the inmates and humiliated them. At Elsner’s visit to Hege’s jail, he found it really odd; for him it was more about building up his macho image and make the inmates feel like worth nothing than just punishing. (Elsner, 2004) As Hege’s opponents emphasize the inmates are in jail to await their trials and not to be punished by a “*power-mad lawman*” who has appointed himself power; judge and jury (Kraus, 2000).

Michael Tonry¹² is very much into the idea about keeping decisions about conditions for confinements from legislators. The argument is that conditions for the inmates are best decided by the experts who hold administrative power over prisons, hence the government should take the control, instead of letting private sector overshadow them. “*Any power or autonomy one gives to the inmate in a prison is that much power that the staff and administration does not possess*” (Tonry, 2004, pg. 170) So if Hege let the inmates’ watch television whenever they want to, he would feel that they were controlling him more than he is having power upon them. The privately owned confinement administrators controls everything. As mentioned, Hege had no boss; he was the boss in his country, hence there is no sense in which he was neutral when talking about punishing. Those who administer confinements- prisons or jails should have neutrality to make them ideal institutional agents to protect the inmates from unnecessarily punitive deprivation, Tonry determines. If neutral agencies of government is the best hope for review of conditions of confinement, the choices would be between executive branch personnel and judicial officers with no other responsibility for prison governance. That could either be judges of general jurisdiction or judicial branch officers (Tonry, 2004).

The constitutional courts are one necessary element of scrutiny for enforcing limits on governmental use of imprisonment but there are also a variety of other executive branch controls that are helpful in maintaining human rights for inmates. An ombudsman or inspector general of

¹² McKnight Presidential Professor in Criminal Law and Policy

the prisons has a special role when there have been a serious instance of oversight. The judicial system is the last check in the protection against abuse after the executive agencies operation to make sure that everything is in right order. Tonry believes that the inspection in the confinements are lacking and that the scrutiny should be a part of the administrative routine since the combination of administrative and judicial check assures efficiency (Tonry, 2004, pg. 171). The irony, as Tonry states, lays in that those confinements with extensive administrative scrutiny for human rights abuses are mostly the places where the danger of abuse is minimum.

How would one argue that a law breaker is not allowed to have a satisfyingly life when incarcerated? One more and more hear the argument: why not just make the conditions of confinement in a penal institution punitive in all its details? (Tonry, 2004, pg.164). The political argument about less welfare for inmates is to support the criminal victims. Citizens should emotionally be more concerned about the crime victim's welfare and not the criminal, hence providing any comforts to the offender is just like ignoring the interests of crime victims. The "get tough on crime" can be seen as showing solidarity to the crime victims and real "justice".

*"There is a long list of threats that such institutions present to the welfare and autonomy of inmates(...)*The hyper-security prison in the United States is by its nature pregnant with risk serious human abuse" (Tonry, 2004, pg. 169). The isolation and the sensory deprivation that the inmates are experiencing during their whole sentence are problematic and should not even be imposed for the most deserving convicts- no one should be taken their care away. That the isolations and the deprivations are based on the staffs' fear of violent interaction should not lessen the prisoners' human rights. When these convicts are kept far away from the outside world contact, then their safety and protection would obviously be at stake (Tonry, 2004, pg.169). The mentally ill are the ones who are most affected by the strict system and which obviously only exacerbate their emotional disorders.

5.7 The toughest jails in the United States

To gain a better knowledge of the way in which economic incentives influence the private confinements one has to look closer into the ways in which they cross the minimum standards of the human rights. In this section two cases with different situations will be looked closer at, Sheriff Gerald Hege and Joe Arpaio, in order to gain an understanding about the ways in which punishment and prison is understood in the eyes of human rights and private enterprises. In the first part the confinement Davidson County will be analyzed by the help of the concepts punishment and prison, which in the end will lead to a conclusion about whether the human rights is being crossed or not. The other part of the section focuses on the case of Joe Arpaio and will again use the concepts of prison and punishment to get a sociological view of this way of running a private enterprise.

First, looking closer at the case of Davidson County, where the inmates have some of the most extreme rules and regulations in the United States. According to the rules and regulations of the Standard Minimum Rules for the Treatment of Prisoners, prisoners should not be subjected to a treatment that is degrading in any way. But as mentioned, this confinement keeps its prisoners locked up 23 hours a day in rooms defined as “*a day-care atmosphere—something like a girl’s bedroom, a little feminine touch*” (Elsner, 2004, pg. 4). Furthermore, shall every human being be treated with humanity and a form of mutual respect, which often does not seem to be the case when talking about Sheriff Gerald Hege, who frequently has talked humiliating about the individuals in his confinement: “*They should just put you in prison and forget about you*” and “*scumbags*” (Elsner, 2004, pg. 8). Another important point to come across, is the confinement itself. According to Foucault, a prison can be seen as a school, workshop and army. It should be a place of learning, work and discipline, but in the case of Davidson County, a few of these elements are lacking. Locking up the prisoners 23 hours a day with only the Bible as entertainment cannot be seen as a place of learning, since prison education is a structure of academic training which should help the inmate when the prison sentence is fulfilled (Gaes, 2008). Moreover, the workshop is also a touchy subject in Davidson County. A few of the prisoners get to work just outside the confinement, but mostly they are locked up in their cells.

On another note, there is a general attention on the disciplinary parts of the concept of prison, since Hege is remarkably focused on the subject. Because he, as explained, wants the inmates to suffer and have a bad time. Foucault also focuses on the area of responsibility. The confinement must in the way of prisons look into the area of, for example physical training, which in Davidson County is something that is absent, since exercise facilities are forbidden by Hege.

Sheriff Gerald Hege once said “*Ninety-nine percent of the people I have in my jail are guilty of whatever they’ve been charged with. Very few can be rehabilitated and it’s not worth trying*” (Elsner, 2004, pg. 4). This is a clear breach of the human rights of prisoners, since it clearly states that “The essential aim of the treatment of prisoners shall be their reformation and social rehabilitation” (OHCHR, 2005, pg. 14). It declares that the crucial focus of imprisoning an individual that have done an offense is to make the individual see the wrong in the deed and thereby learn from it. Punishment in general should focus on the future and the idea of pain to make the individual see the disadvantages instead of advantages. Foucault states that the function of the punishment should be looking towards the future, so that the prisoner learns from the imprisonment and hopefully will not get back into prison again. But the focus in Hege’s prison lies differently, since he does not take the importance of the human rights into account as well as the future of the “scumbags” (Elsner, 2004, pg. 4). Hege’s confinement does not have any focus on the rehabilitation of the prisoners, since they have next to no contact to the outside world. As the quotation states he does not believe it worth a try to help the inmates resocialize into the community yet again, and as a reason he expresses the tax money and the law-abiding society (Elsner, 2004), since these should not have to pay for the prisoners’ mistakes.

In the section about the toughest jails in the United States, the second case involves the sheriff Joe Arpaio. It often does not seem like Arpaio cares about the regulations and rules of the human rights. It can be seen in the way he treats his prisoners, in the confinement of the tents and in the actual confinement building. In the building, cockroaches, sin infections and horrible food is a standard (Attwood, 2004). It is for example stated in the Standard Minimum Rules for the Treatment of Prisoners that every prisoner shall have access to decent meals. But in the confinement of Arpaio does this regulation not seem to apply. According to himself the owner of

a prison can treat the inmates as they want, which means that acceptable meals may not be evident. He has stated that *“Our meal cost is 45 cents a day for an inmate. Our dogs cost more to feed than the inmates”* (Elsner, 2004, pg. 5), which again makes a statement about his lack of engagement in the health of his prisoners. Furthermore, is the substance of the meals not much to speak of either, since bologna turned green, or moldy, cannot be a healthy everyday meal. Arpaio is on the other hand living up to more of the conceptualized ideas of the prisons. According to Foucault, the prison is one of the most civilized forms of penalties. It should change the attitude to work and should change the social body. Some of this can be said to be done in Arpaio's confinement, since he definitely let the inmates work, even though it in many ways can be seen as unhealthy due to the lack of substance they are given. Furthermore, is the part about changing the social body a difficult one to investigate further into. Because even though Arpaio's prisoners get to work and develop a sense of discipline, they do not get any form of academic learning (Elsner, 2004) that will give them an understanding of how to function in the modern society.

With the focus on the rehabilitation, the Standard Minimum Rules for the Treatment of Prisoners declares that the sentence is supposed to treat the inmate responsibility and help them rehabilitate. This is, like with the confinement of Sheriff Gerald Hege, not the case in the confinement of Sheriff Joe Arpaio. Several times, Amnesty International and the Department of Justice have been to visit his confinement in the desert (Elsner, 2004, 6), but not many result have come out of it, since it is hard to clearly state that he does not follow the rules and regulation of the Declaration of Human Rights and the regulations under it. But no matter how many times they stopped by and tried to close his confinement down he stated that *“But I'm not going to close the tents. I will still run a tough jail system”* (Elsner, 2004, pg. 7). One could say that Arpaio according to Foucault is following the rules of punishment. He makes the crime less attractive for the individuals who is not in prisons, since it is not many who want to end up in a place with a unbearable heat and no food. Furthermore, does Arpaio seem to turn the crimes disadvantages much bigger than the advantages, because of his way of making the prisoners suffer. The fact that he does not follow the human rights makes the criminals fear him, because

they know that when the crime has been committed they will be sentenced to a life of green bologna and tents.

Overall, Davidson County is a confinement that does not live up the definition of Foucault's concept of prison. Furthermore, is this case often on the bad end of the inspectors of the human rights, since the prisoners are being degraded psychological and physical. Sheriff Gerald Hege version of a private confinement is lacking in a lot of ways in the area of rehabilitation, since he does not deem it worth trying. His definition of punishment lies far from the one of Foucault and the human rights, because he believes the prison to be a place to lock up the individuals instead of a place of rehabilitation and learning. This can mean that the prisoners or "*scumbags*" (Elsner, 2004, pg. 4) will get back in prison again, since they have not learned how and why they should behave in the modern society. Gerald Hege believes in punishing the one who have done wrong instead of helping them toward a better future, where the "*disadvantages is livelier than that of the crime and its pleasure*" (Foucault, 1995, pg.106). The confinement of sheriff Joe Arpaio is on the edge of the different regulations and rules of human rights. He does not treat the prisoners with rehabilitation in mind neither does he give them acceptable food and facilities. He seems proud of having a tough confinement where criminals do not want to be. According to the concept of punishment can his confinement in some ways be described as a prison, since Arpaio lets the inmates work even though it is under terrible conditions. He does, as Sheriff Gerald Hege, not focus on the prisoners rehabilitation. He punishes the prisoners without given them a chance to learn the right, and this makes his confinement a problem concerning the human rights, since they state that rehabilitation should be the main focus of a prison. Overall, this exact private enterprise breaches the human rights on a lot of different points from nutriment to rehabilitation, and the Sheriff does not seem to care.

6 Conclusion

The question to be answered is: "*To what extent do economic incentives influence prisons' conditions in privately owned confinements in the United States?*" Throughout this project we have examined and argued how the economic incentives influence prison conditions in the

privately owned confinement institutions in the United States. Firstly, we have discovered that there are several aspects involved in answering our research question, and that these aspects are all interlinked with each other. In order to reach a conclusion on these matters it has proven necessary to grasp what these aspects entail and how they can be comprehended and answered. This is where our working questions are introduced, providing us with guidelines of how to reach a full picture in regards to the actual research question. The research and analysis in this project have been guided by the applied theories and concepts. The main concepts used in this project are of Capitalism, State, Power and Punishment. More specifically we have focused on the construction of authority within a model of power state, a prison, with special emphasis on sub-politics and how this relates to capitalism. To us, based on our research and analysis, it appears like the government seems to fail operating their correctional institutions efficiently leading to their contract with the private sector, in part or in whole, to operate their correctional facilities. From this shift in governmentality, the private sector has been in bloom, making profit by cutting spending on inmates, enjoying tax exemptions, and declaring questionable financial statements in their filings. "Responsibilization strategy" of the government, created due to their economic form of reasoning to reduce costs in prison operation, has opened a revolving door between the public and private sector. It leads to an inevitable involvement of the private companies in the policy making of the official institutions. Interlaced official agencies, private companies and entrepreneurs in this field have created a complicated web of net-working, policies and regulations that cannot be broken down into one single formula. ALEC, by hosting splendid retreats that bring together state legislators and corporate executives, has made way for the private sector and entrepreneur such as CCA to influence on the making process of regulations in the government department in which they have legitimized numerous harsh sentencing and detention laws; all with one purpose is to keep more people behind bars in order to increase the amount of taxpayer money pouring into their pocket.

On the other hand, the implement of such model legislation that prioritizes implementing conservative principles with the intention of maximizing profit by mass incarceration made by the private prisons executives and state legislators has led to the lack of focus on the human rights of the inmates thus decreasing the conditions of the prison system comparing to the

minimum standards for prisoners in “The Declaration of Human Rights”. While profit considerations hold the dominant role, and fiscal restraint control penal decision making, the life of inmates has been put in danger and bad conditions more than ever. For instance the disciplinary tool ‘BMP’ that is about worsening the conditions if the inmate cannot behave according to the rules of the prison is a great example of how limiting the human rights for inmates have been “legalized”. Plural of examples of this has been found and have become a trend ever since the beginning of the movement “get Tough on Crime”. More and more prisons were more into punishing than rehabilitate. Furthermore, the expanding of the prison system led to the up-start to supermax prisons. The case with the toughest and second toughest jails are relevant in our survey since the owner of them proudly talks about how they treat their inmates and provide us with an interesting and unique understanding of punishment in a democracy where human rights play a great role.

The extremely bad conditions that Hege and Arpaio have been giving to their prisoners have not gotten serious attention from the government as it is still functioning and has even been named “toughest”. Even though Amnesty International and the Department of Justice several times have been out to visit the confinement of for example Arpaio, next to nothing have been done about the breaches on the regulations the Standard Minimum Rules for the Treatment of Prisoners and on the Declaration of Human Rights. This have led to some serious conditions for the prisoners in both psychological and physical aspects, in this case scenario the non acceptable food in the form of bologna with mold, different illnesses and bugs and pets in the confinements. In the other case about Hege, the conditions were lacking in the sense of exercise facilities and access to fresh air, because the inmates were locked up 23 hours a day. In both of the two cases the focus in the prison and on punishment is turned away from the rehabilitation, which again shows that economic incentives and punishment are more important than the training and therapy of the individuals in the prison. The key character of how these conditions got to this stage lie on the roots of the theories that have been presented and analyzed. As mentioned in the analytical chapter of this project, the tendency that corporations would become the real players in the economy of the United States begun decades ago, and when the privatization of state owned companies became popular, it was a matter of time until the trend reached the prisons system.

But Capitalism is not to take the whole blame for how the situation might have gone out of hand. A capitalistic system, characteristically, will have a private beneficiary of the benefits of the ownership, and generally, also retains power. But how much the exercise of this power is related to capitalism is exactly the question that according to the conclusion of the application of theories here studied, we are able to answer. The fact is that there are other factors that are included in this complicated equation of exercise of power in the scenario that have been studied here. Power by itself does not ensure obedience. In order to exist any kind of dominance, let it be of social, physical or psychical aspect, there must be authority too. And the main actors, the power holders, are given such authority by the government.

The analysis of the other theories and concepts such as of the alienation and realization - realization of life - gave us an insight of how the different layers of this complex tower of power, are part of a clear recreation of the social life, inside the prison scenario, taking up general characteristics of life in society, especially a capitalistic society, such as of the alienation of the self in the workplace. As mentioned before in the project, when referencing to Garland's study, Rose and Miller (1997) argued in their study, that this form of empowerment, power given by the state to private companies, destroys the logic of social concept which create a contradiction from states to civil society, the public to the private, the coercive to the consensual and so on. The fact that individuals like Hege clearly states that *"Ninety-nine percent of the people I have in my jail are guilty of what-ever they've been charged with. Very few can be rehabilitated and it's not worth trying"* (Elsner, 2004, pg. 4), shows that many people in the United States do not care about the welfare of the persons in prisons or jail nor do they feel like they can be bothered to help them get back out in the modern society again.

To conclude on Franklin E. Zimring, Gordon Hawkins and Tonry's sayings, the reason why the conditions are so extreme in several confinements in the United States is because of the fact that the only situation where the citizens would cede authority to the government for control is for crime, since the criminals are the most feared citizens in the democratic States. Therefore, the public hostility towards criminals is more supportive when it comes to harsh punishments administered by government force, hence the expanding of power in democracy is easier towards

punishing. This means that although some Americans question whether it is proper for modern governments to extinguish life as criminal sanction the general mentality of criminals, the government is more into trying to show the criminals that the American society is not easy when it comes to law breakers, as it shows in 'The Broken Window', cases of disorder might be important causes of criminal actions, because the signaling effect is significant as it sends a message to the criminals that someone is watching them and reacting upon the crimes. Hopefully that would prevent them in doing more harm for citizens, whom the government prioritize more than the criminals so the citizens feel secure when walking down the streets. This is clearly shown ever since the beginning of the movement "get Tough on Crime" that emphasizes punishment as a primary response to crime. Furthermore, several laws and policies about making longer and harsher penalties for example the Mandatory sentencing, Three Strikes and Zero Tolerance have been taken by storm in the United States and has replaced the rehabilitation programs. The idea about keeping decisions about conditions for confinements from legislators is to improve the conditions and give the inmates more justice and is what Tonry propose. It should therefore be the experts from the government who should take control of the regulation in the privately owned confinements instead of letting, in our cases Hege and Arpaio have all the power. Moreover, these experts who are going to administer confinements, should have neutrality to make them ideal institutional agents to protect the inmates from unnecessarily punitive deprivation, hence they should have no other responsibility for prison governance.

Also, the best review of conditions as Tonry determines would be better if it was both some from the executive branch and from the judicial officers and not just individuals from the judicial officers. And there is no exception when it comes to inspection, as he claims that the confinements who have a routine check by human rights organization are usually the ones who have less danger of mistreatments and that "supermax" should be more vulnerable when it comes to control of inmates' treatment as they are very hard to get into, same goes for jail's as the Hege jail and Arpaio's jail and other privately owned confinements.

7 Reflections

In the beginning of this project, we planned to make a comparison between the prison system in Denmark and the United States. But it turned out to be more complicated since many factors have to be taken into consideration before we can come to compare the two countries, for example the economy and the mentality in both countries are different so similar indicators might be difficult to reach in a survey. We also thought about coming to a conclusion whether the prison system in the United States is effective or not, but again, we faced another barrier which is, what exactly is the definition of effective and how do we want to mention it in the project, was it economically effective in saving the budgets for the government, or was it socially effective in rehabilitation and giving the convicts a better life after prison. Therefore, the project turned to another angle that is to find out if the economic incentives of the private prison companies have any influence on the government policy and law decisions thus prioritize profit above the human rights and treatment provided to the inmates.

Secondly, we had experienced a difficult time completing our methodology chapter since all the members were in a lack of literature about the subject. We overcame this weakness by reading more books and expressing our concerns with the supervisor. Meanwhile, we also looked more into our research strategy, our goal of the project and by which mean we wanted to achieve it. Constantly thinking and improving the method we chose while writing the project was critical, since we had to keep thinking about what evidences we wanted to search for after having all the relevant theories and what we seek to prove throughout this project. Moreover, we realized the importance of a clear, concrete and convincing methodology chapter since it helped us to make a focus on the project, saving time while doing data research hence strengthen the whole project. It also gave us the opportunity to improve our knowledge and skill of writing the methodology chapter.

Last but not least is our perspective about the issue of prison privatization. At first we all strongly believed that the prison privatization was not good at all. However, after doing research, we came to acknowledge that it has its good points. Especially when the privatization first emerged in the field of criminal control, it did make a change in reducing cost, prisoner's abuse in the

prisons and the number of re-offenders. But then, the economic considerations had placed a cost burden on the government budget leading to the economic priority in the system. From this lack of concern on the- sociology part of the conventional prison, the cases of inmates' mistreatment and punishment have increased. If we had had more time, we would like to engage more in the sociology part of this project in order to find out how much the prison system have been worsen since the emergence of privatization.

Bibliography

Books

- Bendix, R., 1978. *Max Weber: An Intellectual Portrait*. Berkeley: University of California Press.
- Chang, Ha-J., 2007. *Bad Samaritans: The Myth of Free Trade and the Secret History of Capitalism*. London: Bloomsbury Press.
- Ed. Morris, N. & Rothman D., 1995. *Oxford History Prison - The Practice of Punishment in Western Society*. The United States: Oxford University Press.
- Elsner, A., 2004. *Gates of Injustice*. United States of America: Prentice Hall.
- Flick, U., 2009. *An Introduction To Qualitative Research*. 4th edition. London, England: SAGE Publications.
- Foucault, M., 1995. *Discipline and Punish – The Birth of The Prison*. Great Britain: Penguin Books.
- Garland, D., 1997. *'Governmentality' and the Problem of Crime: Foucault, Criminology, Sociology*. London, England: SAGE Publications.
- Logan, C. H., 1990. *Private Prisons: Cons and Pros*. New York: Oxford University Press.
- McGowan, R. A., 2011. *Privatize This? - Assessing the Opportunities and Costs of Privatization*. United States of America, California: ABC-CLIO, LLC.
- Orum, M. A. & Dale G. J., 2009. *Political Sociology - Power and Participation in the Modern World*. New York: Oxford University Press.
- Wheen, F., 2001. *Karl Marx: A Life*. New York: Norton & Company.
- Tonry, M., 2004. *The Future of Imprisonment*. USA: Oxford University Press.
- Weber, M., 2001. *Protestant Ethic and the Spirit of Capitalism*. New York: Routledge.

Online Materials

- American College of Trial Lawyers, 2004. *United States sentencing guidelines: an experiment that has failed*. <Available at: http://www.actl.com/AM/Template.cfm?Section=All_Publications&Template=/CM/ContentDisplay.cfm&ContentFileID=58> (last accessed 28/05/13)
- Amalgam80, 2010. *A Brief History of Thought on Crime Policies and Politicians*. Allvoices. <Available at <http://www.allvoices.com/contributed-news/5728463-a-history-of-tough-on-crime-policies-and-politicians>> (last accessed on 21/05/13)
- Kraus, D., 2000. *Dirty Gerald*. <Available at http://www.salon.com/2000/03/20/sheriff_2/> (Last accessed on 28/05/13)

- Amalgam80, 2010. *Tough on Crime Policies of New York City*. Allvoices. <Available at <http://www.allvoices.com/contributed-news/5734857-tough-on-crime-policies-of-new-york-city>> (last accessed on 21/05/13)
- Aman, C. A., 2005. *Privatization, Prisons, Democracy, and Human Rights: The Need to Extend the Province of Administrative Law*. Indiana Journal of Global Legal Studies. <Available at <http://www.repository.law.indiana.edu/cgi/viewcontent.cgi?article=1309&context=ijgls>> (last accessed 11/05/13)
- American Legislative Exchange Council (ALEC), 2013. *ALEC's Frequently Asked Questions*. ALEC homepage. <Available at <http://www.alec.org/about-alec/frequently-asked-questions/>> (last accessed 11/05/13)
- American Convention on Human Rights, 1992. University of Minnesota, Human Rights Library. <Available at: <http://www1.umn.edu/humanrts/oasinstr/zoas3con.htm>> (Last accessed 28/05/13)
- Attwood, S., 2004. *Hell on Earth*. The Guardian. <Available at <http://www.guardian.co.uk/technology/2004/sep/08/g2.onlinesupplement>> (last accessed 27/05/13)
- Aizenman, N. C., 2008. *New High in U.S. Prison Numbers*. <Available at <http://www.washingtonpost.com/wp-dyn/content/story/2008/02/28/ST2008022803016.html>> (last accessed 27/05/13)
- Austin, J. & Coventry, G., 2001. *Emerging Issues on Privatized Prisons*. BJA – Bureau of Justice Assistant, National Council on Crime and Delinquency. <Available at http://www.facebook.com/l.php?u=http%3A%2F%2Fpapers.ssrn.com%2Fsol3%2Fpapers.cfm%3Fabstract_id%3D1462792&h=jAQHO3rfi> (last accessed 11/05/13)
- British Broadcasting Corporation (BBC), 2013. *Margaret Thatcher*. BBC. <Available at: http://www.bbc.co.uk/history/people/margaret_thatcher> (last accessed 28/04/13)
- Brubaker, E., 2001. *The Promise of Privatization*. Energy Probe Research Foundation. <Available at: <http://probeinternational.org/library/wp-content/uploads/2012/01/thePromiseofPrivitization.pdf>> (last accessed 28/04/13)
- CBS Television, 2006. *Prisoners in Pink: CBS News*. CBS Television. <Available at: <http://www.youtube.com/watch?v=llXPtNGEK4>> (last accessed 25/04/13)
- Cheung, A., 2004. *Prison Privatization and the Use of Incarceration*. The Sentencing Project. <Available at http://www.sentencingproject.org/doc/publications/inc_prisonprivatization.pdf> (last accessed 12/05/13)
- Cohn, S., 2011. *Private Prison Industry Grows Despite Critics*. CNBC TV on NBC News. <Available at: http://www.nbcnews.com/id/44936562/ns/business-cnbc_tv/t/private-prison-industry-grows-despite-critics/#.UXPEbLVTCSo> (last accessed 21/04/13)

- Corrections Corporation of America (CCA), 2012. *CCA homepage*. <Available at http://www.cca.com/static/assets/Code_Of_Conduct_Guide_2012.pdf> (last accessed 11/05/13)
- Department of Community Safety, 2013. *The State of Queensland*. Queensland Government. <Available at: http://www.correctiveservices.qld.gov.au/about_us/the_department/custodial_corrections/index.shtml> (last accessed 25/04/13)
- Reutter, D. M., Hunter, G., & Sample, B., 2013. Appalling Prison and Jail Food Leaves Prisoners Hungry for Justice. <Available at: https://www.prisonlegalnews.org/22246_displayArticle.aspx> (last accessed 28/05/13)
- FindLaw, 2013. *Private Jails in the United States*. Thomson Reuters. <Available at: <http://civilrights.findlaw.com/other-constitutional-rights/private-jails-in-the-united-states.html>> (last accessed 22/04/13)
- Goldin, A.D., 2008. *The California Three Strikes Law: A Violation of International Law and a Possible Impediment to Extradition*. <Available at http://works.bepress.com/anne_goldin/1/> (last accessed 21/05/13)
- Gupta, V., 2013. *Open Letter to the Corrections Corporation of America after 30 Years of Locking People Up for Profit*. American Civils Liberty Union. <Available at <http://www.aclu.org/blog/prisoners-rights/open-letter-corrections-corporation-america-after-30-years-locking-people>> (last accessed 24/05/13)
- Johnson, Robert., 2011. 11 Stunning Facts About America's Prisons. Business Insider <Available at: <http://www.businessinsider.com/11-facts-about-prisons-2011-7?op=1>> (last accessed 28/05/13)
- Mickle, Jean., 2013. *Health care costs for older inmates skyrocket*. USA Today <Available at: <http://www.usatoday.com/story/news/nation/2013/03/31/health-care-costs-for-older-inmates-skyrocket/2038633/>> (last accessed 28/05/13)
- Myser, M., 2007. *The Hard Sell*. CNN Money. <Available at http://money.cnn.com/magazines/business2/business2_archive/2006/12/01/8394995/> (last accessed 28/05/13)
- Nassar, L., & Newman, F. C., 2013. *Human Rights Implications of Private Prisons*. Human Rights Advocates. <Available at <http://www.humanrightsadvocates.org/wp-content/uploads/2010/05/Human-Rights-Implications-of-Private-Prisons.pdf>> (last accessed 11/05/13)
- Office of the United Nations High Commissioner for Human Rights (OHCHR), 2005. *Human Rights and Prisons - A Pocketbook of International Human Rights Standards for Prison Officials*. United Nations Publication. United Nations of Human Rights. <Available at <http://www.ohchr.org/Documents/Publications/training11Add3en.pdf>> (last accessed 15/05/13)
- Office of the United Nations High Commissioner for Human Rights (OHCHR), 2013. *International Covenant on Civil and Political Rights*. <Available at <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CCPR.aspx>> (last accessed 19/05/13)

- Political Research Associates, 2004. *Conservative Agendas and Campaigns - The Rise of The Modern "Tough on Crime" Movement*. <Available at <http://www.publiceye.org/defendingjustice/pdfs/chapters/toughcrime.pdf>> (last accessed 21/05/13)
- Romano, M., 2013. *Stanford Three Strikes Project*. Stanford Law School. <Available at <http://www.law.stanford.edu/organizations/programs-and-centers/stanford-three-strikes-project/three-strikes-basics>> (last accessed 13/05/13)
- Shapiro, D., 2011. *Banking on Bondage – Private Prisons and Mass Incarceration*. American Civil Liberties Union (ACLU). <Available at http://www.aclu.org/files/assets/bankingonbondage_20111102.pdf> (last accessed 12/05/13)
- Steup, M., 2012. "Epistemology", *The Stanford Encyclopedia of Philosophy*. Edward N. Zalta ed. Available at <<http://plato.stanford.edu/archives/win2012/entries/epistemology/>> (last accessed 13/05/13)
- Tata, C., & Hutton, N., 2002. *Getting Tough on Crime: The History and Political Context of Sentencing Reform Developments Leading To the Passage of The 1994 Crime Act*. Justice Strategies. <Available at <http://www.justicestrategies.org/sites/default/files/Judy/GettingToughOnCrime.pdf>> (last accessed 21/05/13)
- The GEO Group (GEO), 2013. *Historic Milestones*. GEO homepage. <Available at <http://www.geogroup.com/history>> (last accessed 11/05/13)
- United for Human Rights, 2013. *Universal Declaration of Human Rights: Official Statement*. United for Human Rights. <Available at <http://www.humanrights.com/what-are-human-rights/universal-declaration-of-human-rights.html>> (last accessed 15/05/13)
- Wilson, D. J., & Ditton, P. M., 1999. *Truth in Sentencing in State Prisons*. Bureau of Justice Statistics (BJS) – U.S. Department of Justice. <Available at <http://bjsdata.ojp.usdoj.gov/content/pub/pdf/tssp.pdf>> (last accessed 13/05/13)
- Gaes, G. G., 2008. *The Impact of Prison Education Programs on Post-Release Outcomes*. <Available at <http://www.jjay.cuny.edu/GaesTheEffectivenessofPrisonEducationPrograms.pdf>> (last accessed 26/05/13)
- The White House, 2013. *Ronald Reagan*. <Available at: <http://www.whitehouse.gov/about/presidents/ronaldreagan>> (last accessed 28/05/13)
- Merriam-Webster, 2013. *Definition of "nationalize"*. An encyclopedia of Britannica Company. <Available at <http://www.merriam-webster.com/dictionary/nationalize>> (last accessed 25/04/13)
- The Free Online Dictionary, 2013. *Definition of "privatize"*. <Available at <http://www.thefreedictionary.com/Privatised>> (last accessed 25/04/13)
- The Bureau of Justice Statistics (BJS), 2013. *About the Bureau of Justice Statistics*. <Available at <http://bjs.gov/index.cfm?ty=abu>> (last accessed 28/04/13)