Commodities and Delinquencies in the Prison Industrial Complex (PIC) in the U.S. : A Foucauldian Approach to Prison Labor

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ABSTRACT

More than 80,000 prisoners in state, federal, and private prisons work for private and for-profit industries in the United States, which is a relatively small, but rapidly growing, portion of the total number of incarcerated individuals. The main purpose of this article is to use critical concepts from Foucauldian theory to explore the relationship between incarceration and labor exploitation in the U.S. prison system. To do this, this article reviews the core Foucauldian concepts and assumptions that are relevant to explaining prison labor; applies those concepts and assumptions to the prison labor issue; and discusses a possible way for conducting an empirical study. Additionally, three implications for social work, policy intervention, and the Korean society in reference to the theory are discussed. This article suggests that understanding Foucault should be a priority to tackle forced control, unequal power, and the immobility of social and economic status embedded in the most marginalized and vulnerable populations.

KEY WORDS

Delinquency, Discipline, Docility, Penalty, Prison Industrial Complex (PIC), Power

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1 | INTRODUCTION

More than 80,000 prisoners in state, federal, and private prisons work for private and for-profit industries in the United States (Slaughter, 2005), which is a relatively small, but rapidly growing, portion of the total number of incarcerated individuals (Slaughter, 2005). The complex set of systems and institutions where prisoners provide labor is called the Prison Industrial Complex (PIC; Wood, 2003). The PIC is defined as a combined structure of private and public institutions with special political and economic (i.e., profit) interests in maintaining criminal justice policies and social processes that increase spending on imprisonment, "regardless of actual needs" (Arabella Advisors, 2018; Schlosser, 1998: 54; Wehr and Aseltine, 2013; Wood, 2003).

The PIC has largely negated the rehabilitation function of prison with private companies exploiting prisoners (Davis and Shaylor, 2001). There are two major reasons why prisoners' labor in the PIC can be referred to as exploitation. First, prison work is not voluntary, given that federal prisons require prisoners to work and 21 states have passed laws requiring prisoners to work (the American Federation of Labor and Congress of Industrial Organization, 1997; Chang and Thompkins, 2002; Slaughter, 2005). By taking jobs in prison, he or she is able to reduce his or her sentences (Slaughter, 2005). This sounds like an attainable incentive to providing labor. However, if prisoners do not take jobs in prisons, they are penalized and their sentencing times may be affected (Slaughter, 2005). Second, although the minimum wage for labor is mandated in the Fair Labor Standard Act, the act does not apply to prisoners working in the PIC (Slaughter, 2005).

There are two types of prison labor: Non-industrial and industrial work (Chang and Thompkins, 2002). Non-industrial prison labor refers to institutional maintenance and agriculture (Chang and Thompkins, 2002) and may help to offset the cost of imprisonment (Atkinson and Rostad, 2003). Inmate firefighters who battled the California wildfires in 2018 (Singh, 2018) are another example of non-industrial prison labor. Of course, such non-industrial jobs are not completely immune to criticism from the general public given the low hourly wages for tough work; for example the inmate firefighters were paid \$2 per day and an extra \$1 per hour when they battled fires (Singh, 2018), which someone might call slave labor (Hess, 2018). What this article focuses more on is a critique of the latter type, industrial work enacted by the Prison Industry Enhancement Act in 1979. After the passage of this law, more than 175 private firms have been allowed to profitably contract with prison labor (LeBaron, 2012). Therefore, prison labor hereafter means *industrial work*, which has shown little evidence of helping the inmates themselves (Garvey, 1998; LeBaron, 2012). Such prison labor does not allow inmates to obtain marketable skills for employment after being released from prison (Slaugher, 2005). It is rather a forceful mechanism that disciplines unskilled labor, and perpetuates inequality and social and economic immobility (LeBaron, 2012). Addressing prisoners' labor exploitation is a critical social problem for social work, given that social work in the United States has evolved into an essential component of the nation's criminal justice system (Wilson, 2010) because it seeks to find strategic ways to help marginalized people obtain social and economic mobility, which is directly relevant to the quality of life.

Among postmodernism thinkers, Foucault provides a useful lens to examine why prisons continue to be prominent even when the institutions have failed to lower recidivism. There are four explicit reasons why this article pays attention to Foucauldian discourse analysis to explain prison labor. First, Foucault's approach has been employed in various fields as an alternative theoretical discourse (Woermann, 2012). As a thinker of postmodernism, Foucault builds the theoretical approach by denying positivists, who claim that universal knowledge exists (Giddens, 1990). When Foucault (1979) analyzes the modern penal system, Foucault uses the method of historical analysis to unpack the truth surrounding the prison and penal systems. Foucault develops a counter-history technique when developing his theoretical framework, "a history told from a different port of view from the progressive, linear, and memory model" (Allan, 2014: 486), which is rooted in Nietzschean genealogy (Thiele, 1990). The genealogical analysis is understood as a method showing that a dominant systemic thought was not the outcome of rationally inevitable trends, but the result of contingent turns of history (Gutting, 2013). In this sense, Foucault draws on the reinterpretation of Nietzschean genealogy to construct his own theory. This implies that his theory is a critically reflective one that can propose an alternative conceptualization of prison and the

penal system.

Second, as Tobias (2005) points out, Foucauldian theory is built on the basis of a capabilities approach. The capabilities approach refers to people's freedom-centered method that asks the question of whether a person is really able to pursue a chosen activity without manipulation of his or her choices by external powers (Tobias, 2005). This approach implies that his theory sets up humans as active agents.

Third, Foucault challenges us to look at the differing rationalities that influence decisions that our clients make. As he analyzed how the function of the penal system has been transformed from the preexisting perspective (Foucault, 1979), it is essential to shift the analysis of clients' decisions from the perspective of our rational assumptions to one that explores the specific reasons. To put it differently, it is important to find how such choices are made with respect to clients' well-being and to find rationalities and justifications that clients utilize for making the decisions (Moffatt, 1999). Foucauldian theory may direct us to understand the necessity of the mechanism of power to account for the life experiences of the clients (i.e., prisoners).

Lastly, since Foucault illuminates how social mechanisms have been able to work, how forms of repression and constraint have functioned within power relations, one of his major contributions is to ultimately promote social justice. Basically, Foucault also challenges the notion of power, which is a mechanism of discipline in which we govern and are governed at the same time. In doing so, Foucault tries to find a way of increasing the possibility of self-determination among people who are governed by power (Tobias, 2005).

In this context, this article aims to utilize critical concepts from Foucauldian theory to explore the relationship between incarceration and labor exploitation in the U.S. prison system. To achieve this goal, the current article 1) visits the core Foucauldian concepts and assumptions that are relevant to explaining prison labor; 2) applies them to the targeted problem; 3) and discusses possible empirical evidence as well as implications for social work, social policy, and the Korean society where Foucauldian legacy has been vividly discussed to examine its various social issues, such as prisoner reentry. By doing so, this article explores how Foucault allows us to examine how prisoners are disciplined through capitalist

needs. Ultimately, in light of the debate of whether prison labor is designed for enhancing their rehabilitation or a new form of slavery (Gilmore, 2000; Hess, 2018), the current article delves into the U.S. case of prison labor in the PIC, to draw a future direction for Korea's social policy on prisoner reentry.

2 | POSTMODERNISM WITH FOUCAULDIAN THEORY

2.1 Core Concepts and Assumptions

There has been little consensus regarding the emergence of postmodernism, but its concept began to be used in the late 19th century and widely embraced by various fields (Swan, 2011). Since the 17th century, modernity emerged in Europe and began to influence the world (Giddens, 1990). It contained a variety of modern symbols or events, such as "Enlightenment, rational, scientific thoughts, global exchange, mass media, and mass production" (Swan, 2011: 12). Postmodernism can be seen as a theory to respond to social phenomena caused by modernity. The social phenomena were strongly related to a "rapid advancements in technology, increased surveillance, rapidly accelerating globalization, atomization, increasing social disconnection between people and places, and increasing rationalization" (Swan, 2011: 13). By borrowing from Lyotard, a French philosopher, Giddens (1990) defines postmodernism as a critical theory against scientific and rational beliefs in human and societal progress. For example, postmodern thinking allows us to reject existing ideas, such as that the main function of prison being the rehabilitation of prisoners. In postmodernism, there exists the possibility to refute such an idea with the following narrative: The primary function of prison is to control inmates to be disciplined by capitalist needs.

Michel Foucault is a core contributor who seeks to analyze punishment within postmodernism. His analysis of prison started prior to the 18th century when public execution and corporal punishment were common. Public execution was a symbol of absolute authority and implied a power of the ruled (Foucault, 1979). At that time, reformers called for reforming punishment. Their requests were not to protect prisoners' rights or for rehabilitative motivation. Rather, they were more concerned with making efficient the state's power to operate prisons (Foucault, 1979). In other words, the reformation of prison in the 18th century aimed to better control prisoners and societies as well.

When analyzing the history of the penal system, Foucault (1979) attempts to link concepts such as delinquency, discipline, docility, penalty, and power. Delinquency has become synonymous with the term prisoner in the modern penal system. By labeling offenders delinquent and by separating them from society, they become easy to control and supervise (Foucault, 1979). Discipline refers to a method for controlling the movement and operation of the body, which is a type of power. Foucault (1979) explains that it was used in the military but began to be utilized to control those in prison. As a result of the discipline, prisoners became docile, which meant power was disassociated from their bodies. The function of penalty has also changed in the modern penal system (Foucault, 1979). In the pre-modern penal system, physical pain caused by torture was a key element of the penalty. However, prisoners' bodies are treated differently in the modern penal system, which belong to society, not kings. Therefore, modern penalty implies bodies serve other obligations (Foucault, 1979).

The most central concept of Foucault (1979) is power. For Foucault, power means disciplinary control (or power). It consists of three elements, such as hierarchical observation, normalizing judgment, and examination. According to Foucault (1979), hierarchical observation indicates an apparatus that makes "it possible to see induce effects of power" (Foucault, 1979: 170). Normalizing judgment refers to a standard norm that prisoners have to follow and they are measured on whether they meet a certain level. Examination means combining techniques of the hierarchical observation and allowing to "quantify, to classify, and to punish" (Foucault, 1979: 184). That is to say, prisoners are examined to see whether they are well disciplined by combining techniques. Foucault (1979) views discipline mechanisms in modern prisons are possible by exercising power and control.

The following are five core assumptions of Foucault. The assumptions broadly contain order, history, truth, power, and ethics.

"First, it is possible to produce and describe all human knowledge and culture in an orderly manner, but at the same time, human attempts to create order are always limited and crumbling at the edges. All forms of order should be challenged at every opportunity, so that people can understand why current orders exist and reflect of whether or not they should be changed. Second, the best tool to examine and dismantle existing orders is history. Third, truth is a historical category...(there is) a struggle between two mutually opposed methods of gaining access to the truth. On the one side there is intellectual or scientific method...and on the other side an older method involving spiritual self-transformation...Fourth, knowledge is always shaped by political, social, and historical factors – by power in human society. Lastly, social justice is an essential ethical consideration..." (O'Farrell, 2005: 54).

2.2 Foucault and Prisoner Labor in the PIC

Corporations have been closely linked to the prison system in both the public and private sectors since the origin of the PIC in the early 1970s (Davis and Shaylor, 2001; Schlosser, 1998). The PIC as a part of the modern penal system allows those in power to maximize control of less powerful groups; the powerful group can generate profits from social control (Wehr and Aseltine, 2013). In utilizing Foucault (1979), we can still ask the same question of what purpose prison serves. Is the primary function of prison the prisoners' rehabilitation or punishment?

As Hallinan (2001) depicts, prisons in America have turned into for-profit factories; within the PIC, the prisoners' work program is operated by for-profitbusinesses. If proponents want to argue that such a transformation aims to provide job training in line with rehabilitation, then any prisoner who voluntarily wants to work in the industry should have a better chance of being hired (Chang and Thompkins, 2002). However, in reality, private firms are likely to hire those who have longer sentences than those who have shorter ones to maintain profitability by cutting related costs (Chang and Thompkins, 2002). This presents a picture of why prison is currently called an apparatus for exercising power within a capitalistic culture. As Foucault points out, the prison has been transformed into a disciplining place to meet the needs of the dominant groups, in this case, the capitalists.

An ideal expectation of prison labor may be to transform the prisoners into healthy social members during incarceration. However, labor within the prison industry clearly does not foster rehabilitation (Davis and Shaylor, 2001; Slaugher, 2005), but seeks to control the prisoners to be docile. Typical prison jobs include simple sewing in the clothing business or taking calls for travel reservations (Hallinan, 2001; Slaugher, 2005). It highlights that most prison laborers do not specifically need marketable skills, which means they are not involved in labor that can help prepare them for the job market after being released from prison. Given the fact that the primary factor for successful reintegration into the community is employment (Western, 2006), it is doubtful that the experience of prison labor functions as a catapult for obtaining a decent job and reintegrating into the community after inmates are released from prison. As a result, prison labor in the PIC contributes to reproducing delinquency as Foucault argues (1979): "For the observation that prison fails to eliminate crime, one should perhaps substitute the hypothesis that prison has succeeded extremely well in producing delinquency" (Foucault, 1979: 277).

There have been efforts that conceptually integrate Foucauldian theory to prison (Schlosser, 2013; Schriltz, 1999); but few studies directly address its empirical results. This is because Foucault's contribution in research methods is mainly discussed in discourse analysis (Ferreira-Neto, 2018), which focuses more on how to analytically use language reflecting its social context (Salkind, 2010). This indicates that Foucauldian theory has been primarily applied in qualitative studies (Ferreira-Neto, 2018).

When it comes to the fact that empirical research embraces any research based on observable data (Engel and Schutt, 2013), it might be true that Foucault's concepts of power is hardly found in quantitative research. However, a study conducted by LeBaron (2012) is the one that well addresses the relationship between prison labor and the social discipline, which might provide a potential way to quantify Foucauldian concepts. By utilizing evidence from historians and political economy literature, LeBaron (2012) argues that the imposition of prison labor as a part of punishment should be viewed as a component of labor discipline

in response to the requirements of neoliberalism. Prisoners who receive low wages from prison labor cannot help but face forcefully diminished real wages after being released from prisons (LeBaron, 2012). In fact, current prisoners working in the PIC have replaced workers. His historical analysis as evidence illustrates that Lockhart Technologies closed its plant in Austin, Texas where its more than 130 employees were paid \$10 an hour to assemble circuit boards. They moved the whole manufacturing facility to a nearby prison (LeBaron, 2012).

This article previously argued that prison labor might contribute to reproducing delinquency because inmates cannot equip themselves with marketable skills through his or her labor in prison; and the failure to secure jobs might be associated with becoming involved in crime again after release. Foucault (1979) also demonstrates that it may be hypothesized that the prison's failure of eliminating crime would produce on-going delinquencies. When recalling these points, examining the relationship between prison labor and recidivism is another kind of empirical research that can utilize Foucauldian theory. For example, Maguire et al. (1988) examined recidivism among inmates who participated in prison industry programs during confinement in seven maximum-security New York state prisons. The data they used was collected by the Prison Industry Research Project. The findings indicated that there was no difference in recidivism rates between prisoners who participated in prison labor and prisoners who did not (Maguire et al., 1988). Although the study was not conducted by experimental design with randomization methods due to a number of complicated reasons (Maguire et al., 1988), which meant it was hard to generalize empirically, the study seems to be meaningful in that it introduces how we might empirically test the Foucauldian hypothesis on the relationship between prison labor and the reproduction of delinquency.

There are a couple of questions that have not been explored regarding this issue. First, the study by Maguire et al. (1988) was conducted in facilities with a single condition such as the security level. To enhance the validity of the research, new research questions such as the following may need to be created: Do the recidivism rates among prisoners who participated in prison industry labor programs show significant differences across the security levels of the prisons? If so, what conditions contribute to these differences? If not, what implications

can we give to policy-makers who maintain close relationships with companies? These questions can be answered by mixed design by utilizing both quantitative and qualitative methods.

3 | IMPLICATIONS FROM THE CASE OF U.S. PRISON LABOR

3.1 Applying Foucault to the Social Work Profession

Since social work developed its own profession in 1904, social work has actively been involved in the issue of incarcerated individuals (Patterson, 2012; Roberts and Springer, 2007). For the most part, the social work profession has collaborated with criminal justice policy as a core component of the system (Wilson, 2010). Social workers completely agree that a major purpose of criminal justice is to maintain public safety. However, the gradually increasing rate of incarceration has been noted and interpreted as an imbalance between punishment and rehabilitation. It is necessary to continuously address social problems impacting incarcerated people's reintegration into the community. To establish a leading role on this topic within the criminal justice policy so as to gain a more balanced view of the two approaches (i.e., punishment vs. rehabilitation), theoretically exploring prison labor issues is important because grasping the theory allows us to expand our sociological imagination, as Mills (1959) stated, to conceptualize variables that will be useful for conducting empirical studies to make a counterargument for opponents.

Within the context, Foucauldian theory is relevant to the social work profession for revisiting our mission and direction of action since the theory guides how the social work profession tries to make the powerless powerful by motivating us to understand human nature and transforming us to reconceptualize the notion of power and social control (Chambon and Irving, 1999; Ferguson and Lavalette, 2004). In this sense, Foucault's theory implies relevant action to counter the social problem is based on humanism. Advocating for the incarcerated population to obtain better labor skills for the sake of rehabilitation, not for lucrative profits, is an example of the relevant intervention that the social work profession can collaborate with policy-makers. In doing so, prisoners need to engage in true productive labor for themselves. These skills must be assessed to determine whether they are marketable ones, allowing them to be more competitive after being released.

3.2 Social Policy on Rehabilitation: An Effective Training Program under the U.S. Second Chance Act

Related to establishing the cross-disciplinary group mentioned above (e.g., collaboration among core stakeholders, including social workers, researchers, and policy-makers), an exemplary policy is called the Second Chance Act Adult Reentry and Employment Strategic Planning Program (hereafter the Second Chance Act) for incarcerated adults that may be a feasible program derived from social policy. The Second Chance Act (SCA), which was enacted in 2007 (O'Hear, 2007) and reauthorized in 2018, is a supportive law for prisoners or ex-offenders by providing a comprehensive response to the increasing number of incarcerated adults who are released from prison facilities and return to communities (U.S. Department of Justice [DOJ], 2018). According to the DOJ (2018), the goal of this program is to increase the post-release stable employment of the incarcerated population. Core features of the program include 1) creating an advisory group of employers to advise on program development, ultimately aiming to promote direct connections to employment for incarcerated people and 2) enhancing the capacity of education at both the facility and community with employment programs aiming to reduce recidivism by maximizing employment outcomes through building an integrative plan for best practices from the corrections and workforce fields (DOJ, 2018). The training program targets incarcerated adults who are at 6-36 months before release from prison (DOJ, 2018).

The SCA training program addresses the barriers for ex-offenders when they attempt to gain employment. Improving employment outcomes for the incarcerated population is also one of the best ways to reduce the recidivism rate. The SCA training program which focuses on more marketable skills is designed and implemented to address the most urgent issues. This seems to be quite different to traditional job training programs provided by the prison labor industry that rely heavily on labor-intensive business (Chang and Thompkins, 2002). Because the industries need unskilled or semi-skilled workers, they have not needed to invest in training programs. In this sense, the SCA training program is feasible and practical. The ultimate objective of the policy ties to the humanism as termed by Foucault.

4 | CONCLUSIONS

As seen in the case of the U.S. using the lens of Foucauldian theory, it is evident that using prison labor for profit is a modern practice of slavery rooted in labor exploitation (Browne, 2007), which has drawn much criticism over the decades. Considering its legal and ethical context, it is not highly likely that *for-profit* private prisons will be established in Korea although it had its first non-profit private prison open in 2010, operated by a pan Christian faith-based organization, signed through a contract with Korea's Ministry of Justice (MOJ) in 2003 (Lee Hyuk-Seung, 2008) when the MOJ suffered from a budget crisis (Vries, 2015). The first private prison in Korea was called *Somang* (the Korean word for hope) correctional institution, and was modeled after the InnerChange Freedom Initiative (IFI), a faith-based rehabilitation program run by the Prison Fellowship in the U.S. (Lee Hyuk-Seung, 2008). Somang correctional institution faced an outbreak of various scandals, including corruption and transparency issues surrounding fiscal management (Yoo Young-hyuk, 2019). A detailed discussion on Somang correctional institution is beyond the scope of this article. Instead, this article recalls the question previously asked in the context of Foucault (1979): Is the primary function of prison the prisoners' rehabilitation or punishment in Korea? If we agree that Foucault's concept of power is useful in explaining why prison labor is not helpful for incarcerated people's reintegration, this becomes a critical point that also allows us to ponder how to enhance their successful reintegration using a responsible power exercised by relevant stakeholders in Korea. The stakeholders are referred to those who are willing to create practical and integrative ways to enhance incarcerated people's reintegration into the community after release from prisons. The responsible power coined here can be broadly defined as a capacity

that intends to change one's behavior (i.e., inmates' offending behavior) by transparently pooling, sharing, and maximizing all available resources from both public (i.e., government) and private sectors (i.e., civil society). Exercising responsible power would be possible when the stakeholders in Korea genuinely embrace the idea that rehabilitation could change such at-risk populations into law-abiding people.

In sum, Foucauldian theory provides a useful theoretical framework for understanding the problem of prison labor exploitation in the PIC. The theory helps to examine how prisoners are disciplined by capitalist needs. For the social work profession, applying the theory to social work practice and research is necessary, especially focusing on promoting the quality of life among marginalized populations with whom Foucault was concerned. Therefore, this article argues that the spirit of social justice that social work has pursued towards the oppressed cannot be separated from the spirit of social justice that was embraced by Foucault. Given that the current role of macro social work is to challenge forced control, unequal power, and the immobility of social and economic status, understanding Foucault should be a priority. By harnessing the theory, stakeholders in Korea, including social work researchers, practitioners, and policy-makers in the criminal justice system should be able to find better intervention, strategy, advocacy methods, and evidence-based evaluation.

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