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CICLO XXXIV°

Saggi sulla penologia Europea: dimensioni socio-politiche e spaziali del suo farsi

SSD: SPS / 03

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Supervisore: Ch.mo Prof. Igor Pellicciari
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Essays on European penology: socio-political and spatial dimensions of its making

ACADEMIC DISCIPLINE: SPS / 03

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Abstract

A great deal of research is focused on Europe and its interactions with other spaces through examination of the European Union's policies. Those who have created and contributed to the literature of *Europe as a normative power* put a special emphasis on the European Union and its significance while overlooking normative cooperation between this organisation and the Council of Europe. Building on the *two Europes* argument, this thesis tries to go beyond initial exclusive conceptualisation of political Europe.

While putting a special focus on a relatively new phenomenon – *European penology*, a judicio-political construct with a complex normative and institutional architecture – the current research proposes a fresh look at the debate of norm production and diffusion while examining interactions of international, European, and national entities.

Having in mind institutions and their specific characteristics participating in the making of the European penological system (e.g., advisory, monitoring, preventive, judicial), the thesis with its four stand-alone essays explores different dimensions of European penology.

Firstly, to go beyond simplistic interpretations of norm studies where European institutions develop values/norms later to diffuse them onto specific territories of interest, the current thesis is problematising this question while contextualising participation of the South Caucasus in the making of European penological norms. To do so, a brief account of norm making/developing is given

within a particular institution – the European Court of Human Rights.

Furthermore, to understand the knowledge base itself, the thesis directs itself at the jargon of European penology. A corpus linguistic survey of institutional discursive practices reveals specificity of this knowledge system and reveals strong presence of human rights discourse strongly embedded in and framed by the European Convention on Human Rights.

To locate European penology within the modern trends of actuarial justice where rehabilitative strategy of prisons fell short in the face of neoliberal currents of managerialism, the thesis conducts a diachronic analysis of semantic change in European penology. In doing so, it tries to locate semantic changes taking place in penological jargon. The research reveals three dimensions: (i) perseverance of human right discourse, (ii) learning process from global counterparts, and (iii) a slow shift from welfare-focused penology to risk- and management-obsessed mentality.

Finally, to understand the whole spectrum of influences happening within the European penology, the thesis focuses on actors participating in co-construction of this knowledge base. Three categories of entities, namely organisations, geopolitical entities, and legal documents/norms, appear to influence European penology in distinct ways.

Sommario

Una grande quantità di ricerche si concentra sull'Europa e le sue interazioni con altri spazi attraverso l'esame delle politiche dell'Unione Europea. Coloro che hanno creato e contribuito alla letteratura sull'Europa come potere normativo mettono un'enfasi speciale sull'Unione Europea e sul suo significato, trascurando la cooperazione normativa tra questa organizzazione e il Consiglio d'Europa. Basandosi sull'argomento delle due Europe, questa tesi cerca di andare oltre la concettualizzazione iniziale esclusiva dell'Europa politica.

Concentrandosi su un fenomeno relativamente nuovo - la penologia europea, un costrutto giuridico-politico con una complessa architettura normativa e istituzionale - la presente ricerca propone uno sguardo nuovo al dibattito sulla produzione e diffusione delle norme, esaminando le interazioni tra entità internazionali, europee e nazionali.

Avendo in mente le istituzioni e le loro caratteristiche specifiche che partecipano alla creazione del sistema penologico europeo (per esempio, consultivo, di controllo, preventivo, giudiziario), la tesi con i suoi quattro saggi indipendenti esplora diverse dimensioni della penologia europea.

In primo luogo, per andare oltre le interpretazioni semplicistiche degli studi sulle norme in cui le istituzioni europee sviluppano valori/norme per poi diffonderli su specifici territori di interesse, la presente tesi problematizza questa questione contestualizzando la partecipazione del Caucaso del Sud nella costruzione delle norme penologiche europee. Per fare ciò, viene dato un breve resoconto

della creazione/sviluppo delle norme all'interno di una particolare istituzione - la Corte Europea dei Diritti dell'Uomo.

Inoltre, per comprendere la base di conoscenza stessa, la tesi si rivolge al gergo della penologia europea. Un'indagine corpus linguistica delle pratiche discorsive istituzionali rivela la specificità di questo sistema di conoscenza e rivela una forte presenza del discorso sui diritti umani fortemente incorporato e inquadrato dalla Convenzione Europea dei Diritti Umani.

Per localizzare la penologia europea all'interno delle tendenze moderne della giustizia attuariale dove la strategia riabilitativa delle prigioni è venuta meno di fronte alle correnti neoliberali del managerialismo, la tesi conduce un'analisi diacronica del cambiamento semantico nella penologia europea. Nel fare ciò, cerca di localizzare i cambiamenti semantici che avvengono nel gergo penologico. La ricerca rivela tre dimensioni: (i) perseveranza del discorso sui diritti umani, (ii) processo di apprendimento dalle controparti globali, e (iii) un lento passaggio da una penologia incentrata sul benessere a una mentalità ossessionata dal rischio e dalla gestione.

Infine, per comprendere l'intero spettro di influenze che avvengono all'interno della penologia europea, la tesi si concentra sugli attori che partecipano alla co-costruzione di questa base di conoscenza. Tre categorie di entità, vale a dire organizzazioni, entità geopolitiche e documenti/norme legali, sembrano influenzare la penologia europea in modi diversi.

Acknowledgements

Having found myself in Italy right after a study in Japan, with a completely different mentality, felt like a cold shower. Even more, in the midst of my research period abroad, in a country whose language I could not speak, I found myself locked up in an apartment due to the pandemic. Learning a new programming language, starting a job at a humanitarian organisation, struggling with imposed Anglo-Saxon writing style while being accustomed to another stylistic expression – it all added into the laborious effort to produce the text before you.

Yet, I was not alone throughout these years. In terms of academic and administrative assistance, there is a lot to express to the University of Urbino. The PhD programme in Global Studies has stood ready when I needed a helping hand in times of despair for which I am eternally grateful. By the same token, I consider pure courage on the part of the PhD programme to provide a safe harbour and financial means to conduct research in such an interdisciplinary topic.

My supervisors, Dr. Igor Pellicciari (University of Urbino, Italy) and Dr. Aigul Kulnazarova (University of Tama, Japan), stood right by me during the years of thesis-writing. Special thanks go to Dr. Kulnazarova for being there in every step of the research project regardless of time difference between two continents. Furthermore, such an interdisciplinary research was crucial to be tested with different academic audiences. For this, I have to acknowledge invaluable critiques coming from the International Association for Discourse Studies (DiscourseNet) community I have been a member of since 2018. In like manner, I am grateful for commentaries of two anonymous reviewers who decided that the thesis is ready for the defence.

Being drafted in Urbino, Tbilisi, Istanbul, Baku, Sukhum/i, and Vienna, the thesis was only possible because of the ceaseless emotional support from friends, colleagues, and family. All these wonderful people, including my significant other who believed in me at times when I was in doubt of my capacities, offered their shoulders, listened to my endless fears, and shared their wisdom.

I dedicate this thesis to my beautiful nieces Ulviyya, Mirel and my nephew Emil.

May, 2022
Baku, Azerbaijan

Introduction

The thesis before you is a humble attempt to understand a relatively new phenomenon - European penology, a judicio-political construct gaining its momentum in the field of public policy, international law, politics, and organisations. Given European penology's complex normative and institutional architecture which discusses a regional form of humane punishment strongly embedded within human right discourse, the current thesis tries to look at different dimensions of its inception and making.

European penology brings together judicial, executive, advisory, and other types of institutions. Each of these bodies have been tackled one way or another in numerous academic studies. However, these surveys of European penology are later generalised based on findings derived from one or two European institutions. The current thesis aims to unchain itself from such previous limitations, denies to accept European penology as a given, and intends to be critical in its analysis.

For the above-mentioned purposes, to understand European penology, its actors, norms, and socio-political dimensions, the thesis puts forward the following objectives:

(i) Understand conditions within which European penological norms are devised;
(ii) Analyse and uncover specificities of this knowledge system;
(iii) Locate European penology within the current dynamics of neoliberal trends;

(iv) And unearth potential actors and other entities influencing directions of European penology's advancement.

The thesis devotes four stand-alone essays each dedicated to one of the above-mentioned objectives. They are achieved primarily through exploration of *European Penological Corpus*, a specialised corpus of forty million words constructed specifically for this research project.

The first essay, the *European prison standards and the South Caucasus: A general introduction*,[1] pursues contextualisation of European standard-making and bolstering in detention sphere vis-à-vis its interaction with a specific region – a post-Soviet space. While situating paper within *Europe as a normative power* literature, the research argues that there is no monolithic Europe: Previous uniform type analyses of the region through the prism of the European Union and its actions are not sufficient to explain the normative power of this postmodern political regional aggregate. Pointing at the penological knowledge base of Europe, the paper conducts a brief case-law analysis to depict how empirical evidence from the South Caucasus have contributed into making and/or reinforcing European prison standards.

The second essay, *A corpus-driven introduction to European penology: Word-level frequency and keyword profiling*, aims to explain what the linguistic specificities of this knowledge system are. Being empowered by corpus linguistic techniques, the essay

[1] Published as a book chapter: Huseynov, S. (2021). European prison norms and the South Caucasus: A general introduction. In Reisner, O., Turkes-Kilic, S., and Gabrichidze, G. (eds). *Experiencing Europeanization in the Black Sea and South Caucasus: Inter-Regionalism, Norm Diffusion, Legal Approximation, and Contestation.* Ibidem Press.

delves into various ways of exploring *European penological language* through analysis of institutional discursive practises. The findings depict a strong presence of human rights jargon set by the European Convention on Human Rights regulating the tone and framework within which European penology is constructed.

The third essay, *How New is European penology? Discourse, meaning-construction and knowledge production*, recognises recent neoliberal trends in global penology and tries to locate European penological knowledge system in this dynamic. Resorting to the diachronic techniques of linguistic analysis, the research tries to locate semantic changes/specificities happening in important penological terms. In doing so, it identifies three directions that European penology moves: (i) allegiance to the human rights discourse, (ii) learning process from global organisations, and (iii) small shift from welfarist ideas into risk-management mentality.

Having considered institutional and linguistic dimensions, the fourth essay, *Locating participants of European penology: beyond the conventional actors*, tries to uncover actors and other entities that bear a strong influence on this knowledge system. Three main categories of entities, namely organisations, geopolitical entities, and legal documents/norms, characterise the ways in which European penology is influenced.

Essay one
European prison standards and the South Caucasus: A general introduction.[2]

Introduction

Global politics has seen a sharp increase in discussions of standards, oftentimes referred as standardization process. This practice, which originated within the financial sector, specifically in the field of auditing[3] (Broome & Quirk 2015), has also attracted the attention of many spheres of human activity, both of private and public characteristic. The creation of international agorae and platforms for deliberations on the basis of which benchmarks are created and subsequently translated into many levels of governance has become the *modus vivendi* of the present-day era.

Surprisingly, the process of gathering to discuss best practices by presenting evidence is regarded as being rather *apolitical*. The widespread perception of such processes as being technocratic and almost mechanical in nature has favoured the grounds for its further expansion. The public sector, which is constantly learning from its private counterparts, sees standardization not only as a way to catch up with modern and adaptive private institutions, but also as a means of fulfilling its duty to live up to democratic ideals; that is to

[2] The essay was published as a chapter in a book. See Huseynov, S. (2021). European prison norms and the South Caucasus: A general introduction. In Reisner, O., Turkes-Kilic, S., and Gabrichidze, G. (eds). *Experiencing Europeanization in the Black Sea and South Caucasus: Inter-Regionalism, Norm Diffusion, Legal Approximation, and Contestation*. Ibidem Press.

[3] Broome and Quirk (2015) refer to "audit explosion" and its globalisation with reference to Power, M. 1997. *The audit society: Rituals of verification*. Oxford University Press; Espeland, W. N., & Stevens, M. L. 2008. "A sociology of quantification." *European Journal of Sociology/Archives Europeennes de Sociologie*, *49*(3), 401–436; and Power, M. 2003. "Evaluating the audit explosion." *Law & Policy*, *25*(3), 185–202.

say, standard-setting comes with obligations and accountability, both of which are scrutinized by interested parties.

The process of standardization is complemented by institutionalized bodies which enforce standards and/or norms by simple monitoring of governance structures and how well they are upheld. The whole ecosystem crosses the habitual national borders and is truly transnational in nature. A coordinated approach on the part of monitoring bodies is almost in a perfect *'feedback loop'*. They bring new evidence or knowledge to the table, on the basis of which the standards are further updated or totally renewed.

Deliberation, production, and enforcement of norms and standards[4] continues to be on the agenda of the liberal international order[5] as well. Human rights norms and standards, which are the cornerstone of this global order, have constantly evolved after two world wars, especially following the atrocities of the most recent one. The idea that there is a need for a human rights order, which will serve as an additional international guarantee to constitutionalist assurance on

[4] The current paper refers to norms as 'frameworks' within which standards are devised and enforced. That being said, the language of practitioners (politicians, technocrats, representatives of Council of Europe, for instance) use phrases 'European values', 'European standards', and 'European norms' almost interchangeably.

[5] The concept of 'liberal international order', particularly the word 'liberal', is highly contested and discussed in academia. Some refer to it as a concept primarily created by the Atlantic Charter - a joint declaration by Franklin D. Roosevelt and Winston Churchill - where a fusion of Westphalian modern state system and liberal democracy is proposed (see Ikenberry, G. J. 2011. *Liberal Leviathan: The origins, crisis, and transformation of the American world order*. Princeton University Press). Others perceive it more as a combination of orders based on some areas coherently functioning as a whole (see Eilstrup-Sangiovanni, M., & Hofmann, S. C. 2019. "Of the contemporary global order, crisis, and change." *Journal of European Public Policy*, 1–13). Yet, there is a common ground found by both sides of the aisle: (i) it is a Western 'architecture', (ii) the liberal international order is 'rule-based' (e.g. international public law), and (iii) Human Rights is a compulsory part of it.

a national level, has an outgrowing support (Mutua 2016). Notwithstanding criticism from politicians of the Global South and the post-colonialists camp, the human rights order, with its derived norms and standards, seems to be enduring.

European organizations, European standards, and normative power

Currently, with respect to many areas of the world, *'European standards'* have come to signify good governance and set of standards that any entity – be it an organization, a state, or an enterprise – should strive to achieve. While there is some vagueness as to what semantics of *'European'* refers to, making it susceptible to discussions of *'which Europe'* does this expression calls for, there is a common perception that these standards invoke positive, progressive, and forward-looking characteristics. There are number of examples of where these standards have manifested:

1. **The European Union's (EU) General Data Protection Regulation (GDPR) standards** – a trade deal between the EU and Japan resulted in the identification of an inconsistency in the latter's international policy arrangement with regard to the flow of private data[6] into third countries (Bartl & Irion 2017);

[6] Japan - a member of the Asia-Pacific Economic Cooperation (APEC) - is a part of the organisation's Privacy Framework. The country joined APEC's Cross-border Privacy Rules System (CBPR) where flow of private data across borders is facilitated. Yet, the EU's GDPR standards found that CBPR falls short should further flow of personal data into countries with weaker protection system take place. Following number of meetings, the EU and Japan agreed that their personal data protection systems are equivalent, as well as all the data flow coming from the EU will be distinctly protected: a. Japanese definition of '*sensitive*' data will be broadened to accommodate European standards, and b. further transfer of data from Japan to a third country will be accompanied with a higher protection (see

2. **European neighbourhood policy[7] and its Action Plans (AP) –** a strategy for the EU to bring the countries at its southern and eastern borders closer to the European good governance practices through numbers of reforms support; and
3. **The Group of States against Corruption (GRECO) under the Council of Europe (CoE)** – Kazakhstan became the 50th member-state of GRECO (Council of Europe 2020), which upholds European standards on fighting corruption through mutual evaluation of participant states and peer pressure.

These examples lead to a strain of literature within the international relations (IR) discipline which conceptualizes Europe as a 'normative power' (see Diez 2005; Manners 2002, 2006; Sjursen 2006). Although there are some well-argued critiques[8] of this concept, 'normative power', a term coined by Manners (2002), exemplifies how the reconceptualization of power (Barnett & Duvall 2005) brought about a 'normative' turn in the field of IR

for more details Bartl and Irion (2017) and European Commission's MEMO/19/422 (European Commission 2019)).

[7] To the South: Algeria, Egypt, Israel, Jordan, Lebanon, Libya, Morocco, Palestine, Syria and Tunisia, and to the East: Armenia, Azerbaijan, Belarus, Georgia, the Republic of Moldova and Ukraine. Some authors argue that the origin of the European neighbourhood policy dates back to 2002 when the UK proposed to launch a specific policy toward Russia, Belarus, Moldova and Ukraine (see Smith 2005). This policy has seen extensive changes as new members were admitted into this arrangement: the UK's "wider Europe neighbourhood" metamorphosed into "proximity policy", then to the "new neighbourhood policy" and eventually took a form more familiar to us "European neighbourhood policy" (Smith 2005).

[8] The critics are mainly from conventional camp of IR emphasizing state, anarchic structure of the world, and necessity of military power to sustain state's existence. For neo-realist assessment of 'normative power' see Hyde-Price, A. 2006. "'Normative' power Europe: a realist critique." *Journal of European Public Policy*, *13*(2), 217–234.

studies. However, in many cases, if not all, the operationalization of Europe as a normative power was performed through detailed examinations of the EU and its transnational activities by: (i) stressing on *acquis communautaire*[9] , (ii) observing application of conditionality in bilateral and multilateral relations with other actors (Grabbe 2002), and (iii) observing transnational networks of organizations being co-opted by the EU through promotion of European norms (Lavenex 2014).

There is a need for a careful problematization and a novel conceptualization of Europe as a normative power. It should be stressed, Manners (2002, 2006), while devising the term and bringing empirical evidence into the discussion, was also referring to a norm originally produced by the CoE.[10] Such an acknowledgment of the organizational and ideational entanglements between the EU and CoE calls for its further recognition. The current paper proposes redefining of 'Europe as normative power' and *acquis communautaire* in such a way that will incorporate the CoE[11] in its entirety. In fact, (a.) considering the *'two Europes'* thesis[12], (b.) commonalities in ideas and complementary actions (De Schutter 2007), at least in the human rights dimension, (c.) as well as existence of a distinctive CoE *acquis* (Pratchett, Lowndes, et al. 2004), such an expansion should

[9] Legislative acts, recommendations, court decisions, and important legal documents which form the body of the European Union law. Also called *EU acquis*.

[10] The author pointed at CoE's European Convention on Human Rights and its attempt to eradicate capital punishment on a global level.

[11] Other international organizations, such as Organization for Security and Co-operation in Europe (OSCE), functioning within the realms of the European norms and values should also be a part of future considerations. Moreover, addition of European non-governmental organisations into the category of actors generating and diffusing European standards might be another angle to look at.

[12] Based on De Schutter (2007) article, *'two Europes'* refers to the EU and CoE.

be characterized by unification and signified with a new umbrella title – *acquis européen*. With this in mind, a concerted effort between the EU and CoE[13] to sustain, develop, and enforce the human rights order of liberal internationalism[14], makes the concept *acquis européen* more appropriate and real than ever.

Knowledge production as a political act

The *acquis européen* serves as a good starting point for discussing the production of European norms and standards within the domain of democratic practices, the rule of law, and human rights. If one defines 'Europe' as the EU and the CoE, the operationalization of its power, from which it derives its *raison d'être*, should be done through scrutinizing the *acquis européen*.

One way of understanding the normative foundations of Europe in this particular domain is to consider it through the prism of a *knowledge-power* nexus. In doing so, one can depart from previous functionalist and institutionalist interpretations of Europe (see Lavenex (2014), Pierson (1996), Schimmelfennig and Sedelmeier (2002)) which are highly reliant on *power* discussions and how they manifest in external governance. The other half of this nexus, namely *knowledge*, is in the majority of cases is taken as given or simply neglected. The current paper brings this discussion back to the table by: (i) understanding what kind of *knowledge* is produced,

[13] This cooperation reveals itself by EU's financial support of CoE's projects to produce and disseminate standards across countries within and outside of the latter's 'jurisdiction'.

[14] European Council, a body which defines the overall political direction of the EU, set out a new strategic agenda for 2019 – 2024 among which '*EU will remain a driving force behind multilateralism and the global rules-based international order'* while supporting *the UN and key multilateral organisations* ("EU Strategic Agenda for 2019-2024" 2019). The same agenda directs the EU to continue support for democracy and human rights promotion in the world.

(ii) examining the nature of this *knowledge*, and (iii) demonstrating how *knowledge production* can be a political act.

When reviewing European standards in the context of human rights, a specific focus is set on penological[15] knowledge. European governance of penological knowledge production is an interesting subject which requires scrupulous examination. There are number of actors participating in the production of such knowledge, groups facilitating discussions of penological standards, and bodies codifying it on a legal level. However, due to division of tasks, that is to say, between the EU and the CoE, these actors predominantly inhabit the CoE space. This particular knowledge space is going to be under a special scrutiny.

Structure of the paper

As we are getting to know troubled waters of European penological norms, the current article attempts to situate itself within several clusters of research through which this topic has been studied. Firstly, the theoretical background is discussed with reference to the achievements of the IR field in studying norms and standards. Secondly, a focused literature review reveals the state of the art of penological knowledge studies. In doing so, the paper locates European penological governance in the world with multiple prison systems management. This section also discusses interaction of the European organizations with the South Caucasus in the matters of prison management. Thirdly, a brief account debates European prison norm/standard-making and the role of the South Caucasus in this process. Finally, the paper concludes with an observation on

[15] Penology is commonly regarded as a sub-discipline of criminology which studies prison management and philosophies of fair punishment for a committed crime.

the European standards in penitentiary systems and importance of socio-spatial contexts in its making.

Theoretical background

For many, it is almost uncomfortable to talk about importance of norms in international relations.[16] Decades-old IR jargon includes terms such as *anarchy, human nature, state of war, survival, national interests,* and *(historical) continuity*. Abundance of such terms is perhaps understandable due to the inception of IR as an independent discipline that is strongly tied to historical methods of knowledge discovery (e.g. Carr and Cox (2001/1939), Morgenthau and Thompson (1993/1948)). In short, the foundations of IR were initially meant to identify and explain the causes of war.

The limit of the methodological bases underlying conventional theories of IR, leaves no space for norms to be incorporated into analyses of modern international relations. If norms do matter in global politics, they are rather perceived as (i) a temporary occurrence, or simply (ii) an exercise of indirect domination[17] involving different type of enforcement (e.g. soft or smart power[18]). A positivist attitude of the orthodox camp ignoring societal (Haggard & Simmons 1987) and other dimensions of international politics fell short to stay relevant in academic circles paving its way into the 'world of practice' (e.g. think tanks, advisors to statesmen, foreign affairs experts etc.).

[16] Here, a distinction is made between *'international relations (IR)'* as a discipline and *'international relations'* as practical conduct of world politics.

[17] Primarily coerced through international institutions. See, for instance, Mearsheimer, J. J. 1994. "The false promise of international institutions." *International Security*, *19*(3), 5–49.

[18] For account on 'soft power' see Nye, J. S. 1990. "Soft power." *Foreign Policy*, (80), 153–171. The concept of 'smart power' is a contested terminology seen as a combination of both hard and soft power strategies.

In contrast, a critical portion of IR based on foundations of post-positivist scholarship, broke the chains of *methodological nationalism,*[19] *statism,*[20] *and agent-structure problematique,*[21] all of which are strongly rooted in IR, to become inclusive with regard to the actors of international politics, and, thus, began to consider multi-faceted issues of world affairs such as global governance, globalization, identity, nationalism, religion, and so forth. The theoretical background of this paper examines and benefits from this particular group of IR theories.

IR theories on norms and standards – an ontological perspective

International system and regimes

The institutionalization of international behaviour as an empirical evidence has been noticed by the proponents of *international regime theory.*[22] In his seminal work, Krasner (1982, 185) defines

[19] Rejection of nation-states as the sole unitary actors in global politics. For details see Wimmer, A., & Glick Schiller, N. 2002. "Methodological nationalism and beyond: Nation–state building, migration and the social sciences." *Global Networks*, *2*(4), 301–334.

[20] Assumption that all polities possess the same internal political structure. This concept was elaborated in education studies, particularly, globalisation of education policy. For more information see Robertson, S., & Dale, R. 2008. "Researching education in a globalising era: Beyond methodological nationalism, methodological statism, methodological educationism and spatial fetishism." In *The production of educational knowledge in the global era*. Brill Sense.

[21] This debate, also referred as 'micro and macro' levels problem, discusses whether an agent constructs a structure or the structure itself determines the actions of an agent. See a constructivist critique by Wendt, A. E. 1987. "The agent-structure problem in international relations theory." *International Organization*, *41*(3), 335–370.

[22] For an elaborated and detailed literature review and critique see Haggard and Simmons (1987).

a regime as consisting of *'implicit or explicit principles, norms, rules and decision-making procedures around which actors' expectations converge in a given area of international relations'*. Explanations as to why regimes rise and fall are rather dependent on the perspective one chooses to adopt. For instance, state-centric interpreters of international regime theory rely on *functionalist, structural,* and *game-theoretic* approaches. *Functionalists* see the state as a rational actor which attempts to realize its national interests by adhering to a regime. As regimes provide 'club goods' instead of 'public goods', states see incentives in engaging cooperative ventures (Keohane 1984). *Structuralists*, on the other hand, consider regimes a by-product of the international system. Advocates of the structuralist view are well known in IR scholarship for their *hegemonic stability theory* (see Keohane and Nye (1973)). Lastly, a *game-theoretic* lens offers an understanding of regime inception and international compliance in a system characterized by the absence of an authority and complete anarchy through studies of negotiation and bargain among states (depending on the *game environment*, several factors influence these interactions, including technological and economic conditions, transnational relations, and domestic politics). To conclude, this side of aisle in international regime theory regards norms not as an exogeneous factor influencing state behaviour but rather as a sort of a means of sustaining power, or simply abiding by it to survive in a chaotic international system.

The closest international regime theory has come to deliberating norms, rules, and beliefs as exogeneous elements is when authors have considered these topics from a *cognitive* angle. A *cognitivist* research agenda, which argues that there is no constant 'national interest' and 'no optimal regime' (E. B. Haas 1982), sees

international regimes being conditioned by ideological formulations and consensual knowledge.

With the exception of the cognitivist angle of international regime theory, the 'normative' turn in IR[23] that occurred in the late 1980s has been described as a static approach. Recognition of norms in global politics by international regime theoreticians did not go beyond historical timeframes explaining an already stable world. This particular criticism by Finnemore and Sikkink (1998) was presented with references to successful examples of political change, such as European integration and decolonization, which international regime theory was having difficulties explaining. Although norms were acknowledged in IR, their utility was still assessed within rational logic of state's behaviour buzzwords, among which are *utility maximization, economic methods, the prisoner's dilemma,* and *stag hunt*.

Additionally, both Finnemore and Sikkink (1998, 891) propose a conceptual definition of a *norm* as *'a standard of appropriate behavior for actors with a given identity'*. The authors draw a parallel between constructivists' (political science) *norms* and sociology's *institutions*, where the former can be defined as a *'single standard of behaviour'* and the latter an *'aggregation of practices and rules'*. In doing so, they divorce norms from other adjacent meanings, categorize them, expose their socially constructed nature, and propose a *'life cycle'* that elucidates their inception, development, and internalization. To note, in numerous cases, international norms were once domestic ones: For example, campaigns focused on women's right to vote within several nations eventually spread globally, leading to women's suffrage being accepted as an international norm. The research of Finnemore and

[23] Also referred as 'ideational' turn.

Sikkink (1998) represented an important step forward in studying norms in international politics: (i) They acknowledged the role of non-state actors (such as socio-political movements), and (ii) drew attention to interpretative and cognitive dimensions (the famous *'norms turn into norms if they are recognised as such'* thesis).

Human agency and knowledge control

As IR was casting off its conventional jargon, the creators of the *epistemic communities theory* performed a successful synthesis of positivist-empirical and relativist interpretive phenomenology (Adler & Haas 1992; P. M. Haas 1992). While they stated that their research was not focused on developing a general theory of IR, the authors proposed a different perspective on questions of change in world politics. This strand of literature focuses on attempting to find a middle ground between rational explanations and reflective institutional approaches. In doing so, it explains sources of not only interests but also institutions, norms, and practices. The authors scrutinize epistemic communities in a way that it puts human agency at the intersection of systemic conditions, knowledge, and national actions (P. M. Haas 1992, 2). One might wonder how human agency appears in world politics. They argue that state officials/authorities (both on a national and international level) turn to these communities – a network of knowledge-based experts[24]– in times of uncertainty to understand, frame, and respond to certain challenges. In fact, the importance and visibility of epistemic communities arise at the precise moments when control over

[24] *'A network of professionals with recognised expertise and competence in a particular domain and an authoritative claim to policy-relevant knowledge within this domain or issue-area'* (P. M. Haas 1992). To illustrate, economists as an aggregate group constitutes a profession, yet, a specific portion within it – such as Keynesians, neo-Marxists, and proponents of Islamic economics – might be identified as an epistemic community.

information and knowledge turns into the power to define, interpret, and affect the course of international interactions. Although authors choose epistemic communities as a unit of analysis and discuss their role in international policy coordination (e.g. styles of policymaking, policy changes, policymakers' reasoning), the question of norms, and eventually the standards that arise out of them, appears when shared sets of normative beliefs translate into state interests and/or the *'creation and maintenance of social institutions that guide international behaviour'* (P. M. Haas 1992, 4).

The epistemic community approach has wisely shielded itself from waves of criticism by rejecting the logic of *'grand theories'*, which holds that a single theoretical design can explain all aspects of international politics. Indeed, a multiplicity of actors and an interrelated world, both on the horizontal and vertical levels,[25] leave no space for deliberation of an all-encompassing explanatory model. Although the concept of epistemic communities is useful when attempting to understand changes in international politics, it also falls short to recognize the role of learning processes among governmental apparatuses. It is not only trans/national networks of knowledge-based specialists who come together to deliberate and produce a consensual knowledge to be subsequently translated into inter/national action but also transnational networks of authorities, government officials, and practitioners who share best practices, exchange ideas, and design common policies (Slaughter 2005) – which have been referred to as communities of practice[26] (Lave,

[25] This article uses terminology of Slaughter (2005) on global governance networks.

[26] To provide a distinction between these two terms, a group of anthropologists working within the domain of European legal anthropology can be identified as an *epistemic community*. Yet technocrats, legislators, and employees of European

Wenger, et al. 1991). In fact, these two communities go hand in hand while influencing each other during the course of interactions. To emphasize, epistemic communities are conditioned not only by government networks but also in an ongoing process of negotiating and renegotiating consensual knowledge with their members.

A more recent strand of literature initiated an innovative approach to international relations and politics of standardization processes (i.e. benchmarking), where normative values are transformed into numerical representations (Broome and Quirk 2015). This research agenda elaborates on the benchmarking processes where certain standards are turned into tools of international surveillance that measure how well states are governed. According to the authors, global benchmarking, as a popular mode of transnational governance, involves four different types of practices: (i) statecraft, (ii) international governance, (iii) private market governance, and (iv) transnational advocacy. Across these practices, which measure the *rule of law, level of corruption, credit score*, and so forth, states find themselves in an environment where they compete with their peers to demonstrate superior performance, their performance is recorded within the historical course of time, and they are being affected by their position in certain listings. This observation by Broome and Quirk (2015) was acknowledged as *'governance at a distance'*.

A poststructural take on norms and standards in IR

While presenting major IR approaches to norms and standards and their interplay in world politics, the current paper considered various social ontologies: We looked at international system, states,

bodies practicing law in their everyday professional life will be a *community of practice*.

and non-state actors, among which were social movements, epistemic communities, communities of practice, and global benchmarks. All of these tried to prioritize one agency over another in their inquiries. Poststructuralism takes one further, to a flat ontology. While acknowledging that in certain contexts a hierarchy of social constructions takes place, this paradigm rejects the primacy of actors in knowledge production and meaning making in the world. To clarify, while an epistemic community might construct reality based on consensual knowledge, a community of practice can exchange ideas to replicate certain knowledge in some socio-political spaces, and global benchmarks might indeed exert an indirect power as a tool for 'distance governance', poststructuralism invites one to become more critical by moving into the knowledge domain and understand *constructed reality* by investigating knowledge itself. Knowledge production is conditioned by so many variables[27] that isolating one actor and deliberating on a socio-political change based on its actions is not sufficient to grasp the whole picture.

The conception of knowledge proposed by Deleuze and Guattari (1987) holds that any inception of knowledge can be a subject to many influences. While problematizing the idea of hierarchic and binary knowledge representation, in which *'True'* and *'False'* are the main qualifiers in construction of certain knowledge, the authors devised the theory of *rhizomatics* where knowledge is

[27] For instance, as governance of public domain grew technical (P. M. Haas 1992) where more areas of public policy moved from politics to expertise (Brooks 1965) – that is *technocratisation of bureaucracies* –, a demand for epistemic communities raised not only due to technical and scientific discoveries but was also conditioned by the physical environment within which states inhabit. Perhaps, the period of decolonisation spread around the world new states with emulated Western governance practices. Yet, disaster management, for instance, of Far Eastern nations is way more sophisticated than that of their Western colleagues due to their demanding natural environment.

subject to multiple entry points. When adopting such an approach, knowledge is both *contextual* and *relative*, primarily because *True* beliefs were empirically observed to be contested throughout time and to have been misperceived by different entities. Thus, the process of determining the *Truth* is more of a phenomenological quest rather than something that is determined by *a priori* concepts (Popke 2003).

Poststructuralism leads one to the *'knowledge production as a political participation and political act'* thesis. Actors, who participate in knowledge production through discursive practices, are constituting a knowledge and likewise are being constituted by it. The current research, without going in-depth of discourse studies, tries to find a common ground between discourse and knowledge production. For this purpose, a portion of the *acquis européen*, namely European penology, is studied as a knowledge space where discursive practices meet to construct it. Without going into ontological delimitations to identify the actors participating in its construction, this study considers European penological meaning making to which Europe refers as the right approach to designing a prison and punishment system and offers to the world as a golden standard that nations are encouraged to attain.

Penological knowledge production: Global level and European norms and standards governance

Global Scale

On April 25th, 2020, Saudi Arabia abolished flogging and capital punishment for juveniles as part of its ongoing commitment to reforms and modernization. The Supreme Court of the country labelled it as an attempt on the part of authorities to *'bring the*

kingdom into line with international human rights norms against corporal punishment' (Middle East Eye 2020). While *state-centric* advocates of IR would rightly discuss the conditions within which Saudi Arabia was coerced to follow international norms, and proponents of *epistemic communities* would bring into this conversation the role of experts, both inside and outside of the Saudi government, in framing its reforms, thus, the country's international behaviour, poststructuralist philosophy takes one to the core, namely *international human right norms*.

Currently, when the term *'international human rights norms'* is uttered, a reference is made to a body of laws, norms, and standards constituting international human rights law – a knowledge space where certain norms are (re-)negotiated through discursive practices and codified in some sort of a legal agreement. In numerous cases, the United Nations (UN) has served to facilitate and encourage such interactions. There is a plethora of legal documents on prisoners and prison conditions that regulate the rights of a detained individual on a global scale, including treaties,[28] guidelines, rules, standards and other international texts.[29] Additional and complementary legal instruments vary based on the jurisdictions within which they are enforced. One of these jurisdictions, the focus of this study, is the European regional system of human rights protection.

[28] The most fundamentals ones are the *International Covenant on Civil and Political Rights* and *the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*.

[29] *United Nations Standard Minimum Rules for the Treatment of Prisoners* or *Standard Minimum Rules*, in short, adopted in 1957. A revision was made in 2015 and was adopted as 'Nelson Mandela Rules'; *United Nations Standard Minimum Rules for the Administration of Juvenile Justice*, also referred as the 'Beijing Rules'; *United Nations Standard Minimum Rules for Non-custodial Measures* (the 'Tokyo Rules'); *United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders* ('the Bangkok Rules') and so forth.

Although, there are numerous connectivities between the EU, the CoE and other organizations within and outside European perimeter, abundant research[30] has suggested that the system of human rights in Europe, both due to contextual circumstances and the political reasons behind its inception, has distinct contours when compared with other knowledge systems. As is demonstrated in the following sections, several institutions working within the domain of human rights in Europe have contributed to the development of various norms and standards regulating the lives of prisoners and the conditions under which they are detained.

European scale: inception of the European penology and its making

In 1973, CoE, with only 15 members, decided that the UN's Standard Minimum Rules for the Treatment of Prisoners should be translated into a regional context with specifically European perspective. This decision resulted in the adoption of Resolution (73) 5, titled *European Standard Minimum Rules for the Treatment of Prisoners* (Coyle 2006). This normative introduction instigated a series of deliberations within the penological domain and led to the codifications, establishment, and involvement of separate institutions: The European Prison Rules were adopted in 1987, the Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) was founded through a convention

[30] For historical account of human rights development in Europe see Merrills, J. G., & Robertson, A. H. 2001. *Human rights in Europe: A study of the European Convention on Human Rights*. Manchester University Press; for a study on invention and institutionalisation of European human rights system by a collaborative work of lawyers and politicians see Madsen, M. R. 2007. "From Cold War instrument to supreme European court: The European Court of Human Rights at the crossroads of international and national law and politics." *Law & Social Inquiry*, *32*(1), 137–159.

in 1990, the European Court of Human Rights[31] (ECtHR) witnessed a sharp demand for its involvement in prison matters in 1990s and 2000s, the Council for Penological Co-operation (PC-CP) was set up in 1985 as an advisory body to the European Committee on Crime Problems, and so forth.

A degree of dynamism in European penology has led to the creation of an ecosystem of bodies and working groups (experts, policy makers, etc.). These institutions started to discuss custodial and non-custodial measures in the European context while shaping and interpreting concepts and limits of their application. We shall go one by one.

The involvement of the ECtHR in into prison matters began with its landmark judgment on *Golder vs. UK* (February, 1975), where the Court had to explicitly state that prisoners do not enjoy less protection than their fellow citizens outside of the bars (Daems & Robert 2017). Consequently, the ECtHR started to recognize increasing levels of higher standards in European penology and had to adjust its legal interpretations of certain categories accordingly. For example, the jurisprudence of the Court states that an act which was classified as *'inhuman and degrading treatment'* may now amount to *'torture'* under the newly adopted higher standards[32] (Murdoch, 2006). In general, meaning making by the Court concerning the concepts of *'torture', 'degrading',* and *'inhuman'* with regards to Article 3 of the ECHR has been rather vigorous. Indeed, in one case, the Court had to discuss the boundaries between institutional/personal hygiene and a degrading method of

[31] The scope and application of the European Convention on Human Rights with regards to detained person was first shaped by the European Commission on Human Rights until its abolition in 1999. The mission was relayed to the European Court of Human Rights

[32] *Selmouni vs. France*, No. 25803/94, paragraph 101.

punishment (Coyle 2006): The judgement[33] established that shaving a prisoner's head as a matter of routine or disciplinary measure should be characterized as a degrading act within the scope of Article 3.

The higher standards of protection to which the Court was referring is partially a result of the continuous preventive work of the CPT. This Committee, having been established in 1990, has become an effective body which not only monitors how states abide by the set standards[34] but also gathers further information on prison conditions on a member-state level[35] (Daems & Robert 2017). These reports subsequently served as valuable material for the entire European penological ecosystem, as deliberation on trends based on patterns of information about national detention facilities cultivate new norms or, to use the term employed by the Court, higher standards. In a sense, the CPT monitors prisons in Europe, gathers information, and feeds it into the system.

Another body participating in knowledge production within the European penological ecosystem is the PC-CP. This advisory working group provides authorities with guidance for prison reforms, discusses developments and *'best practices'* in penology,

[33] *Yankov vs. Bulgaria*, No. 39084/97.

[34] The history of establishing this particular Committee is entangled within the network of other actors. To be specific, the stimulus to create a regional body which will be monitoring prisons came from the work of the International Committee of the Red Cross (ICRC). The ICRC pioneered this idea and has been quite an experienced and successful institution with regards to prison monitoring. The proposal to establish a European equivalent came from the Swiss Committee against Torture and the International Commission of Jurists (Murdoch 2006).

[35] After each visit to a member state, the CPT produces a report with detailed information on observed conditions on the places of detention. This report is transmitted to the authorities of the country where the visit took place. Later on, corresponding authorities have to respond to this report. The reports can become public only by the permission of concerning state.

and issues annual statistics in collaboration with the University of Lausanne (Switzerland) revealing problems with penitentiary institutions across political Europe (Council for Penological Co-operation 2020a). Moreover, this particular body is also responsible for drafting Committee of Ministers' (CoM) recommendations on prison matters and organizing a CoE conference of directors of prison and probation services on an annual basis. In fact, the topics of discussion during the 2020 and 2021 conferences include (i) assisting national authorities in the implementation of guidelines with respect to radicalization and violent extremism, (ii) considering whether there is a need to update those guidelines to include returning foreign fighters and right-wing extremists, (iii) addressing the issue of terrorist narratives in prisons, (iv) deliberating on the necessity for CoE standards for the management of offenders with mental health disorders, and (v) examining the application of new technologies in prisons and so on (Council for Penological Co-operation 2020b).

These institutions are just a fragment of the entire European penological network. Despite the fact that they all belong to the same judicio-political space, namely the CoE, they are in constant discursive dialogue, in which they negotiate and renegotiate concepts, norms, and standards. Consequently, these discursive practices contribute to the European penological knowledge space, where distinctive prison norms and standards are constructed and codified. Having this in mind, we shall be looking at a small fraction of interaction between the institutions of the EU, CoE, and the authorities of the South Caucasus.

Interaction of judicio-political spaces: the EU, CoE, and the South Caucasus

An analysis of norm diffusion with regards to penitentiary institutions between European and South Caucasian regions should be done while categorizing them according to their power intensity and technique: Based on Slaughter's (2005) *global government networks* hypothesis, one might categorize them on the form of *rapport*, i.e., vertical and horizontal formulae of political relationship. Essentially, the author argues that in the twenty-first century networks of government officials exchange information (e.g. best practices, certain policies/techniques) and coordinate their activities to tackle common problems.[36] On one hand, these exchanges have been observed to be on a more voluntary tone where rapport is *horizontal*, that is to say, "links between counterpart national officials across borders" (Slaughter 2005, 13) are based on rapprochement and lack an imposition. On the other hand, a coercive tone, so to say, was identified in government networks "between national government officials and their supranational counterparts" (Slaughter 2005, 13) where power is more visible and exercised.

Having this typology in mind, interaction of the EU, CoE, and the South Caucasus can be divided into following categories:

1. Horizontal:
    a. EU and CoE joint programmes;
    b. Conferences, workshops, and trainings organized by the CoE.
2. Vertical:

[36] In this chapter, these networks of government officials were also introduced as *communities of practice*. The latter is more of a sociological definition.

a. EU's association agreements and conditionality;
b. ECtHR and its judgements;
c. CPT and its preventive mechanisms.

Each of these dimensions will be briefly revisited and penitentiary related projects will be examined with regards to three South Caucasian nations.

Horizontal dimension

This particular dimension can be observed in two European political spaces: the EU and the CoE. The former deliberates with a country on an equal and bilateral level, the latter is more a space where states meet to learn from each other. Although, horizontality of relations is visible to a naked eye, this dimension requires rather a meticulous study to identify a learning process. Since, horizontality means voluntary actions, it is up to a state official and an institutional reality, within s/he operate, to enact a learned norm.

As a modus operandi, the EU employs twinning projects as a norm diffusion instrument. While being a specific mechanism used by the Union for institutional capacity building between the public administration entity of the EU member state and the partner country, twinning was notoriously adopted with not only the so-called *candidate countries* but also with the countries of the neighbourhood policy. Yet, when it comes to penitentiary institutions reform, the Union has implemented this instrument in few cases. As per the penitentiary of the South Caucasus, twinning projects were not used at all. One can speculate that the EU did not manage to standardize prison systems and it left a huge margin to countries to accommodate their own local socio-political conditions.

However, the EU did not abandon prison systems of the South Caucasus entirely. An interesting cooperation has occurred between the EU and CoE. As Eastern Partnership (EaP) initiative was developing within the European neighbourhood policy, in April 2014, both the EU and CoE agreed on cooperation activities with Armenia, Azerbaijan, Georgia, Republic of Moldova, Ukraine, and Belarus. This collaboration implemented under "Programmatic Cooperation Framework" was renamed into "Partnership for Good Governance" in 2017. The project with its two phases (PGG I for 2015-2018 and PGG II for 2019-2021) was co-funded by the EU and CoE and implemented entirely by the CoE. Perhaps, this is the only regional programme supported by the EU and implemented in the South Caucasus where the penitentiary system reform is singled out. With five priority themes, prison system reform is listed under "Ensuring Justice" and aimed to move the system from punitive logic to rehabilitative approach. Both the local authorities and their European counterparts identified following objectives to achieve the goal:

1. Support development of legislative framework and national policy in line with European standards to facilitate rehabilitation and better treatment of prisoners;
2. Strengthen capacity of national mechanisms for better monitoring and inspection of places of detention;
3. Encourage usage of community sanctions and measures as an alternative to imprisonment, and combat overcrowding in prisons.

There were only two projects implemented under the PGG in Armenia and Georgia, both directed at healthcare in prison systems (see Table 1).

Besides to the PGG framework, the EU collaborated with the CoE on three bilateral projects titled (i) “Further support to the penitentiary reform” I and II and (ii) “Human rights and healthcare in prisons and other closed institutions” implemented in Azerbaijan and Georgia respectively.

In general, looking at the projects implemented in the region three areas are repeatedly identified and addressed: prison management, healthcare in prisons, and rehabilitation of offenders. This implies that Armenia, Azerbaijan and Georgia, countries moving from (post)-Soviet prison practices towards European norms, had difficulties to readjust to modern management systems. The instances of malpractice in prison systems and other closed institutions identified in CPT reports and ECtHR judgements were the main driving force to design and implement abovementioned projects.

	Armenia	Azerbaijan	Georgia
EU and CoE (under Partnership for Good Governance framework)	Strengthening healthcare and human rights protection in prisons (2015-2018)		Human rights and healthcare in prisons and other closed institutions II (2016-2018)
EU and CoE (joint projects)		1. Further support to the penitentiary reform (2016-2018) 2. Further support to the penitentiary reform (2018-2021)	Human rights and healthcare in prisons and other closed institutions (2013-2016)
CoE	1. Reducing the use of custodial sentences in line with European standards (2013-2014) 2. Support to the establishment of probation service (2014-2017)		Improving mental healthcare of persons detained in Georgia (2018-2019)

Table 1. EU and CoE projects of penitentiary system reforms in the South Caucasus.

Vertical dimension

Within this particular category and on EU level, association agreement and exertion of conditionality might be observed only in the case of Georgia. Although, the wording of the agreement signed in 2014 and entered into force in 2016 does not explicitly mention penitentiary institutions, the vague phrasing "respect for human rights and fundamental freedoms" was accommodating enough to include prisons into the list of government institutions needing a reform. To illustrate, the Annual Action Programme for 2018 clearly states that penitentiary system is where "reform is needed, especially as regards working and training opportunities for prisoners" (Action Document 2018). Although the 2018 Action Programme was aiming education rights of the prisoners, these aims were changing depending on the needs identified by European and local institutions. For instance, the "EU4 Justice Penitentiary and Probation Support Project" which was instrumental in reforming Georgian penitentiary system from 2016 to 2020 targeted (i) human resource management, (ii) organizational structure, (iii) case management and involvement of individual approach into sentence planning, needs and risk management and so forth.

As per institutions of the CoE, the ECtHR is a vivid example of coercive power where enforcement of European prison norms on the South Caucasus takes place through legal channels. Since involvement of the Court into the penitentiary matters is performed mainly within the scope of the Article 3 of the ECHR, the data clearly states that share of these cases against all submissions made before the Court under various Articles is higher in post-Soviet/Communist countries (see Fig, 1). Nations of our concern, namely Georgia with almost 30 per cent, Azerbaijan with nearly 20 per cent, and Armenia with around 15 per cent of overall

submissions of legal cases argue that prohibition of torture, inhuman and degrading treatment was violated in predominantly[37] penitentiary institutions. Especially, Georgia and Azerbaijan being among ten states with highest share, one can argue that the Court is playing a decisive role in enforcing European prison norms onto these nations and, perhaps, establishing new norms on the example of Georgian and Azerbaijani detention facilities.

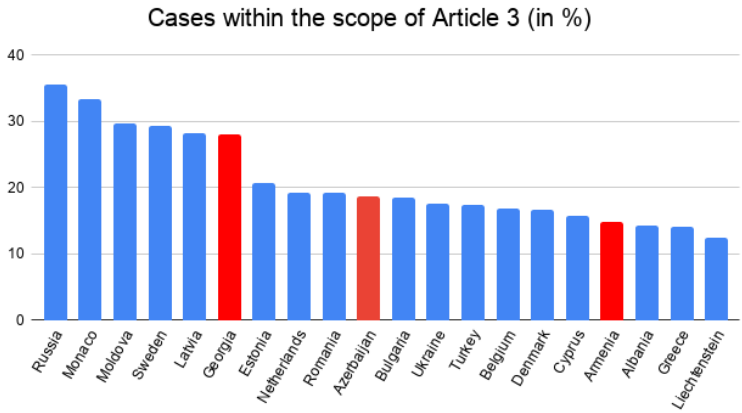

Fig. 1

Twenty member-states of the CoE with highest percentage of legal cases filed under Article 3 before the ECtHR (until September 2020).

Another example of a vertical interaction might be considered activities of the CPT. This Committee organizes visits to places of detention and holds a right to move inside these spaces without any restriction. The CPT visits not only prisons but also police stations, juvenile detention facilities, immigrant detention centres,

[37] Although majority of cases brought before the Court under Article 3 relates to the rights of prisoners/detainees, recent legal developments and socio-political context in several European countries (e.g. Russia) illustrate that definition of torture, inhuman and degrading treatment might be expanded to include domestic violence.

psychiatric hospitals and social care homes. Having visited these particular places, the Committee produces a report and requests a response from authorities to all issues raised in this document. Nonetheless, coercive power of the CPT comes from paragraph 2 of the Article 10 of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment – i.e. public denunciation. According to this document, should the corresponding state not comply with recommendations of the Committee and improve situation in a given penitentiary institution and/or case, the CPT has the right to publicly condemn the country for inaction and poor management of detention facility/case. This in turn, facilitates the work/position of civil society institutions, international organizations and separate states or groups of states who can use these instances of human rights abuses in penitentiary settings in their political agenda.

Different research strands approach these horizontal and vertical interactions - where norm diffusion takes place in various forms - predominantly from power politics perspective.[38] Although they are useful to understand how power is employed to enforce a norm in international politics, they also lead to a discursive practice where Europe is designing its own norms and standards to share with the rest of the world. That is to say, countries such as Armenia, Azerbaijan, Georgia stand at the receiving end of this interaction with no participation whatsoever. In fact, this discursive practice and framing constructs a political imagination where European neighbourhood is offered to accept certain norms and standards so as to *Europeanize* and stand on the side of the *civilized* world. What

[38] There are no specific papers discussing prison norms and power politics *per se*, yet an assumption may be inferred from assessments of the EU's European neighbourhood policy: for hegemonic argument see Haukkala (2008) and his piece "The European Union as a regional normative hegemon: the case of European neighbourhood policy". *Europe-Asia Studies*, vol. 60, no. 9, 1601-1602.

majority of these research agendas forget is that the inception and making of European norms sometimes start way far from the habitual Europe we know of. To counter this discourse and narratives that it harbours, one needs to have a more critical look at the European prison norms and standards production. To do that, the South Caucasus will be used as a region where specific European prison norms have been instigated or bolstered.

South Caucasus and the making of the European prison norms and standards

Production of penitentiary standards do not appear out of thin air. If a norm is codified, and, thus, being considered a commonly accepted standard, it means that it went through a series of considerations and deliberations. Primary reason why a certain norm/standard is codified is rather dependent on the *spatio-temporal context*. For instance, the decision of the ECtHR to label a habitual hygienic practice (widely used in the post-Soviet/Communist societies) as a degrading treatment happened due to the identification of its misuse in a Bulgarian prison. Or PC-CP's agenda for 2020 and 2021 conference on radicalization and terroristic narratives in prison settings tells us about a new population identified among prisoners - Islamic State of Iraq and the Levant's (ISIS) foreign fighters and rise of right-wing extremists in European prisons. Another example can be PC-CP's heavy involvement into the matters of foreign prisoners and push for a recommendation by the CoM: Increasing population of foreign nationals in European prisons due to intensified internal migration in the continent as well as (ir)regular immigrants arriving in Europe pressured the CoM to accept *Recommendation (1984) 12* formally updated in 2012 with *Recommendation (2012) 12 concerning foreign prisoners*.

European prison norms are full of these examples. Each of these norms/standards require careful examination so as to identify their genealogy and rationale of their inception. Having considered the vast research agenda that might arise out of it, this research is looking at a very specific region: The South Caucasus and its participation in the making of the European prison norms. To illustrate this participation, one needs to look at the case-law of the ECtHR and how empirical evidences from Armenia, Azerbaijan, and Georgia has shaped European penology.

ECtHR: a norm-making process

Participation of the CPT and PC-CP – or any other institutions active in the domain of penitentiary systems – in European prison norm-making is rather straightforward. The more interesting, however, is to observe the ECtHR in the prison matters. The case-law of the Court tells us about judgments on individual cases and specific standards arose or reinforced from them. Anlysing these cases might help to see how norms are defined vis-à-vis specific socio-spatial contexts.

For instance, standardization of record-keeping while enforcing detention was greatly influenced by the judgement *Mushegh Saghatelyan vs. Armenia*.[39] The Court identified that establishing lawfulness of an arrest without proper recording of time, date, location of detention as well as the name of the detainee, the reason for his/her detention, and the person carrying this process cannot be well established. This is the only case from the South Caucasus which managed to influence standards of conditions of imprisonment.

[39] Mushegh Saghatelyan vs. Armenia, 2018, paragraph 165.

The greater participation and influence of the South Caucasus can be witnessed on healthcare provisions in prison settings. Especially, judgment *Mustafayev vs. Azerbaijan*[40] reinforced the duty of the state to protect wellbeing of individuals in custody. This provision creates deriving obligations and, thus, states are being considered liable for any injuries suffered in detention. An important and fundamental judgement such as this forces the authorities to create infrastructure, provide better and adequate health services within the penitentiary systems. The Court was also clear about the "adequacy" of a health provision: In *Hummatov vs. Azerbaijan*[41] it was concluded that mere screening by a healthcare professional and provision of some sort of treatment cannot qualify alone for the definition of "adequate" medical assistance. Based on the findings in *Yunusova and Yunusov vs. Azerbaijan*[42] case, the Strasbourg Court was also clear that having a disease, even in its the most difficult form, is not enough to release a detainee or transfer to a public hospital. Yet, the healthcare provision must be sufficient enough to ensure a condition compatible with human dignity, free of distress, hardship and wellbeing and health of detainees are secured.

In the judgement *Jeladze vs. Georgia*,[43] the Court, in fact, condemned a practice that was a Soviet legacy, i.e. strict division between prison and public health. Although, ECtHR did not explicitly mention the reasons for this division in Georgia, a three-year delay of screening for an infectious disease and the prison's healthcare detachment from overall public health infrastructure of

[40] Mustafayev vs. Azerbaijan, 2017, paragraph 53.
[41] Hummatov vs. Azerbaijan, 2007, paragraph 116.
[42] Yunusova and Yunusov vs. Azerbaijan, 2016, paragraph 138.
[43] Jeladze v. Georgia, 2012, paragraph 44.

the country gave the Court a solid basis to qualify this inaction as a negligence and a violation of Article 3. The ECtHR stressed that given the consent of detainees, they should have access to routine and free tests for transmissible diseases.

As per the disciplinary measure norms, in *Ramishvili and Kokhreidze vs. Georgia* and *Rzakhanov vs. Azerbaijan*, the Court identified conditions and limits of solitary confinement as a method of punishment. Misuse of this method forced the Court to consider proportionality principle where personality of the detainee, his wrongdoing, and first or recurrent breach of discipline should be taken into account. Moreover, solitary confinement cannot be used for punishment for complaints sent to authorities. In a sense, these judgements enforced penitentiary institutions to consider certain prerequisites to apply confinement as a disciplinary measure and not violate the norm prohibiting torture, inhuman and degrading treatment. In turn, it meant that another European standard was expected to be employed - an individual approach to case management and usage of need and risk assessment techniques.

Conclusion

Europe derives its power from norms and standards rather than military equipment. Its normative basis is formed as a result of complex relationships within the boundaries of political Europe and interaction with the outside 'world'. A dynamic knowledge production on European penology is an example of how the process of norm-making is taking place on this continent. By looking at this particular example, the research before you tried to locate the source of European power beyond the use of conventional techniques of influence such as economic sanctions, conditionality

in bilateral and multilateral relations, and practice of soft power, such as culture, education, and Europe-branding.

Firstly, this paper argued that there is no monolithic Europe. Previous uniform type analyses of Europe through the prism of the EU and its actions are not sufficient to explain the normative power of this postmodern political aggregate. In fact, there is no primary actor as such except for the normative foundations based on which power is exercised – the *acquis européen*. This knowledge base is constructed by numerous European institutions and, in turn, has constructed the Europe that exists today.

Secondly, countries which are vocal about the European norms and their cultural incompatibility are actively participating in European norm-making processes, both directly and indirectly. For instance, the current research elucidated how cases brought before the ECtHR allowed European penology to determine the boundaries of human treatment in a prison setting. While there is nothing to be enthusiastic about the maltreatment of inmates in the South Caucasian prisons, these cases became a valuable source by which Europe can understand how to handle prisons and ensure human rights on this diverse continent.

Thirdly, this study considered how the meaning-making process in European penology largely depends on empirical evidence coming from the 'field': (i) relationship of record-keeping, lawfulness of an arrest, and inhuman treatment; (ii) definition of adequate healthcare services; (iii) the boundary between the prison and public health; and (iv) misuse of a disciplinary measure. All these evidence from the 'field' was acquired by the European penology, where systematic and in-depth studies of them resulted in European standards, norms, and best and evidence-informed practices.

References

Adler, E., & Haas, P. M. (1992). "Conclusion: Epistemic communities, world order, and the creation of a reflective research program." *International Organization*, *46*(1), 367–390.

Barnett, M., & Duvall, R. (2005). "Power in international politics." *International Organization*, *59*(1), 39–75.

Bartl, M., & Irion, K. (2017). *The Japan EU Economic Partnership Agreement: Flows of Personal Data to the Land of the Rising Sun*. Available at SSRN 3099390.

Brooks, H. (1965). "Scientific concepts and cultural change." *Daedalus*, 66–83.

Broome, A., & Quirk, J. (2015). "Governing the world at a distance: The practice of global benchmarking." *Review of International Studies*, *41*(5), 819–841.

Carr, E. H., & Cox, M. (2001/1939). *The twenty years' crisis, 1919-1939: An introduction to the study of international relations* (reissued with a new introduction and additional material). Palgrave.

Council for Penological Co-operation. (2020a). "Prisons and community, sanctions and measures." https://www.coe.int/en/web/prison/council-for-penologicalco-operation

Council for Penological Co-operation. (2020b). "Draft terms of reference (valid from january 2020 until december 2021)." https://rm.coe.int/090000168093c77d

Council of Europe. (2020). "Kazakhstan becomes GRECOs 50th Member State. Group of States against Corruption."

https://www.coe.int/en/web/greco/ home/newsroom/-/asset publisher/sCeIUhEJG5bw/content/kazakhstanbecomes-greco-s-50th-member-state

Coyle, A. (2006). "Revision of the European Prison Rules, a contextual report." *In European prison rules*. Council of Europe Publishing.

Daems, T., & Robert, L. (2017). "Introduction: From prisons in Europe to Europe in prisons." In *Europe in prisons*. Springer.

De Schutter, O. (2007). "The two Europes of human rights: The emerging division of tasks between the Council of Europe and the European Union in promoting human rights in Europe." *Columbia Journal of European Law*, *14*, 509.

Deleuze, G., & Guattari, F. (1987). *Capitalism and schizophrenia: A thousand plateaus.* Trans. Brian Massumi. Minneapolis: University of Minnesota Press.

Diez, T. (2005). "Constructing the Self and Changing Others: Reconsidering Normative Power Europe." *Millennium*, *33*(3), 613–636.

Eilstrup-Sangiovanni, M., & Hofmann, S. C. (2019). "Of the contemporary global order, crisis, and change." *Journal of European Public Policy*, 1–13.

Espeland, W. N., & Stevens, M. L. (2008). "A sociology of quantification." *European Journal of Sociology/Archives Européennes de Sociologie*, *49*(3), 401–436.

EU Strategic Agenda for 2019-2024. (2019). https://www.consilium.europa.eu/ en/eu-strategic-agenda-2019-2024/

Action Document for "Support for the Implementation of the EU-Georgia Association Agreement". (2018). Annex 3. ENI/2018/041-415. https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/eni_2018_041415_support_for_the_implementation_of_the_eu-georgia.pdf

European Commission. (2019). "Questions & Answers on the Japan adequacy decision. MEMO/19/422." https://ec.europa.eu/commission/presscorner/ detail/en/MEMO 19 _422

Finnemore, M., & Sikkink, K. (1998). "International norm dynamics and political change." *International Organization*, *52*(4), 887–917.

Grabbe, H. (2002). "European union conditionality and the acquis communautaire." *International Political Science Review*, *23*(3), 249–268.

Haas, E. B. (1982). "Words can hurt you; or, who said what to whom about regimes." *International Organization*, *36*(2), 207–243.

Haas, P. M. (1992). "Introduction: Epistemic communities and international policy coordination." *International Organization*, *46*(1), 1–35.

Haggard, S., & Simmons, B. A. (1987). "Theories of international regimes." *International Organization*, *41*(3), 491–517.

Haukkala, H. (2008). "The European Union as a regional normative hegemon: the case of European neighbourhood policy". *Europe-Asia Studies*, vol. 60, no. 9, 1601-1602.

Hyde-Price, A. (2006). "'Normative' power Europe: a realist critique." *Journal of European Public Policy*, *13*(2), 217–234.

Ikenberry, G. J. (2011). *Liberal Leviathan: The origins, crisis, and transformation of the American world order*. Princeton University Press.

Keohane, R. O. (1984). *After hegemony: Cooperation and discord in the world political economy*. Princeton University Press.

Keohane, R. O., & Nye, J. S. (1973). "Power and interdependence." *Survival, 15*(4), 158–165.

Krasner, S. D. (1982). "Structural causes and regime consequences: Regimes as intervening variables." *International Organization*, *36*(2), 185–205.

Lave, J., Wenger, E. Et al. (1991). *Situated learning: Legitimate peripheral participation*. Cambridge University Press.

Lavenex, S. (2014). "The power of functionalist extension: how EU rules travel." *Journal of European Public Policy*, *21*(6), 885–903.

Madsen, M. R. (2007). "From Cold War instrument to supreme European court: The European Court of Human Rights at the crossroads of international and national law and politics." *Law & Social Inquiry*, *32*(1), 137–159.

Manners, I. (2002). "Normative power Europe: a contradiction in terms?" *Journal of Common Market Studies*, *40*(2), 235–258.

Manners, I. (2006). "Normative power Europe reconsidered: beyond the crossroads." *Journal of European Public Policy*, *13*(2), 182–199.

Mearsheimer, J. J. (1994). "The false promise of international institutions." *International Security*, *19*(3), 5–49.

Merrills, J. G., & Robertson, A. H. (2001). *Human rights in Europe: A study of the European Convention on Human Rights*. Manchester University Press.

Middle East Eye. (2020). "Saudi Arabia courts abolish flogging as punishment." http: //www.middleeasteye.net/news/saudi-arabia-abolish-flogging-lashes-court

Morgenthau, H. J., & Thompson, K. W. (1993/1948). *Politics among nations: The struggle for power and peace*. McGraw-Hill.

Murdoch, J. (2006). *The treatment of prisoners: European standards*. Council of Europe.

Mutua, M. (2016). *Human rights standards: Hegemony, law, and politics*. SUNY Press.

Nye, J. S. (1990). "Soft power." *Foreign Policy*, (80), 153–171.

Pierson, P. (1996). "The path to European integration: a historical institutionalist analysis." *Comparative Political Studies*, *29*(2), 123–163.

Popke, E. J. (2003). "Poststructuralist ethics: Subjectivity, responsibility and the space of community." *Progress in Human Geography*, *27*(3), 298–316.

Power, M. (1997). *The audit society: Rituals of verification*. Oxford University Press.

Power, M. (2003). "Evaluating the audit explosion." *Law & Policy*, *25*(3), 185–202.

Pratchett, L., Lowndes, V. et al. (2004). *Developing democracy in Europe: an analytical summary of the Council of Europe's acquis* (Vol. 489). Council of Europe.

Robertson, S., & Dale, R. (2008). "Researching education in a globalising era: Beyond methodological nationalism, methodological statism, methodological educationism and spatial fetishism". In *The production of educational knowledge in the global era*. Brill Sense.

Smith, K. (2005). The Outsiders: The European Neighbourhood Policy. *International Affairs* (Royal Institute of International Affairs 1944-), 81(4), 757-773.

Schimmelfennig, F., & Sedelmeier, U. (2002). "Theorizing EU enlargement: research focus, hypotheses, and the state of research." *Journal of European Public Policy*, *9*(4), 500–528.

Sjursen, H. (2006). "The EU as a 'normative'power: how can this be?" *Journal of European Public Policy*, *13*(2), 235–251.

Slaughter, A.-M. (2005). *A new world order*. Princeton University Press.

Wendt, A. E. (1987). "The agent-structure problem in international relations theory." *International Organization*, *41*(3), 335–370.

Wimmer, A., & Glick Schiller, N. (2002). Methodological nationalism and beyond: Nation–state building, migration and the social sciences. *Global Networks*, *2*(4), 301–334.

Essay two

A corpus-driven introduction to European penology: Word-level frequency and keyword profiling.[44]

Introduction

Europe, as a postmodern aggregate, turned into a space where *regulatory* logic has penetrated all socio-political levels (Giandomenico 1994; Levi-Faur 2011). Various European institutions are either occupying and designing specific sectors within which they claim authority and legitimacy for the regulations they build/t, or there is a convergence bringing about an intensive collaboration. As a scholarly tradition, studies focus primarily on financial and other political dimensions of European regulatory regimes (Hertig 2000; Sturnm et al 2000). The current article will try to shed light on a lesser-known topic where a network of actors, be it organisations, institutions and, even, individuals at all levels, come together to organise and administer a specific sector - the penological system.

While looking at the penological system of Europe, one needs to consider a definition of regulatory regime for better understanding of interplay among actors and power politics standing behind it. The current paper sees the regulatory regime as a maintained and concentrated control by a public agent vested with an authoritative mandate in the name of societal interests (Selznik, 1985:363-364). Although there are certain limitations to this conceptualisation as it presumes existence of almost a single authoritative body, regulatory regimes are, for the most part, a product of networked relationships.

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These interactive regimes create a certain *reality* embedded in standards, norms, legal frameworks, and other forms penetrating every aspect of human life/activities. With a reference to penitentiary in Europe, a network of institutions is deliberating on the meaning of justice in Europe, establish a Foucauldian *regime of truth* where there is a common understanding how a prison should function, and within this meaning-making process actors are building the penitentiary system[45] of the region.

The current article is aiming to understand discursive construction of European penology on a meta-level by this very regulatory regime. It is an offer to understand penitentiary in Europe from a linguistic point of view as a complementary study to political and legal analyses. To do so, the paper starts with a brief review of studies on penological knowledge followed by methodological considerations. Methodology covers a particular strategy chosen for this study, methods to be employed, and data collection activities. The article continues with analysis of data and its findings, and concludes with a succinct summary of main arguments.

Revisiting penological knowledge

Going beyond philosophies/studies of early/infantile punishment in a primitive tribal society (*see* Barnes 1972), the crucial role of religion in establishing a basic punitive system to fight vengeance (*see* Eller 2022), and local culture-specific practises of penalty,[46]

[45] This paper is utilising "penological" and "penitentiary" systems interchangeably. While recognising that there are noteworthy differences between these two terms, their extensive convergence in significant areas/topics outweigh differences.

[46] In many geographies where patriarchal order and cultural practice of respect to the elderly were combined, the so-called *elder's council* would assume the leadership and execute arbitration and decision of punishment (for South African contextual examples on traditional responses to crime *see* Rautenbach C. (2014).

the focus of the current section is directed at the scholarly knowledge production in the realm of penology. For this particular reason, a brief touch upon the classical era will be presented. This, in turn, will be complemented with the studies of postmodern approaches: Marxist, poststructural, feminist, and discourse readings of the penological knowledge systems.

Classical era

Occidental scholars attribute initiation, structuring, and categorisation of penological knowledge[47] to Cesare Beccaria[48] and Jeremy Bentham[49] - Enlightenment era philosophers. Having based their framework within social contract theory and utilitarianism, these pioneers (i) denied torture practices and death penalty as punishment practices, (ii) placed their confidence in *free will* of all, and (iii) described a human as "a calculating animal" which would be deterred should a proper system of punishment exist. Additionally, the necessity for reform raised by these very authors were conditioned by the judges operating/interpreting the law at the time: their lack of competence, training, and legal knowledge, ultimately, made them prone to (un)purposeful misjudgement, corruption, and political manipulation. Fair and rational administration of the law, popular knowledge of the existing laws and anticipated punishments, *classical penologists* argued, would be the backbone of the forthcoming reform in the punitive system

Traditional Courts as Alternative Dispute Resolution (ADR) - Mechanisms in South Africa. In Diedrich F (ed) *The Status Quo of Mediation in Europe and Overseas: Options for Countries in Transition*. Verlag Dr Kovac. Hamburg).

[47] Penology has always been regarded as a derivative of criminology studies. Thus, without going into the details of discipline distinction, the current paper is focusing on penology only with occasional reference to criminology.

[48] Published *Dei Delitti e Delle Pene /* On Crimes and Punishments in 1764.

[49] *See* Bentham, J. & McHugh, J. (2009). *The rationale of punishment.* Amherst, N.Y: Prometheus Books.

of Europe.[50] Adherents of the classical stream have greatly influenced the codification movement whose ultimate goal was to practice equality among offenders by proposing sentencing tariffs.

Unlike *rational choice/calculating animal* and *free will* proponents and their uniformity of sentences across criminal populations, *neoclassical* approach suggested that offenders under similar criminal contexts might have different intent (Saleilles 1911/2008). Neoclassical penologists are exploring the interaction of *actus reus* (guilty act) and *mens rea* (guilty mind) and on the basis of this interaction offer to tailor punishment to the degree of responsibility for the committed crime. Such a novelty in penology where the state of mind of the offender was scrutinised required reassessment of the punitive system, abolish totalising practises, and understand the human's behaviour in the course of committing a crime.

In contrast to the tradition of *(neo)classical penologists* to situate a human and its behaviour within philosophical debates, positivists referred to hard sciences. *Positivism* in penology, especially its biological and psychological branches,[51] was exploring the boundaries of human body structure, psycho-social condition and their relationship to crime. At times, biological positivism would be moving into areas that one might identify nowadays as fascist/racist: Scientists argued that a human is born as a criminal which can be singled out based on the structure of their cranium, hands, ears and so on. Such an extreme definition of "born

[50] With current policy jargon that would qualify to deterrence through *law enforcement*, *the courts*, and *imprisonment*.

[51] For biological determinism in crime *see* Lombroso, C., Gibson, M. & Rafter, N. (2006). *Criminal man*. Durham, NC: Duke University Press; for psycho-social determinants *see* Ferri, E. (1908). *The Positive School of Criminology. Three lectures at the University of Naples, Italy on April 22, 23, and 24, 1901*. Translated by Ernest Ultermann. Chicago. Charles H. Kerr & Company.

criminal" was coupled with proposals of early proactive detection mechanisms and isolation from the society contrary to the reactive punishment system. Rejecting *nulla poena sine lege*[52] principle of the classicists, positivist adherents were advocating to fit punishment to the criminal not the crime. Notwithstanding such harrowing topics and later discrediting of this approach, positivism was successful enough to discuss and introduce scientific evaluations of psycho-social and environmental determinants of crime: Current detailed practises of involving social workers, psychologists, psychiatrists into penitentiary systems for the purpose of rehabilitation of offenders might be considered as a legacy of this particular stream in penology.

Postmodern critiques of penology

Pioneers of critical tradition, given socio-political context at the time and its colossal influence across regions, can be attributed to *Marxist* worldview. *Traditional Marxism* whilst interpreting the history of criminological thought (Taylor et al 1973) situated penological studies within the relationship of class, state, and capitalist mode of production: "... *punishments perform a hidden role in the regulation of poverty*" (Rusche 1933). Given that human life in capitalist-driven states is intricately linked to labour market value, the prison serves to control, discipline, and deter the poor - control over the surplus population, i.e. the unemployed (Rusche et al 2003).

Understanding shortcomings of economic determinism strongly nested in early Marxist writings and lack of empirical evidence, *Neo-Marxist* approach suggested that it is not necessarily economic

[52] *No penalty without law*: A principle devised by classical penologists. A person cannot be punished for an act that is not codified in law.

hardship and unemployment that influence crime rates, but *belief* that unemployment and crime are inherently linked: in times of economic uncertainties/fluctuations imprisonment turn into an ideological response to perceived threat in the face of economically marginalised people (Box et al 1988).

As tradition of critical scholarship is to understand a matter tied to specific social circumstances (e.g. spatial, gender, language/linguistic, historical/cultural contexts etc.), the avalanche of postmodern critique instigated by Marxist interpretation seized the moment to interpret/understand punishment systems of various regions.

For instance, Michel Foucault (1979) went beyond narratives of humanism in investigating penal systems. This revolutionary work *Discipline and Punish: The Birth of the Prison* provides an account of the history of modern penology. By taking us to 1800s Europe and describing public modes of corporal punishment, which were often preceded by the use of horrifying torture during investigations, Foucault draws a sharp contrast between the penology of then and the penology of now. He cautions readers not to be fooled by the delicate transformation from public execution into private detention framed as reforms for the ideals of humanity and the welfare of prisoners. Instead, Foucault illustrates how the social context and changing nature of power within that context affected the practises of punishment. These reforms were carried out at a period in which the socio-economic changes brought about by the Industrial Revolution resulted in a greater emphasis being placed on the importance of property and production, which resulted in a desire for more effective ways of punishment: power operation became smarter. In a way, the discourse of reformers on harsher and more effective laws and ways of punishment was not

necessarily intended to tame the power of the sovereign directed at the body of the criminal but was rather focused on the poor economic logic of power operation standing behind those techniques of penalty.

These reforms led to the creation of a disciplinary system where citizens, although having been absent during its deliberations, were in some sort of a collective contract. Texts created in the name of this arrangement and to which citizens 'have agreed' had a disciplinary purpose: to compare, differentiate, hierarchise, homogenise, and exclude. Foucault labels this process as *normalisation*. Normalisation '*becomes one of the great instruments of power*' he argues (Foucault, 1979, p. 184). Through disciplinary techniques and the establishment of norms, punishment turns into a set of values that guides the public: Members of society embrace these norms and the process of punishment, rationalise and reproduce them in their daily lives.

While Foucault considers the origins of the prison and reflects on changing dynamics of punishment, Feeley and Simon (1992) further this research agenda by examining modern penological changes. With respect to the American carceral system, the authors discuss the emergence of a new strategic formation within this field called the *New penology*.[53] This shift is observed on three different levels: (i) new discourse, (ii) new objectives, and (iii) new techniques.

[53] *New penology* was empirically tested by anthropologists in several prisons for presence of actuarial practises. Although actuarialism was not detected in these isolated institutions, *New penology* remained a powerful argument for current discursive practises around prisons/penitentiary systems. For anthropological assessment of *New penology* and importance of human agency in prisons *see* Cheliotis, L. K. (2006). *How iron is the iron cage of new penology?: The role of human agency in the implementation of criminal justice policy.* Punishment & Society, 8(3), 313–340.

According to Feeley and Simon (1992), the language of penology has changed. Historically, criminal sanctioning was centred around individual-based theories of punishment. This was the case due to the specificity of language (discourse) used in legal domains: Morality and individual responsibility were tightly entangled. Consequently, prisons were encouraged to discipline and normalise an individual through treatment and interventions characterised by moral sensitivity. However, due to contextual circumstances such as the demand for accountability from courts and political institutions as well as increases in prison populations, a number of legal domains, including criminology and penology, were strongly influenced by actuarial sciences.[54] The authors devised a concept to mark this new development – *actuarial justice*. In new penology, they argue, the system categorises individuals into subpopulations and sees them not through moral or clinical lenses but rather through numbers born as a result of statistical and probabilistic applications.

This, in turn, has changed the objectives of the modern prison: The tasks are *managerial*, not transformative. Penitentiary institutions which were originally intended to normalise people through various disciplinary techniques turned into spaces for effective crime control and cost-effective ways of dealing with troubled portions of a society. The success rate of a modern prison is less dependent on recidivism rates and more on its managerial capacity and measures of system functioning. In short, the modern prison has turned into a system that manages criminals, as opposed to dealing with criminality. This technocratic rationalisation has matured into a

[54] Actuarial science is a formal mathematical discipline which carries risk assessment through application of statistical methods. It harbours many subjects: mathematics, statistics, probability theory, finance, and economics.

level where '*the same techniques that can be used to improve the circulation of baggage in airports or delivery of food to troops can be used to improve the penal system's efficiency*' (Feeley & Simon, 1992, p. 467).

Complementary to *poststructural* and *discourse* readings of penology, *feminism* has made a remarkable contribution into studies of punitive systems through gender lens. There are multiple feminist approaches (e.g. liberal, Marxist, socialist, radical, (post)modern, poststructural, Black) with distinct characteristics to accommodate in such short inquiry, however, all of them have common emphases:

- Penology as a knowledge system was/is written by men, about men, for men, and presented as the "knowledge";
- Until 1980s, penological studies largely ignored women (Scott & Flynn 2014): their lived experiences (Carlen 1983; Carlen & Worrall 2004), devised punishments as a response to women's conformity level to gender norms and class expectations (Heidensohn 1985), and denied agency to develop appropriate responses/therapies for women offenders (Feminist Jurisprudence 1989);
- Socio-political will to make women visible in academic and policy knowledge production;
- Combat sexism and emancipate from male-dominated structures.

Perhaps the latest critique/novelty brought into studies of punishment systems would be the concept of *constitutive penology* (Arrigo & Milovanovic 2009).[55] This postmodern assessment of

[55] The concept almost exclusively belongs to Stuart Henry and Dragan Milanovic in continuance of *constitutive criminology*. The term *constitutive*

prison systems defines the world as a continuously and socially produced and reproduced unstable *structures*. Without giving any prevalence for *discourse*, authors situate prison in a dynamic meaning-making relationship "*preconstituted by historically contingent, situated structural processes and shaped by human agents in their recursive use of established discourse in everyday interaction*" (Arrigo & Milovanovic 2009:11). Primary goal of their study, in comparison with other discourse-related approaches, is to understand how prison was legitimised as a form of response to a criminal harm.

All of the above-mentioned theoretical frameworks have brought about a great deal of knowledge into penology studies. From philosophical debates to economy, gender lens to discursive practises, all of them have contributed into academia with rich empirical bases that ultimately have affected penitentiary systems across the globe. With this in mind, the current research attempts to assess European penology and its discursive construction. By looking at different actors participating in its making and paying attention to the linguistic features of the European penitentiary, the paper tries to give a descriptive account of the regulatory regime reigning on this particular continent.

Methodology

The approach of this article in studying European penological regime lies heavily in the idea of a methodological synergy between

originates from Anthony Giddens' structuration theory where "*social structures are both constituted by human agency and yet at the same time are the very medium of this constitution*" (1976: 121); and is highly influenced by poststructuralist thinkers such as Julia Kristeva, Gilles Deleuze, Felix Guattari. For constitutive criminology *see* Henry, S. and Milanovic, D. (1996) *Constitutive Criminology: Beyond Postmodernism*, London: Sage.

corpus linguistics (CL) and Critical Discourse Analysis (CDA). This combination has caught a momentum in social sciences piercing different (sub-)disciplines and witnessing diverse applications and inventions. A combination of CL and CDA is key for this research for the following reasons.

First, notwithstanding the fact that CDA has a great potential in identifying underlying ideological and political power struggles through linguistic analysis, at times it lacks a strong and relevant empirical reference which makes it highly feeble to subjective interpretations. Authors who ground their analysis in CDA provide selective examples/texts on the basis of which they make inferences on the power relations in a given society/(con)text. In such circumstances, the research is frail to *miscontextualisation* (Schegloff 1997; Wetherell 1998), self-reflexivity, criticism and manipulations.[56] CL compensates for this gap with a rich empirical base.

Second, the practice of combining CL and CDA is a tested combination (Krishnamurthy 1996; Stubbs 1994; Fairclough et al 2007; Baker et al 2008). This relatively new strand of research abundant with case studies (Hardt-Mautner 1995; Bondi 2007; Semino and Short 2004; Baker 2006) is a promising practice to bandwagon.

And lastly, as research before you has descriptive purposes aiming to understand subjectivities of a regulatory regime with various actors participating in it, a corpus-driven approach seems a good point to embark on. Having no predisposed persuasions whatsoever, this article's objective is to follow neo-Firthian

[56] One of the pioneers of CDA himself, namely Teun Van Dijk (1997), once noted that it is not simple to differentiate a *good* discourse analysis from *bad*.

traditions:[57] let the corpus set and inform the framework within which a critical analysis is conducted. Popularity of themes emerging out of the corpus will drive the current research.

Methods

Having considered methodological strategy, the paper is looking at different levels of measurement. On a more descriptive level, the paper will analyse word frequency to determine important themes and, basically, the jargon of the European penology. It is envisaged that the vast majority of frequent words will be nouns given distribution of parts of speech in English language. Thus, this exercise will be complemented by frequency analysis of adjectives. Primary reason why adjectives are preferred over other parts of speech is because of their modifier role with regards to nouns. As observed in the discussions part of the article, this is a quite handy approach to contextualise nouns and apply CDA.

As per more in-depth analysis of the corpus and understanding which words play an important role in it, a keyword study is carried out. In doing so, there will be an opportunity to compare and contrast keywords with frequency test with an aim to complement the analysis. For this part of the study, a "term frequency - inverse document frequency" (TF-IDF) analysis will be used. This method,

[57] As the name suggests, the idea of studying text/s without statistical testing/s (e.g. significance testing) originates from linguist J. R. Firth. Proponents of *neo-Firthianism* have applied this idea on two notable themes: *collocation* and *discourse*. For discussions on how to limit self-reflexivity while doing textual/discourse analysis *see* Sinclair, J. (2004). Trust the Text: Language, Corpus and Discourse. London: Routledge; for commonalities of neo-Firthian discourse analysis and CDA (a postructural influence on discourse) *see* Teubert, W. (2007) '*Parole-linguistics and the diachronic dimension of the discourse*', in M. Hoey, M. Mahlberg, M. Stubbs and W. Teubert (eds.) Text, Discourse and Corpora: Theory and Analysis, pp. 57–88. London: Continuum.

being a popular exercise in information retrieval activities, quantifies words in a document, weighs them and calculates a score which reflects the importance of a word in a given context.

Construction and compilation of a corpus: a textual data perspective

The process

Selection of texts directly dealing with the prisons of Europe and accurately representing linguistic features of a continent-wise penitentiary knowledge system was possible due to careful formulation of a data collection protocol. This protocol led the year-long data acquisition which started off with a brief study of European institutions, primarily functioning within/under the Council of Europe, and their publicly available documents. Ultimately, the protocol was built around five key sources from which the textual data was collected:

I. the European Court of Human Rights (ECtHR)
II. the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT)
III. the Parliamentary Assembly of the Council of Europe (PACE)
IV. the Council for Penological Cooperation (PC-CP)
V. the Conference of International Non-Governmental Organisations (CONF)

The collection of documents was finalised in December 2019 (PC-CP and other legal texts) and February-March of 2020 (ECtHR, CPT, PACE, CONF). The protocol had different queries to identify documents on the European penitentiary system for each of the

above-mentioned institutions. For the ECtHR, the case law on Article 3, namely *Prohibition of torture*, was selected to have a judicial perspective on the national prison systems across the political Europe and how well the authorities abide by the European Convention of Human Rights (ECHR) and penitentiary standards developed by other institutions of the continent. More than two thousand cases on Article 3 (and, in some cases, other complementary articles) include instances where violation and non-violation was established. Inclusion of non-violation cases was important so as to understand the Courts interpretation and deliberation on what constitutes a torture, inhuman and other degrading treatments in prisons of Europe.

As per the CPT, the whole activity of this committee and its textual production is under scrutiny of the current research. With 769 documents, the CPT is represented in the corpus with country visit reports, responses of corresponding authorities to issues raised by the committee, annual reports, standards, conference participation, public statements, preliminary observations, exchange of letters and so on. Given the fact that official languages of the CPT are English and French, for the purposes of corpus consistency documents written in English were selected.

For the database of PACE the following query was applied:

under CATEGORY "*Adopted texts*"
"*prison system*" OR *penitentiary* OR *detention* OR *detainee* NOT *animal*

One of the reasons why keywords *prison* and *prisoner* were not included into the query was due to the political nature of PACE and its constant utilisation of these keywords in political contexts.

Though *political prisoner(s)* might be relevant for the corpus, its overuse of the term might be immaterial for understanding the penitentiary systems of Europe. As per the keyword *animal* in the query, *detention*-related selections has resulted in an additional document where transportation of animals was discussed. To eliminate this document the query specifically mentions exclusion of *animal*-related texts.

Just like the CPT, PC-CP's activities are entirely devoted to penological matters, though slightly with an academic approach. Having in mind that this council drafts legal texts for the CoM to discuss and adopt, the corpus for the PC-CP category listed only *final working documents* and *conclusion texts* for the held conferences. Should *conclusion documents* not be present for a particular conference, a brief supplementary *media report* was included into the corpus. Annual penal statistics produced together with the University of Lausanne (Switzerland) titled "*SPACE*" were excluded due to the technical and numerical character of these documents.

One of the important documents of the PC-CP which vastly contributed to the data collection process was their *compendium of legal texts* which had a direct relevance and importance to the field of European penitentiary systems. This list mentions all the normative frameworks, recommendations and resolutions issued by authoritative bodies of the CoE. Not only have they listed up-to-date legal documents regulating prisons in Europe, they also mentioned older versions of several legal texts. In this case, both versions, old and new, were included into the corpus for further research, especially for the purposes of historical linguistic analysis. On the basis of this list, two categories were devised: Committee of Ministers' recommendations (CoM) and their

commentaries, and other legal texts (treaties, European Union framework, code of conduct, FRONTEX's penal-transportation-related document etc.).

Aside from the compendium, the PC-CP's input into the corpus was publications related to penitentiary matters under the auspices of the CoE. This includes *Prison and Penological Information Bulletin* published through 1983 till 2006 with twenty-six periodicals. Moreover, in series of information request from the CoE delegations to Georgia and Ukraine as well as consultation with the CPT-recommended literature on prison matters, the following guidelines were identified as important documents used by the local authorities and their international counterparts to increase technical capacity of penitentiary systems in Europe: (i) *Organisation and management of healthcare in prison*[58], (ii) *Mental health and addiction in prisons*[59], (iii) *Effective investigation of ill-treatment: guidelines on European standards*[60] etc.

Institution	**Number of documents**	**Number of words***
ECtHR	2,027	23,661,664
CPT	769	14,307,683

[58] Printed at the CoE in 2019 and authored by Jörg Pont (former medical adviser to the Ministry of Justice of Austria) and Timothy Wilfrid Harding (Emeritus professor of Legal Medicine, University of Geneva, Switzerland).

[59] Written contributions to the international conference on mental health addiction in prisons (27-28 February, 2013; Bucharest, Romania) compiled and published by the Pompidou Group (Cooperation group to combat drug abuse and illicit trafficking in drugs) and the CoE.

[60] Authored by Eric Svanidze (Directorate General of Human Rights and Legal Affairs, the CoE) and published in 2009.

PACE	353	552,487
PC-CP	74	424,178
CoM	49	282,610
CoE publications	29	847,157
Other legal texts	11	65,104
Conference of INGOs	1	816
Total	3,313	40,141,699

Table 1. Frequency of documents and words per institution.
* Number of words were calculated based on the raw/unprocessed corpus and excluding non-alphanumeric symbols.

The voice of the international civil society in the CoE, namely CONF, was the last source from which texts had to be acquired. Nonetheless, this category in the corpus is represented with only one document. The text consisting of around eight hundred words is an indicator how the international non-governmental organisations either have been isolated, willingly or unwillingly, from the process of intergovernmental norm making in the penitentiary or their scope of activities are directed to tackle other issues in Europe.

All in all, there are more than three thousand documents in total amounting to about forty million words. The majority of words belong to the ECtHR and CPT with twenty-three and fourteen millions respectively. In some cases, such as the CoE publications and CoM, the number of documents does not determine the size of the content, i.e. the number of words.

Limitations

The corpus is aspired to be a representation of the European penological system in English language. Nonetheless, due to the fact that various authorities, both of international and national character, have produced these texts, the data collection process had to exclude certain documents from the corpus. For instance, the CPT's visit reports and the local authorities' responses in Andorra, Belgium, France, Luxembourg, Monaco, Romania, Switzerland, and some portions of documents related to Albania, Italy, San Marino, and Liechtenstein were in French. Thus, (i) francophone regions of Europe as well as (ii) other nations using French as medium of communication with the CPT are not well represented in the corpus. Moreover, some responses of national authorities had texts in their corresponding languages, which were automatically scraped. Due to technical complications, this was possible only for non-latin-scripted languages. Meaning, there is some minor portion of latin-scripted European languages that are still present in the corpus. This, however, should not affect the overall linguistic analysis of the corpus.

As per the CONF, though there were several documents discussing political prisoners and condition of migrants in detention facilities with a paragraph or two in country visit reports, the sole text devoted to the conditions of detention and ill-treatment in European prisons at large was the recommendation adopted on January 24th, 2013 and titled "*Changes in the situation with regard to torture and inhuman or degrading treatment or punishment in the Council of Europe member states*". Although this very relevant document cannot be considered as a representation of international civil societies' penal discourse, this text will be a reference point and an important addition to the research on European penology.

Analysis and interpretation of results

Aboutness of EPC

The EPC is aspired to be a specialised corpus; that is to say, the aim is to cover a specific topic or area. In this case, it was designed to be a representative corpus of European penology. The metrics of the EPC (see Table 1) indicate the distinctive characteristics of the corpus. The processed version, on which this paper is based, contains approximately 19 million words with close to 130 thousands of types.[61] To clarify, these 130 thousands of unique words are the focus of investigation. The ratio between the tokens and types resulted in lexical diversity rate standing at 140 words. This is quite a good indicator that the process of corpus construction went well. Lexical diversity is a measurement that indicates the richness of the language used in a corpus. The higher the rate, the more diverse the topics discussed within it. In the case of the EPC, this rate informs about the restraint nature of the language within it: A new word is introduced in every 140 words.

	Nr. of tokens[62]	**Nr. of Types**	**Lexical diversity**
Processed corpus	18,773,407	133,962	≈ 140.14

Table 1. EPC corpus metrics.

As per the content of the EPC, the *'aboutness'* of the corpus, which is revealed by means of a simple lemma[63] frequency test (see Table

[61] A type is the class of all tokens consisting of the same character sequence.

[62] A token is a particle within a text. It can be a word, as well as punctuation, symbol, etc.

[63] In morphology, lemma is the canonical form of a word: for instance, *'says'*, *'saying'*, *'said'* will belong to lemma *'say'*.

2), is another indicator of how successful the process of corpus-building was. The most frequent 30 words in the EPC points at legal, administrative, and procedural aspects of penology. In such circumstances, the fear that the documents produced by the ECtHR, which form the majority of the corpus, will suppress the *voices* of other institutions participating in European penology governance, is unfounded. In fact, the words *prison, police, medical, report, visit* and others are frequently used by various institutions, both of political and procedural profiles. Nonetheless, a heavy reliance on judicialised language is apparent: *applicant, court, paragraph, judgement, investigation*, and *complaint* are strong evidence of this.

Frequency								
Lemma	**Absolute**	**Relative**	**Lemma**	**Absolute**	**Relative**	**Lemma**	**Absolute**	**Relative**
applicant	304,666	1,54	*convention*	105,026	0,53	*time*	68,125	0,34
court	243,184	1,23	*treatment*	101,321	0,51	*may*	67,315	0,34
prison	156,279	0,79	*paragraph*	97,371	0,49	*law*	66,738	0,34
article	152,499	0,77	*cpt*	95,837	0,48	*medical*	66,455	0,33
case	128,123	0,65	*see*	88,007	0,44	*criminal*	64,042	0,32
police	115,836	0,58	*judgement*	87,398	0,44	*report*	62,082	0,31
person	112,009	0,56	*right*	87,312	0,44	*investigation*	60,474	0,3
prisoner	109,269	0,55	*also*	80,017	0,4	*complaint*	60,154	0,3
detention	108,49	0,55	*government*	79,755	0,4	*cell*	57,961	0,29
authority	107,149	0,54	*state*	71,406	0,36	*officer*	57,828	0,29

Table 2. Lemma frequency distribution.

The distribution also exposes the primary actors participating in European penology: *applicant/prisoner*, *court*, *police*, and *authority/government/state*. The legal framework within which these actors negotiate the terms of the European prison system is the *convention* referring to the European Convention of Human Rights (ECHR). The word *report*, standing at number 26, is a key concept here as well. Reports play an intermediary role among primary actors – the Court, the state, and the prisoner. They supply numerous institutions with information concerning *condition*, *treatment*, *cell*, *medical* and other matters in the prison system. To

clarify, *report* can refer to the CPT and their visits, since reports written on the basis of these visits constitute an important portion of the EPC. However, there is an abundance of other interested parties in European prisons which produced reports on prison conditions, including UN agencies and non-governmental organisations.

Simple word-level frequency test

Frequency profiling of the ECtHR reveals primary actors and context within which the judicial discourse is circumscribed (Table 3). The Strasbourg Court places, as any mundane or religious judicial entity does, the *applicant* at the heart of the discussion. The applicant's position and condition is checked vis-a-vis a specific normative framework: *article* and *convention*, in this case the European Convention on Human Rights. If the Court's discourse identifies the applicant as a key actor on one side, the other side is represented by the *government*, *authority* and *detention*. Frequency test identifies the *logic* on which the whole European normative architecture on human rights has been built: the necessity of a regional protection of individuals against possible violations committed by their respective governments/authorities. Moreover, another interesting aspect of the frequency profiling are the references to the case-law of the ECtHR. Having in mind that the words *court*, *see* and *judgement* made all the way to the list of the most frequent ten words, the Court places an emphasis on its accumulated experience when building an argument for or against violation of rights under Article 3.

As per the CPT's discursive practice, actors here are more definitive. Although the ECtHR due to procedural needs is looking at the details of state institutions allegedly violating the rights of a

person, it places the responsibility to a totality, namely *authority/government*. For the CPT, the actors are the *person* and/or *prisoner* on the one side, and *police*, *staff*, *prison*, and *authority* on the other. Communication of the committee with the authorities and interested parties is represented by the words *cpt*, *paragraph*, and *visit*: CPT is producing a report after each country *visit* and communicates on specific matters by reference to *paragraphs* to which respective authorities need to respond. Lastly, the word *treatment* informs that the committee's discourse is built around the conditions within which prisoners/detainees are held.

Institution	**Most frequent 10 words*** (in ascending order)
ECtHR	*applicant, court, article, convention, case, judgement, see, government, detention, authority*
CPT	*prison, cpt, prisoner, person, police, paragraph, treatment, visit, authority, staff*
PACE	*assembly, right, europe, state, human, council, european, committee, member, law*
PC-CP	*prison, prisoner, rule, offender, probation, service, may, justice, staff, meeting*
CoM	*prisoner, prison, shall, rule, measure, authority, community, staff, sanction, may*
CoE publications	*prison, prisoner, number, sentence, year, treatment, staff, person, service, health*
Other legal texts	*state, shall, decision, article, measure, person, authority, return, executing*
Conference of INGOs	*torture, state, treatment, european, europe, human, council, right, member, inhuman*

Table 3. Most frequent ten words in the European penology corpus.

* words were lemmatized (i.e. inflected forms of a word were brought to its initial root)

In comparison to judicial and monitoring/fact-finding language of the ECtHR and CPT, PACE's most frequent words depict the political nature of the assembly's approach to prison matters. Repetitive *europe* and *european* are setting a regional/ideational tone to the parliamentary assembly's discourse. Actors participating in meaning negotiation are identified as *assembly* (PACE itself), *state*, *member*, and *committee*. Moreover, this negotiation is held within a normative framework such as *law*, *human*, and *right*, the latter two of which refer to *human rights*.

PC-CP, should it be labelled with a political science jargon, is a typical representative of an epistemic community[64] functioning within the CoE. These are experts, either of academic or practitioner nature, specialising in penitentiary systems of Europe. Not only do they set the trend in prison matters of Europe, but they also draft and propose legislative documents to be discussed and ratified by the decision-making body of the CoE - the Committee of Ministers. Thus, analysis of this sub-corpora proposes a great deal of understanding of the European prison system at large. Looking at the simple frequency test results, one can identify neutral and idealistic terminology of the PC-CP: the only sub-corpus which (i) has *offender* as a synonym to usual *prisoner*, (ii) discusses alternative sanctions such as *probation*, and (iii) seeks ideal *justice* in all its deliberations on European prison matters.

[64] A network of professionals specialising in a specific subject matter who share close or same set of beliefs. In the current state of affairs where governments are moving from politics to technical governance, these communities are seldomly consulted about various issues. For the role of epistemic communities in international politics see Haas, P. M. (1992). *Introduction: epistemic communities and international policy coordination.* International organization, 1-35.

The decision-making body of the CoE, namely CoM, due to its organisational nature is using imperative words (*shall*, *rule*, *may*) and discusses possible *sanction*s of alleged crimes. The jargon of the Committee is close to that of PC-CP's. This is primarily due to the fact that the experts of the PC-CP are the ones who are drafting texts for the Committee of the Ministers. Nonetheless, there are some differences as well. For the CoM, actors such as *authority* and its interaction with the *community* is of paramount importance, for instance.

Frequency test of words in publications issued under the CoE tells us about the themes occurring in this particular sub-corpus. Words *number*, *sentence*, *year*, *treatment*, *service*, and *health* hints at their topical nature. To note, authors of periodicals, guidelines, handbooks, and monographs on European prisons listed in this sub-corpus were written both by practitioners and academicians.

The category harbouring legal texts (OLT), just as categories of legal and political nature, has a strong imperative tone. For instance, the first four words *state*, *shall*, *decision*, and *article* suggest states' obligations to abide by decisions and legal norms. Remarkably, this category did not prioritise penal jargon such as *prison* and *prisoner*. Instead, it mentions authority and executing bodies conducting penal affairs. *Prisoner/offender* is represented with a more neutral term - *person*. Another noteworthy finding is the word *return*. Given the topicality of this term, one might speculate that either penal transportation is of interest here or legal norms are contextualising *return* by stipulating interrelation of concepts *torture* and *non-refoulement.*[65]

[65] Prohibition of collective expulsion of migrants seeking protection.

In an eight-hundred-words document published by the Conference of INGOs, the language is surrounded by the concepts *torture*, *treatment*, and *inhuman* which are left uncontextualised. Looking at the text itself, it is evident that the conference of non-governmental organisations preferred to keep it vague and mentioned prison-related jargon only once through the word *detention* vis-a-vis the work of the CPT.

In summary, having the above-mentioned findings in mind, the simple word frequency test was not only informative in terms of jargon, tone, and topics discussed by different institutions, but also a valuable proof that the corpus construction aims were successfully achieved. Meaning, the European penology corpus harbours necessary texts that will be essential in critical analysis of European penitentiary systems.

Simple adjective analysis

The previous test was abundant with nouns. Given the overall parts of speech statistics of majority languages[66], particularly of English, this is a rather understandable observation. Nouns, as important as they are, in isolation provide a little information. Having this in mind, the simple analysis of adjectives, a modifier/descriptor of nouns, would be an important addition to have a better understanding of the sub-corpora.

A common characteristic of the majority of sub-corpora (six out of eight) is the emphasis on the adjective *european* (see Table 4). This

[66] Distribution of four dominant parts of speech in a vast number of languages follows the following form: nouns are always in majority followed by verbs. The verbs are complemented, depending on the language and its grammatical structure, by adjectives and/or adverbs.

is an important indicator as this particular noun modifier points at (i) the institutions of European nature, (ii) European politics/policy, and/or (iii) normative frameworks within which European penology corpus is situated.

Furthermore, there are two categories/institutions which are extensively utilising adjectives *medical* and *psychiatric* in their discourse. An occurrence such as this informs about the primary problems occurring in the places of detention. The Court, for instance, has an established jurisprudence on the poor conditions of medical services that might amount to torture, inhuman and degrading treatment. In addition to that, the monitoring activities of the CPT and their deliberation on health in penitentiary services is not limited to prisons and police stations only. Presence of *psychiatric* points at the importance of psychiatric wards in understanding the whole European penological ecosystem. Additionally, both the ECtHR and CPT, identify acts of *criminal* nature as their primary element of interest and its interplay with the European justice system.

Institution	**Most frequent 5 adjectives** (in ascending order)
ECtHR	***criminal***, *other, such, first,* ***medical***
CPT	***medical***, *such, ill,* ***psychiatric***, ***criminal***
PACE	*european,* ***political***, *parliamentary,* ***international***, *particular*
PC-CP	*such, european, other,* ***foreign***, *general*
CoM	*such, other, european, possible, necessary*
CoE publications	*other, more, general, such, european*
Other legal texts	***competent***, *european, other, such, national*

Conference of INGOs	*european, inhuman, national, third, particular*

Table 4. The most frequent five adjectives.

Another interesting aspect of adjective analysis corroborating findings in general frequency test is the list of words appearing in PACE's discourse. These are *political* and *international* - an indication that prison and, overall, penological matters are discussed within political frameworks. In the case of PC-CP, the analysis identified an adjective which points at a specific prison population - *foreign* prisoners/detainees. Meaning, the changes in prison population and, specifically, treatment of foreigners in places of detention are under scrutiny by these experts. Given that this word has appeared in the top five adjectives, one might agree on the importance of this topic in PC-CP's agenda.

Conclusively, testing for the most frequent adjectives in sub-corpora has authenticated some of assumptions provided in the earlier section. To note, key adjectives (i) identified specific European nature of penological texts, (ii) determined major problems (i.e. *medical, psychiatric*) in judicial and monitoring activities, (iii) confirmed PACE's political framing of detention matters, and (iv) unearthed a category of detainees (*foreign*) as an essential population to deliberate on by the PC-CP.

Keywords - a closer look at the European penological system

Researching a corpus to understand one's individual or collective context-specific knowledge requires a delicate approach. With that in mind, analysis of the corpus/subjectivity without application of any predisposed judgements required the current paper to run a

general descriptive statistic. The current research looked at the most frequent words per category/institution, and a particular part of speech - adjective - to understand and contextualise these frequent words.

Even though frequency tests can draw a general picture on the overall state of the observed phenomenon, one must look at the details to grasp its important characteristics. Such a way in corpus-linguistic analysis lies through identification of keywords within the corpus - words that are extremely important to a given body of texts. This exercise was run, and keywords were identified in all of the categories.

Institution*	**Top 10 keywords**** (in ascending order)
ECtHR	*cell, **russian**, **ukraine**, investigator, prisoner, military, station, remand, inmate, regional*
CPT	*resident, republic, **turkish**, involuntary, **ukraine**, headquarters, alien, immigration, correctional, wing*
PACE	*child, asylum, refugee, **russian**, migrant, election, prisoner, commitment, freedom, parliament*
PC-CP	*shall, summary, radicalisation, apologised, violence, took, electronic, space, english, excuse*
CoM	*transfer, institution, probation, health, medical, child, foreign, implementing, must, agency*
CoE publications	*cpt, suspect, **bulgaria**, **lithuania**, **czech**, exemption, **hungary**, **poland**, **romania**, **slovak***
Other legal texts	*executing, protocol, return, frontex, sentencing, framework, administering, probation, secretary, offender*

Table 5. Keywords identified on the basis of their tf-idf scores.
* due to the size of the document in the CONF category, keyword analysis was not applied
** the keyword analysis was conducted on a stop-words-free corpus

The judicial guardian of the European Convention on Human Rights, the ECtHR, considers cases filed against *Russia* and *Ukraine* more important (see Table 5). These two countries and their record of torture and ill-treatment seem to form an important part of the Court's case-law on Article 3. That is to say, conditions in Russian and Ukrainian prison systems reflected in judicial proceedings represent how post-Soviet territories are establishing red lines that should not be crossed in European penitentiary institutions. Additionally, the keyword with the highest score establishes a specific location where injustice takes place - the *cell*. The very fact that this word has appeared as the first keyword means that conditions in cells are critical for the ECtHR and its implications for the whole European penitentiary ecosystem. It should be noted that many standards designed to govern cells in prisons come from activities of the CPT. It is a clear example how an activity of just one institution affects verdicts of the Court. Alongside to *cell*, (police) *station* and *remand* appear as spatial settings of significance among European detention facilities. As per the institutional bodies and their influential participation in the prison system, the keyword analysis unearthed actors such as *investigator*s and *military*.

For the fact-finding and monitoring activities of the CPT, conditions in *Turkish* and *Ukrainian* detention systems play an integral role. Injustices taking place in these facilities, one might speculate, laid a way for many standards devised for penitentiary institutions of the wider Europe. Moreover, the CPT placed an importance on *alien*s and *immigration*-related detainees as key populations encountering problems in Europe's detention system.

Unlike the Court's special focus on the cells in prisons, the CPT identified the whole *wing* in penitentiary institutions as an important topic of discussion.

Keyword analysis of the Parliamentary Assembly reveals three thematic elements: prison population, a country of interest, and institution specific jargon. The first theme entails populations such as *child* with additional emphasis on migration-related groups - *asylum*, *refugee*, and *migrant*. Similarly to the ECtHR, a country which appears to be important for the PACE is Russia. Once more, political jargon reappears with words *election* and (political) *prisoner*.

Per PC-CP, trendy topics are *radicalisation* and *violence* in prison settings, and usage of alternative methods such as *electronic* bracelets. However, the most important keyword in the list proves to be *space* - an abbreviation for Council of Europe Annual Penal Statistics (*Statistiques Pénales Annuelles du Conseil de l'Europe*). This is a clear indication of how PC-CP not only facilitates annual statistical compilation on prisons across political Europe, but also uses it as a knowledge source on the basis of which it determines its further actions.

Given the decision-making nature of CoM and their involvement in every aspect of the European penitentiary system, interest in this category is ranging from institutional capacity and alternative measures (*transfer, institution, probation, health, medical, implementing, must, agency*) to population specific focus (*child, foreign*).

In case of CoE publications, as the name suggests, keywords are scientific oriented. List of countries appearing in keyword analysis

suggests that this sub-corpus relies heavily on case studies drawn from *bulgaria, lithuania, czech* (republic), *hungary, poland, romania,* and *slovak*ia. On top of that, the CPT (*cpt*) is identified as an institution whose activities are scrutinised by CoE publications.

Conclusion

Regulation of the penitentiary system in Europe is a result of continuous collaborative and cooperative activities of various institutions. The current article tried to look at discursive construction of this relationship and how this networked accord sustains the prison system of the continent.

There are several inferences to take from the above-carried analysis. First, each institution has a peculiar approach to the penitentiary of Europe. ECtHR's judicial approach is in total contrast to PACE's political language, for instance. Every single actor participating in the making of the European penological regime contributes by bringing their own 'voice' and are co-constructing the prison institutions of the continent.

Second, there is one convergence point where all these actors meet - the *human rights* discourse. No matter what the approach to the penitentiary of Europe was, all of them are highly reliant on human rights ideals. The presence of human rights language comes from the framework within all these institutions function - the European Convention of Human Rights.

Third, each actor has his/her own specific area of interest - ECtHR discusses medical conditions more in comparison with other counterparts; the CPT is the only institutions who widens penitentiary system to other spaces such as the psychiatric ward;

PACE enjoys political engagements; and PC-CP gazes with a scientific lens.

And finally, the European penological system derives its empirical knowledge in two dimensions: (i) findings/conditions of penitentiary institutions in member states, and (ii) compiled statistical information gathered across the continent. The former was observed among keywords of ECtHR, CPT, PACE and CoE publications. The latter is more of a source for the PC-CP. It is worth noting that the PC-CP has a great influence on decision-making process mainly through the CoM.

References

Arrigo, B. & Milovanovic, D. (2009). *Revolution in penology : rethinking the society of captives*. Lanham: Rowman & Littlefield Publishers.

Baker, P. (2006). *Using Corpora in Discourse Analysis*. London: Continuum.

Baker, P., Gabrielatos, C. and McEnery, T. (2008). 'Using Collocational Profiling to Investigate the Construction of Refugees, Asylum Seekers and Immigrants in the UK Press', paper given at the 7th conference of the *American Association for Corpus Linguistics*, Brigham Young University, Provo, UT, 13–15 March 2008.

Barnes, H.E. (1972). *The story of punishment : a record of man's inhumanity to man*. Montclair, N.J: Patterson Smith.

Bentham, J. & McHugh, J. (2009). *The rationale of punishment*. Amherst, N.Y: Prometheus Books.

Bondi, M. (2007). 'Key-words and Emotions: A Case Study of the Bloody Sunday Enquiry',in N. Fairclough, G. Cortese

and P. Ardizzone (eds) *Discourse and Contemporary Social Change*, pp. 407–32. Bern: Peter Lang.

Box, S., C. Hale, and G. Andrews. (1988). "Explaining Fear of Crime". *British Journal of Criminology* 28: 340 – 56.

Carlen, P. (1983). *Women's Imprisonment: A Study in Social Control*, London: Routledge.

Carlen, P and Worrall, A (2004). *Analysing Women's Imprisonment*, Cullompton: Willan.

Cheliotis, L. K. (2006). How iron is the iron cage of new penology?: The role of human agency in the implementation of criminal justice policy. *Punishment & Society*, 8(3), 313–340.

Eller, J. (2022). *Introducing anthropology of religion : culture to the ultimate.* Abingdon, Oxon New York, NY: Routledge.

Fairclough, N., Cortese, G. and Ardizzone, P. (eds) (2007). *Discourse and Contemporary Social Change*. Bern: Peter Lang.

Feeley, M. M., & Simon, J. (1992). The new penology: Notes on the emerging strategy of corrections and its implications. *Criminology*, 30 (4), 449–474.

Feminist Jurisprudence — or Women-Wise Penology? (1989). *Probation Journal*, 36(3), 110–114.

Foucault, M. (1979). *Discipline and punish: The birth of the prison*. New York: Vintage Books.

Giandomenico, M. (1994) The rise of the regulatory state in Europe, *West European Politics*, 17:3, 77-101.

Giddens, A. (1976). *New Rules of Sociological Method: A Positive Critique of Interpretive Sociologies*, London: Hutchinson.

Hardt-Mautner, G. (1995). Only Connect. Critical Discourse Analysis and Corpus Linguistics. *UCREL Technical Paper 6*. Lancaster, UK: Lancaster University. Available at: http://ucrel.lancs.ac.uk/papers/techpaper/vol6.pdf

Heidensohn, F (1985) *Women and Crime*, London: Macmillan.

Hertig, G. (2000). Regulatory competition for EU financial services. *Journal of International Economic Law*, 3(2), 349-375.

Krishnamurthy, R. (1996). 'Ethnic, Racial and Tribal: The Language of Racism?', in C. R. Caldas-Coulthard and M. Coulthard (eds) *Texts and Practices: Readings in Critical Discourse Analysis*, pp. 129–49. London: Routledge.

Levi-Faur, D. (2011). Regulatory networks and regulatory agencification: towards a Single European Regulatory Space. *Journal of European public policy*, 18(6), 810-829.

Rusche, G. (1933). Arbeitsmarkt und Strafvollzug: Gedanken zur Soziologie der Strafjustiz. *Zeitschrift für Sozialforschung*, 2(1), 63-78.

Rusche, G., Kirchheimer, O. & Melossi, D. (2003). *Punishment and social structure*. New Brunswick, NJ: Transaction Publishers.

Saleilles, R., Tarde, G. & Jastrow, R. (1911/2008). *The individualization of punishment*. S.l: Kessinger Publishing's Rare Reprints.

Schegloff, E. A. (1997). Whose Text? Whose Context? *Discourse & Society*, 8(2), 165–187.

Scott, D. & Flynn, N. (2014). *Prisons & punishment : the essentials.* Los Angeles: SAGE.

Selznick, P. (1985). Focusing organizational research on regulation. In Roger Noll (ed). *Regulatory Policy and the Social Sciences* (pp. 363-367). Berkeley: University of California Press.

Semino, E. and Short, M.H. (2004). *Corpus Stylistics*. London: Routledge.

Sinclair, J. (2004). *Trust the Text: Language, Corpus and Discourse*. London: Routledge.

Stubbs, M. (1994). Grammar, Text, and Ideology: Computer-assisted Methods in the Linguistics of Representation. *Applied Linguistics*, 15(2): 201–23.

Sturm, R., Muller, M. M., & Dieringer, J. (2000). Economic transformation in Central and Eastern Europe: towards a new regulatory regime?. *Journal of European Public Policy*, 7(4), 650-662.

Taylor, I., Walton, P. and Young, J. (1973). *The New Criminology: For a Social Theory of Deviance*. London: Routledge and Kegan Paul.

Teubert, W. (2007). Parole-linguistics and the diachronic dimension of the discourse. In M. Hoey, M. Mahlberg, M. Stubbs and W. Teubert (eds.) *Text, Discourse and Corpora: Theory and Analysis*, pp. 57–88. London: Continuum.

Van Dijk, T. (1997). Analysing Discourse Analysis. *Discourse and Society*, 8 (1): 5-6.

Wetherell, M. (1998). Positioning and interpretative repertoires: Conversation analysis and poststructuralism in dialogue. *Discourse and Society*, 9(3), pp. 387–412.

Essay three

How *New* is European penology? Discourse, meaning-construction and knowledge production.[67]

Introduction

Prisons,[68] and punishment strategies at large, have witnessed number of interpretations: A detente structure for *utilitarian animals* to diminish crime (Bentham & McHugh 2009), a capitalist construction to regulate poverty by imprisonment of less productive/poor sections of society (Rusche 1933) and/or an ideological formation designed to respond to economic fluctuations by detaining the poor (Box et al 1988), a disciplinary institution *normalising* deviant portions of society (Foucault 1979), an institution objective of which is to *manage criminals* rather than to rehabilitate them (Feeley & Simon 1992), a design that feeds crime rather than fights it (Wacquant 2013), and, last but not least, a knowledge system produced by men for men and imposed on women across the globe (Brian & Yar 2008).

It goes without saying that the above mentioned are just a few of the approaches in studying prisons: Various other interpretations such as legal, sociological, gender/queer, and linguistic are not duly reflected. However, in these dynamic *readings* of penology, having considered them major and influential pieces of literature, one cannot neglect their Western-centric perceptions, at times not even acknowledged by their respective authors. Such a centricity around

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[68] The current paper utilises *prison*, *the penitentiary system*, *penology*, and *punishment strategies/philosophies* interchangeably. While recognising that these are terminologies with distinct meanings, their overlap outweighs differences for a paper with an objective of meta-level analysis.

Occidental definitions of penology are quite understandable given their empirical base originating from the region. With their genealogy in mind and current literature on globalisation of Western punishment practises, the paper before you tries to understand how strongly the European penological system has been influenced by these very definitions/practises.

Definitions might differ, yet a late strand of research unites them all: Penal governance witnessed a shift from welfare mindset employed with Keynesian techniques to a new form of regulatory state (Braithwaite 2000). It is rather an interesting observation given how the political economy, namely neoliberal agenda, which penetrated every aspect of societal structures, managed to influence the punishment systems, a foothold of conventional state sovereignty. Privatised institutions functioning with the logic of market competition and combined with decentred state regulations brought about a specific governance mentality into penitentiary management. Private prison industry birthed in the US (Sudbury 2004), American invention of supermax prisons[69] (Ross 2013) as a neoliberal practice accentuating effectiveness and efficiency (O'Malley 1999; Pratt 2002), elements of risk-management and actuarial applications employed in prison settings (Feeley & Simon 1992) - have travelled or been pushed into governance across the world. Conventionally, the trajectory of travelling penal policies were either identified as from the US to the UK (Garland 2001), given their cultural proximity, or to France and Western Europe (Wacquant 1999, 2009). Nonetheless, one thing is uncertain: have these policies affected the prison system of the Old World - Europe?

[69] Super maximum-security prison - a high level of custody in the prison system.

Although there is a clear convergence in some penal practises in Western societies, it is highly questionable whether prison governance regimes can be generalised across Europe: divergence in penal policies (Whitman 2003), human agency as a precluding factor to neoliberal experiments (Cheliotis 2006; Lynch 1998), or increase of incarceration rates - effect of neoliberalism - due to other unrelated variables (e.g. weak labour unions, decentralised polities, unregulated labour markets) and persisting profound institutional differences (Sutton 2013).

Numerous studies focus on the penal system by looking at the European *nation-level* practises. Little, if nothing at all, has been said of international and/or global penal arrangements. The current paper is trying to locate *European penology* - an intersection of European academic knowledge production and national practice of European policies developed by the Council of Europe (CoE) and the European Union (EU) - in neoliberal agenda. Unlike other approaches, the research before you, tries to conduct assessment through linguistic analysis.

In doing so, the paper aims to (i) understand whether and to what extent European penology changed under the currents of neoliberal politics, (ii) provide a reach empirical evidence if such an occurrence took place, and (iii) put European penology on the map, i.e., critical penal research. For the above reasons, the article will start off with existing studies on European penology, offer a new methodological strategy to identify regime change in penal governance, provide empirical evidence, and try to pave the way for future research in this direction.

European prison regulatory regime

Europe, as a post-modern political aggregate,[70] cannot and should not be measured with nation-state level methodologies: It was characterised, after all, as an increasingly post-Western entity (Delanty 2003). Not to fall into methodological nationalism, where states as polities are isolated entities with autonomous and self-containing structures (Fine 2006), European penology demands a rather different approach. Studies of such kind managed to bring a better elucidation into supranational governance.

For instance, studies show that the regulatory governance logic of neoliberal agenda which has distanced the state from the position of an entity conducting specific activities and providing public goods into a realm where it designs rules, enforces and monitors them, turned into a favourite technique of post-modern Europe. It is quite understandable given the plethora of actors, be it states, organisations, private institutions, and/or individuals, which necessitate a supervision mechanism of activities in political Europe. Regulatory governance has penetrated the region at all levels (Giandomenico 1994; Levi-Faur 2011): food production (Buonanno et al 2001), economic transformations (Sturm 2000), higher education (Gornitzka 2014), energy governance (Goldthau & 2019) etc.

[70] The current paper recognises "EU-bias" (Beck & Grande 2007) which reduces Europe to the EU and its institutional architecture. Europe, at large, is perceived by the present study as a complex political arrangement that derives its *raison d'etre* from normative knowledge production from various European institutions (e.g. CoE, some elements of OSCE, local and international non-governmental organisations).

Ultimately, such a neoliberal regulatory *governmentality*[71] did not neglect the penitentiary system. European institutions, primarily CoE and EU, got involved into regulation of (i) conditions in prisons (van Zyl Smit 2010), (ii) penal and prison policies devised and conducted on national-level (Cliquennois & Snacken 2018), and (iii) detention arrangement within common European asylum system (Nicholson 2006).

However, among limited studies of the European regulatory regime in prison settings, little has focused on the presence of neoliberal rationale in the European penology. Majority of studies, if not all, focused on legal and socio-political evaluation of actors participating in the regulatory regime.

European penology to a great extent has been influenced by the United Nations (UN) and its penological norms (Cliquennois & Snacken 2018; Coyle 2006): in 1973, the CoE adopted *Resolution (73) 5*, titled *European Standard Minimum Rules for the Treatment of Prisoners*, an equivalent of UN's *Standard Minimum Rules for the Treatment of Prisoners* (or Mandela Rules). Later on, the resolution has instigated other normative and institutional formations: European Prison Rules were adopted in 1987, a convention of 1989 established the Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), and around the same timeframe the European Court of Human Rights (ECtHR) started to impose norms of the European Convention of Human Rights (ECHR) into the prison setting. The process of singling out penological cooperation among CoE

[71] "*... ensemble formed by the institutions, procedures, analyses, and reflections, the calculations and tactics that allow the exercise of this very specific albeit very complex form of power, which has as its target population, as its principal form of knowledge political economy, and its essential technical means apparatuses of security*" (Foucault 1991:101).

member-states was evident as an advisory body to the European Committee on Crime Problems was established in 1985 - the Council for Penological Co-operation (PC-CP).

Commitment of the ECtHR to enforce European human rights standards into the penitentiary system is identifiable in two dimensions:

A. *Article 3 of ECHR on Prohibition of Torture - individual dimension*
    a. Decisions on individual cases started with the landmark case *Golder vs. the UK* (February 1975) by erasing the boundaries between the rights of inmates and their fellow citizens outside of the detention (Daems & Robert 2017)
B. *Article 46 and Protocol 14 of ECHR - structural and institutional dimension*
    a. Since 2004, repetitive cases brought before the Court were addressed by the ECtHR through article 46 to respond to "*the structural or large-scale systemic breaches of the Convention caused by non-compliant legislation*" (Cliquennois & Snacken 2018);
    b. Protocol 14, adopted in 2010, helped to filter and select cases that carried more a structural problem (repetitive and grave violations of prisoners' rights due to institutional and/or legislative shortcomings) (Cliquennois & Snacken 2018)

Moreso, the increasing level of prison standards coming from various institutions, such as CPT, PC-CP, Council of Ministers (CoM), has affected ECtHR's course of interpretation. The Court's jurisprudence recognised that acts that were classified as '*inhuman*

or degrading treatment' can qualify for *'torture'* under newly adopted standards (Murdoch 2006).

Establishment of the CPT, on the other hand, has opened the doors of penitentiary institutions for monitoring, supervision, and inspection (Daems 2013). The Committee, a complement to the ECtHR, is a non-judicial preventive body whose ultimate objective is to preclude practises of torture, inhuman and other forms of degrading treatment in penitentiary settings (Cliquennois & Snacken 2018; Daems & Robert 2017). The CPT turned into an important node within the European penological regulatory regime: it visits penitentiary institutions in member states, gathers evidence, analyses and devices standards later on to feed into the European penological ecosystem. Thus, the CPT is highly empirical and fits perfectly with the idea of post-modern and self-critical Europe: malicious practises are identified on the basis of which yardsticks are erected.

Unlike CPT, a preventive mechanism, and ECtHR, a judicial body, PC-CP is a classic example of an *epistemic community*.[72] These are a group of experts either with an academic training in penological matters or practitioners previously working in (inter)national penitentiary institutions of Europe. Their fundamental objective is to discuss best practises in penitentiary management and assess conditions of prisons from a scientific point of view.[73] In doing so, they are gathering hard evidence through various statistical

[72] Unfortunately, academic studies on PC-CP are almost nonexistent. Although there are articles/book chapters which refer to the PC-CP and cite their publications, as such there is no published paper focusing on PC-CP exclusively. This is an urgent literature gap that needs to be addressed.

[73] There is a strong collaboration with the University of Lausanne in Switzerland and their academicians specialising in the criminal justice system (Council for Penological Co-operation 2020).

techniques. Since members of this group of experts are also responsible for drafting recommendations for the CoM, in numerous cases the collected evidence and inferences made based on them is translated into the legal drafts.

These institutions are major participants in the regulation of the European penological system.[74] All of them have an approach, a logic of making sense of prisons, and objectives to change/correct/lead it - simply put, a subjectivity about penal institutions. The aim of the current paper is to study these subjectivities and locate a possible shift from a welfare-concerned regime to a regulatory state in the penitentiary, an outcome of neoliberal ideology.

Research design to study a meaning-making process

Methodology

This research follows a poststructuralist agenda and applies the notion of *a flat ontology*. In a vibrant environment where PC-CP publishes annual statistics on European prisons which are later utilised by the CPT and the ECtHR, or implications of CPT and CoM standards on ECtHR's jurisprudence (van Zyl Smit & Dünkel 2001) which is imposed later on member state level, leaves no space to prioritise one institution over another while studying knowledge production within European penology regime. Understandably, every institution participating in this process has its own voice (or

[74] Although not specialised, institutions such as the Parliamentary Assembly of the Council of Europe and CoM - legislative and executive bodies respectively - have participated in the making of the European penology. This list can be complemented with the Conference of INGOs (CONF) - a platform for national and international civil society organisations at the CoE.

discourse) and a way of meaning-making[75] with regard to prison systems. In a sense, all of them offer their own subjectivities through individual and collaborative actions. This research attempts to combine and aggregate all of these subjectivities expressed through discursive practises as an epistemological ground and to conduct a metalevel analysis on them.

There are several complications that can arise whilst conducting meta-level subjectivity studies. Firstly, the *self*, or personal background, of a researcher who is carrying out a study might be a defining factor throughout a scientific inquiry. This, in a sense, is a wider problem acknowledged by social scientists who deny the existence of objectivity in the socio-political world. Thus, to avoid looking at the European penology *'from the position of one who is looking'* (Levinas, 2006/1972) an inductive investigation is employed. Having no precise hypothesis in mind and being guided by broad research queries, this paper studies subjectivities from *a distance*. Accordingly, this study attempts to understand (i) what the specificities in European penological *language* are, (ii) what the process and trends of meaning-making are, (iii) and how *the language* and *meaning-making* in European penology have changed over time.

Secondly, the application of an inductive research methodology alone is not enough to distance oneself from subjectivity when exploring the process of meaning-making; rather, a robust research design is also required. The qualitative approach has proven to be an impressive tool for conducting critical discourse analysis and a valuable asset to understand the interpretive techniques, and,

[75] This is a postulate of critical theories which argues that any knowledge comes with an intention entangled with personal beliefs and temporal-spatial conditions of the person/institution/entity producing it.

ultimately, the problem of power and domination in a society (Fairclough, 2013; Fairclough & Wodak, 1997; van Dijk, 1993). Nonetheless, the current study aims neither to deconstruct nor to pave a way to the genealogical roots of European penology, nor does it aims to elucidate on the dynamics of power relations. Given that the focus is on a knowledge space at large, as opposed to the separate discourses constructing it and being constructed by it, this paper adopts a quali-quantitative approach. Such an approach provides a range of possibilities in terms of assessing and understanding European penology, its peculiarities, and directions of its development on a macro level.

Thirdly, the nature of texts within European penology restricts the range of possible research methods. As a specialised corpus was built titled the *European Penology Corpus* (or EPC),[76] the majority of the texts considered, if not all, are *international*. To clarify, people of different nationalities have participated in its production. Studies in linguistics show that latecomers to English lack proper grasp and intuitive language capacities in comparison with native speakers.[77] Ultimately, the usage of certain linguistic units by latecomers, such as words (as well as circumstances that necessitate their usage) are conditioned by several factors, among which one's mother tongue plays a major role. The English used in the halls of European institutions is not an exception. There is a phenomenon

[76] More detailed information on the corpus will be provided below in the *Data and methods* section.

[77] A philosophical debate between proponents of rationalism (existence of a priori knowledge; an innate, almost genetic, capacity to distinguish truthful knowledge) and empiricism (experience is the ultimate source for knowledge acquisition) in linguistics produced Universal Grammar theory often prescribed to Noam Chomsky. Within this theory both rationalists and empiricists try to explain how native language can(not) affect further language learning. For the importance of native grammar in foreign language acquisition see Slabakova, R. (2000). L1 transfer revisited: The L2 acquisition of telicity marking in english by spanish and bulgarian native speakers. *Linguistics*, 38 (4; ISSU 368), 739–770.

called *Euro-English* – a pidgin language that is highly dependent on EU terminology and the national backgrounds of people using English as a foreign language.[78] It ranges from usage of *calques* in oral communication (e.g. nationals of Nordic countries use expressions such as *to hop over* 'to refrain from doing something', *to be blued eyed* 'to be naive', and *to salt* 'to overcharge') to EU jargon and terminology (*Berlaymont* used for 'bureaucracy', *semester* for 'six months', etc.). Euro-English is conditioned both by the lexis and grammar of a speaker's native language (e.g. *eventual* used for 'possible' or 'possibly', *possibility* for 'opportunity'[79]; uncountable nouns turn into countable ones, such as 'aid**s**', 'conditionaliti**es**', 'competence**s**', or 'information**s**'[80]).

These lexical and grammatical mistakes have not only been observed in oral communication but have also been detected in many publications. Theoretically, the EPC is not immune from these errors. If anything, it can be a valuable source for this research. The current paper neither attempts to resist this version of English nor tries to bypass it by other means. Nonetheless, possible grammatical and minor lexical *diversities* force the current paper to use *semantic analysis*[81] to understand meaning-making in European penology.

[78] For more details on *Euro-English* see Modiano, M. (2017). English in a post-Brexit European Union. *World Englishes*, 36 (3), 313–327 and European Court of Auditors. (2016). Misused English words and expressions in EU publications.

[79] A common mistake made by native speakers of French and Italian (and/or Romance languages).

[80] Some words in English are uncountable, though the equivalent of these words can be countable in other languages (e.g. a common mistake made by natives of Romance languages).

[81] There are other means of exploring texts for biases or subjectivities: a. CDA-type of hand-*coding*; b. *pragmatics* – understand how context affects meaning; c. study of *discourse markers*; d. *syntax* – understanding meaning through word order.

Lexis and text: studying knowledge production and meaning-making

Semantic analysis of the EPC is accomplished by investigation of lexis and text relationship. For this purpose, observation of words and their meanings is carried out by investigating how these words relate to a text through association to other words. With this in mind, corpus linguistic methodology is combined with lexical semantics – a linguistic theory that investigates the meanings of words. This portion of the methodology utilises a distributional hypothesis and diachronic analysis to determine the meanings of words and their changing nature.

The proposition that there is a correlation between the distributional structure of a text and meaning of a word (Harris, 1954) has been operationalised in multiple ways. It started with the '*you shall know a word by the company it keeps*' hypothesis (Firth, 1957) and evolved into theses such as '*words which are similar in meaning occur in similar contexts*' (Rubenstein & Goodenough, 1965), '*words with similar meanings will occur with similar neighbours*' (Schütze & Pedersen, 1995), and '*words that occur in the same contexts tend to have similar meanings*' (Pantel, 2005). Under these circumstances, the meanings of words within a given text are inferred from similarity measurements with other words, primarily through observation of that word's neighbours. Such an associational logic fits perfectly into the lexis-text analysis conducted in this paper.

In addition, to observe change in meaning-making and, ultimately, knowledge trends over time, a diachronic analysis is conducted. By looking at the EPC through different time frames, a measurement of meaning of words and how they changed throughout time will result in a strong footing for this paper to elucidate on semantic

change, thus, the process of meaning-making in European penology and whether it happened in favour of neoliberal trends.

Data and Methods

The EPC[82] is composed of texts produced by several institutions within the CoE. These are the CoM,[83] the Parliamentary Assembly of the Council of Europe (PACE),[84] the CPT,[85] the PC-CP,[86] and the ECtHR.[87] In addition, the EPC contains prison systems-related publications of the CoE[88] and other legal texts, such as treaties, conventions, and protocols (see Table 1).

Institution	Number of documents	Number of words*
ECtHR	2,027	23,661,664

[82] The process of construction of EPC was finalised on April 10th, 2020.

[83] Selection of CoM Recommendations and other legal texts were made based on the compendium of the PC-CP. This compendium is updated every year by PC-CP as a collection of important documents within the field of prisons and community sanctions. The EPC followed the subjectivity of this and close institutions by collecting texts that they consider the most relevant for the field.

[84] Any adopted text (Recommendation or Resolution) utilising one of the following words were added into the corpus: *prison system, penitentiary, detention, detainee.*

[85] All *country visit* reports, responses of authorities from member states, annual reports, standards, conference proceedings, reference documents, exchange of letters (such as correspondence with the International Criminal Court).

[86] Summary of meetings, conference proceedings and/or conference conclusions, SPACE statistics (unlike in previous articles objectives of which were clearly exploratory, SPACE publications were kept in this corpus), drafts of Recommendations for the CoM.

[87] Case-law of the ECtHR: cases ruled in violation and non-violation under Article 3.

[88] *Prison and Penological Information Bulletin* – a periodical published by the CoE under the auspices of PC-CP between 1984 and 2006; separate thematic publications such as (i) organisation of healthcare in prisons, (ii) investigative interviewing in prison matters, (iii) mental health in prisons and so forth.

CPT	769	14,307,683
PACE	354	553,742
PC-CP	84	920,186
CoM	49	282,610
CoE publications	29	847,157
Other legal texts	11	65,104
Conference of INGOs	1	816
Total	3,324	40,638,962

Table 1. Frequency of documents and words per institution.
* Number of words were calculated based on the raw/unprocessed corpus and excluding non-alphanumeric symbols.

Semantic similarity measurement and its diachronic application

The distributional hypothesis regarding lexical semantics has proven popular in the discipline of linguistic theory. Studies in numerous other fields (e.g. psychoanalysis, humanities, anthropology) employ this logical framework. When it comes to the application of this mode of thinking to corpora, there is a need for practical techniques which can calculate the semantic similarities between words in a given context. Osgood et al. (1957) noticed that words can be represented as vectors in a *n*-dimensional space. Thus, a collection of words mapped as vectors consequently form a *semantic space* that can be modelled and, eventually, studied using geometric relations (Boleda & Herbelot, 2016). The similarity of two words in a semantic space is calculated based on cosine metrics, namely the cosine of the angle between two vectors (see Figure 1).

Semantic similarity is, thus, sometimes referred to as *cosine similarity*.

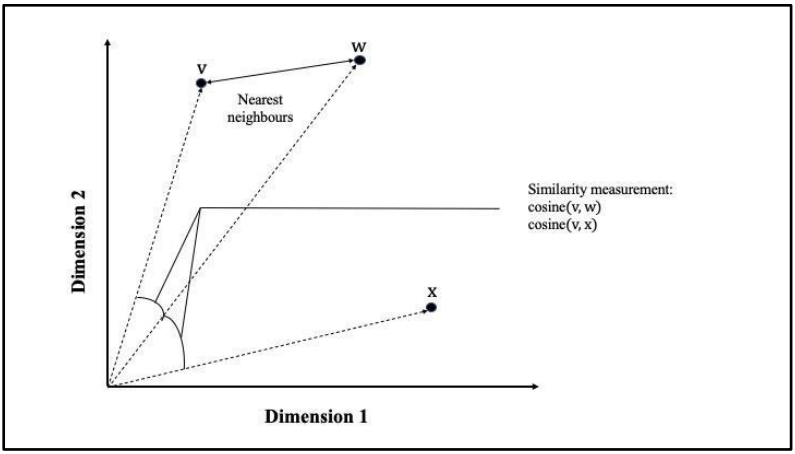

Figure 1. Similarity measurement through the cosine.

This particular method of assessing the meaning of a word based on its context, has proven to be useful in detecting biases. Studies using vector space modelling techniques show that gender, religious, and racial biases[89] are the most common biases in the vast majority of texts. These biases, while presenting serious problems for computer scientists, are a valuable source of information for those who concentrate on the social and political aspects of the world. Using semantic spaces, this paper attempts to locate subjectivities within the EPC and elaborate on them qualitatively.

[89] For gender stereotypes located through word vectors see Bolukbasi, T., Chang, K.-W., Zou, J. Y., Saligrama, V., & Kalai, A. T. (2016). Man is to computer programmer as woman is to homemaker? debiasing word embeddings, In *Advances in neural information processing systems*; for religious and racial socio-political biases see Manzini, T., Lim, Y. C., Tsvetkov, Y., & Black, A. W. (2019). Black is to criminal as caucasian is to police: Detecting and removing multiclass bias in word embeddings. arXiv preprint *arXiv:1904.04047*

Another valuable application of word vector spaces is the observation of diachronic semantic changes. Words clearly change in meanings, and we can notice it either intuitively or hypothesise about it based on the language environment we are exposed to. Nonetheless, a ground-breaking study investigated the semantic evolution of nearly 30,000 words across four languages (Hamilton et al., 2016) and identified two linguistic patterns (to which the authors refer as *laws*): (i) *the law of conformity* – words that are used frequently (e.g. *'the', 'a' , 'of', 'then', 'about'*) change less, and thus the meaning of these words are stable; and (ii) *the law of innovation* - polysemous words[90] change at higher rates. Examples of words that fall into the law of innovation category are *gay*, *broadcast*, and *awful*. Semantic meaning measurements revealed that the word *gay* moved from denoting 'cheerful' to the semantic space signifying 'homosexuality'. Likewise, the change in meaning of the word *broadcast*, originally meant to describe the act of throwing seeds on the soil, is currently used to refer to the dissemination of information. Finally, the word *awful*, which literally meant 'full of awe', is now used to describe negative and unpleasant circumstances or objects (see Figure 2).

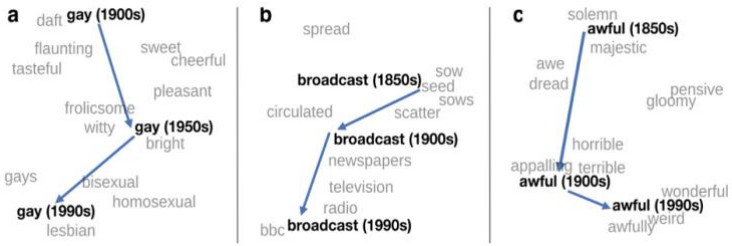

Figure 2. Visualised changes of meaning (Hamilton et al., 2018).

[90] Words with several/multiple meanings derived from a common origin.

Similarly semantic changes were observed with regard to the words *wanting* in English, *asile* in French, and *widerstand* in German (see Table 2).

Word	**Language**	**Nearest-neighbours in 1900s**	**Nearest-neighbours in 1990s**
wanting	English	*lacking, deficient, lacked, lack, needed*	*wanted, something, wishing, anything, anybody*
asile	French	*refuge, aisles, hospice, vieillards, infirmerie*	*demandeurs, refuge, hospice, visas, admission*
widerstand	German	*scheiterte, volt, stromstärke, leisten, brechen*	*opposition, verfolgung, nationalsozialistische, nationalsozialismus, kollaboration*

Table 2. Semantic changes in English, French, and German (Hamilton et al., 2018).

To apply this method to the EPC, the corpus was divided into three different timeframes. As the earliest document of the EPC was published in 1949 by PACE, the first timeframe covers the period of 1949-1980. Further two frames respectively cover two 20-years periods, 1981–2000 and 2001–2020. The reason for this division is twofold: Firstly, frequency distribution of documents required to have a broader coverage for the timeframe 1949–1980 (see Table 3); secondly, research on *New penology* (Feeley & Simon 1992; Sutton 2013)) suggests that changes in the penology of the modern world have taken place in the 1980s. This, in turn, necessitates division of the EPC into a timeframe where 1980 serves as the year

of sharp division to observe changes in language of European penology.

Timeframe	Nr of documents
1949-1980	45
1981-2000	309
2001-2020	2,970
Total	**3,324**

Table 3. Frequency distribution of documents and words per timeframe

Findings

Semantic assessment of EPC

This section measures the semantic similarities[91] of three different groups of words: (i) the most frequent lemmas in the corpus and both (ii) *Penal-welfarism* and (iii) *New penology* terms. Firstly, the semantic content of these words is qualitatively assessed based on their neighbourhoods within the whole corpus (without taking into consideration the historical aspect of semantic change). Secondly,

[91] For this exercise, *word2vec*'s continuous skip-gram model architecture was used. This is an algorithm which vectorises all the words within a text with a special attention to the word order. Moreover, in comparison with other models (such as Global Vectors or *GloVe*) *word2vec* does not use frequency of words as an additional information during the vectorisation process (for details *see* Mikolov, T., Sutskever, I., Chen, K., Corrado, G. S., & Dean, J. (2013). Distributed representations of words and phrases and their compositionality, In *Advances in neural information processing systems*). Thus, this algorithm is useful to flatten the voices of all institutions working within the European penology and focus on the word and its neighbourhoods regardless of the number of documents published by an entity. Meaning a high number of ECtHR documents will not affect the *voice* of CONF with only one document in the corpus.

the similarity of these words is assessed through diachronic application to detect their semantic evolution.

Striking peculiarities are associated with three words that occur frequently in the corpus: *prisoner*, *detainee*, and *treatment* (see Table 4). This list was complemented with the lemma *torture* to observe this important penological concept and which semantic space it occupies. When considering the word *prisoner*, it can be seen that a particular categorised group, namely *life-sentenced* / *lifer*, has the same semantic meaning. There is a pattern of information coming from the nearest neighbours of *prisoner*: classification. Both *life-sentenced* / *lifer* and *retrograded* refer to a sub-population or a method of classification within a prison. The word *retrograded* hints at an assessment within a detention facility where inmates are noticed to revert to their earlier/inferior behaviour. Likewise, the closest neighbours of *detainee* are those which are classified based on the nationality of the detained person: *foreigner* and *deportee*.

Frequent words in the corpus	**Nearest neighbours**
prisoner	*inmate, prisoners, inmates, detainee, life-sentenced, retrograded, prison, remand, lifer, convict*
detainee	*person, prisoner, detainees, inmate, detained, suspect, foreigner, inmates, deportee*
treatment	*suppressant, degrading, punishment, sex-offenders, libidinal, sexuology, inhuman, care-treatment, libido-suppressing, psycho-rehabilitation*
torture	*inhuman, cruel, degrading, uncat, mendez*

Table 4. Nearest neighbours of frequently occurring words in the EPC (assessment of the corpus as whole).

Having a look at the lemma *treatment*, which is conventionally associated with words such as *inhuman*, *degrading*, *punishment*, it is quite an interesting finding to spot a similarity with words denoting the sexual condition of a prisoner. Considering *sex-offenders* as a close neighbour in this semantic space, one can infer that this is a part of treatment procedure for prisoners who have committed sex crimes. It is also witnessed that the process involves *libido-suppressing* drugs later complemented with *psycho-rehabilitation*.

As per the word *torture*, in addition to habitual neighbours *inhuman*, *cruel*, and *degrading*, the presence of *uncat* and *mendez* are of important significance. To clarify, the former is a reference to the *United Nations Convention against Torture* (UNCAT), and the latter refers to Juan Mendez, *UN Special Rapporteur on Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment*. These two words showing similarity to concept of European interpretation of *torture* are an important sign that the European context is in mutual learning with the global scale. Perhaps the directions of knowledge production within European penology and how they are affected by other global institutions/norms can be illustrated by looking at a case involving the principle of *non-refoulement*[92] within the scope of the Article 3 of the ECHR. Briefly, the principle was codified in the Geneva Refugee Convention in 1951 and has today been signed and ratified to this date by 145 states. Ultimately, this widespread ratification

[92] The principle of *non-refoulement* guarantees that no one should be deported to a country where they would face torture, inhuman and degrading treatment, or any other harm to their physical and mental wellbeing.

led to the principle of *non-refoulement* to become a part of customary international law and applicable to countries that are not party to the Convention. A principle which was devised in relation to the protection of refugees was eventually codified in a global human rights treaty – UNCAT. The incorporation of this practice and the broadening of the concept of *torture* in the European context, although not explicitly mentioned in the ECHR, occurred in the context of the ECtHR's case-law.

Looking further into the *Penal-welfarist* vocabulary *rehabilitate*, *reintegrate* and *recidivism* (see Table 5), one can witness that the semantic space that they inhabit is in perfect alignment with the philosophy of creating a just society by normalising people, eliminating deviancy, and ultimately eradicating crime in a society. It should be noted though, the nearest neighbour of *recidivism 'prediction'* is a clear leniency towards actuarial assessment. As per *health*, it refers to the physical and mental well-being of a prisoner.

Penal-welfarism	**Nearest neighbours**	**New penology**	**Nearest neighbours**
rehabilitate	*healthier, reintegrate, reintegrating, furthered, ex-prisoners, crime-free, humanise, paradoxically, redemption*	risk	*danger, radicalising, real, contagion, materialising, materialisation, pose, contamination, posed,* ***criminogenic***
reintegrate	*rehabilitate, reintegrated, reintegrating, healthier, furthered, ex-prisoners, crime-free, self-supporting, reintegration*	assessment	*evaluation, cellshare, reassessment, risk-needs, needs-risk, reevaluation, by case, analysis, risk-assessment, reassessing*

recidivism	*reoffending, reconviction, criminogenic, offending, relapse, cohort, result-outcome,* ***prediction***	manage	*sensitively, skilful, difficult, coped, optimally, competently, over-stretched, risk-related, managing*
health	*care, mental, somatic, healthcare,* ***sosfs****, inreach, medical-pharmaceutical, ambulatory, out-of-hospital, mental-health*	cost	*expense, incurred, reimbursement, postal, reimbursed, lump, photocopying, expenditure, sundry, postage*
		value	*enshrining, enshrines, calorific, depraved, nutritive, recreation-association, civilisation,* ***probative***

Table 5. Nearest neighbours of Conventional and New penology terms (assessment of the corpus as a whole).

In comparison, *New penology* jargon varies (see Table 5), and expectations regarding its semantic content are not entirely met. For instance, with the exception of similar words of *risk* and *assessment*, the nearest neighbours of *manage* are adverbs indicating management style. *Assessment* is strongly risk-related making it visibly a trend of neoliberal agenda. Another noteworthy example is the word *value*. Against the expectation developed by the *New penology* thesis, the *value* concept does not entail materialistic notions. In fact, European penology uses this word in moral and nutritional contexts.

Diachronic assessment of semantic changes

For better comprehension of trends in meaning-making and knowledge production in European penology, a diachrony serves as a decisive tool. By looking at the changes in the lexical semantics of a word, it is possible to infer in which direction and in what ways European understanding of a prison system has changed.

Semantic change in the most frequent words is striking (see Table 6). The timeframe of 1949–1980 can be identified as an interval where these words were in the process of being conceptualised and operationalised. For instance, discussion of the meaning of the word *torture* can be inferred from its nearest neighbours, *notion* and *word*, whereas its measurement from *practice*, *constituted*, *amount*, and *technique*. The further two historical intervals demonstrate how semantic change occurred based on information provided by member states (*duress*, *eradicated*, *vexatious*) and global partners (*UNCAT*, *Mendez*).

Likewise, *treatment* is in the close proximity to *notion* and *form* with the lemmas of measurement *constituted*, *corporal*, *technique*. In the next two timeframes, one can observe how *treatment* has moved from semantic space denoting corporal and other forms of physical and mental conditions of a prisoner to a semantic domain specifying the libido and sexual state of a convict. As of 2000s, a clear neoliberal pattern, medicalisation, is visible: individualisation of crime while divorcing it from the societal structures and putting responsibility on the shoulders of the offender. When deviance is the sole responsibility of an individual, it is remedied through medicalisation of the offender's state - *suppressant*, *anti-hormone*, *pharmaco-therapy based*.

As per the *Penal-welfarist* terms, three important concepts (*rehabilitate*, *reintegrate*, and *recidivism*) were not significantly used prior to the 1980s. Though they appeared in the later timeframes, their semantic component remained static within the boundaries of traditional *Penal-welfarist* jargon. However, a remarkable change happened in the semantics of *health*. Initially, it was used in similar meaning to *moral*, *society*, and *suitable* later on moving to populate a space representing buildings and services (*care*, *ambulatory*, *curative*). This development has changed as of the 2000s with the formation of a semantic space on corporeal conditions (*mental*, *somatic*, *medical-pharmaceutical*, *drug-addiction*).

Significant changes in the semantic content of words have also been observed in actuarial terminology. The lemmas *risk* and *assessment*, as predicted by the actuarial justice thesis, moved from individual-type restrictions (*personally*, *complainant*, *prohibit*, *forbid*) into a semantic space associated with the management of aggregates (*radicalising*, *danger*, *contagion*, *cell-share*, *criminogenic*, *risk-needs*). Similarly, the word *manage* shifted from referring to its type and manner of carrying (*decentralised*, *directing*, *managerial*, *readjust*, *efficiently*, *combine*, *interact*, *aspire*, *continual*) to a term specifying struggle with risk and the management of specific populations within prisons (*cope*, *violent-aggressive*, *ex-offenders*, *divert*, *over-stretched*, *competently*, *de-escalate*, *at risk*)

Words		Nearest neighbours 1949-1980	1981-2000	2001-2020
Frequent words	detainee	saving, length, convicted, professional, serving, identity, total, allowed, attend, instruction	person, prisoner, detained, inmate, suspect, asylum-seeker, certify, inebriate, rotation	prisoner, inmate, person, detained, foreigner, suspect, convict
	treatment	inhuman, degrading, torture, punishment, notion, corporal, constituted, suffering, technique, form	vexatious, libido-suppressing, subjecting, stigma, embrace, prohibiting	sex-offenders, inhuman, punishment, suppressant, libidinal, anti-hormone, pharmaco-therapy based, libido
	torture	inhuman, degrading, notion, constituted, practice, amount, punishment, treatment, technique, word	inhuman, cruel, degrading, inundated, vexatious, eradicated, stigma, cruelty, duress, repression	inhuman, cruel, degrading, uncat, yair, mendez
Penal-welfarist terms	rehabilitate	-	attainment, counteract, aggravate, humanise, abstain, disruption, jeopardising, mitigate	reintegrate, furthered, reintegrating, ex-offenders, healthier, self-supporting, crime-free, restructure, friendlier, drug-using
	reintegrate	-	-	rehabilitate, reintegrated, furthered, self-supporting, crime-free, healthier, dissociation
	recidivism	-	sub-population, imprison, total, probation, measurement, compilation	offending, re-offending, cohort, relapse, criminogenic, reconviction, spectacular, proportionally
	public	force, catholic, emergency, informed, directed, loyalist, protestant, terrorism, director, commissioner	prosecutor, non-jurisdiction, restricts, prosecuting, swiftly	prosecutor, misfeasance, chief
	health	moral, society, basic, suitable, include, probation, enable, area, method, grade	welfare, care, mental, curative, aftercare, natal, ambulatory, equivalence, psychiatric-psychological, provider	care, mental, somatic, medical-pharmaceutical, sosfs, drug-addiction, in-reach
New penology terms	risk	closely, remuneration, personally, search, prohibit, forbid, posture, wherever, reduce, comparable	danger, expose, brings, likelihood, extradited, real, self-mutilation	radicalising, danger, contagion, real, cell-share, materialising, posed, minimises, criminogenic
	assessment	proof, assessing, distinct, impugned, complainant, lacking, ascertaining, clear, relevance, criterion	evaluation, appraisal, evidentiary, speculative, basing, proposition, inventory, physiological	evaluation, analysis, risk-needs, cell-share, by case, reassessment, re-evaluation
	manage	-	flourish, decentralised, directing, managerial, readjust, efficiently, combine, interact, aspire, continual	cope, violent-aggressive, ex-offenders, divert, overstretched, competently, de-escalate, at risk
	cost	amnesty, vessel, criminality, help, channel, spirit, judged, book, regularly	expense, incurred, reimbursed, deduction, appropriation, dollar, million	expense, incurred, postal, reimbursement, photocopying, postage, value added, invoice, expenditure

Table 6. Nearest neighbours of *Frequent*, *Penal-welfarist*, and *New penology* terms per timeframe.

Contrary to expectations, the lemma *value* does not exhibit strong actuarial features. Even more, throughout three historical intervals, it is on par with ideational, nutritional terminologies, and vocational activities: *legally*, *humanitarian*, *equity*, *enshrining*, *civilisation*, *depraved*, *nutritional*, *calorific*, *communicate*, *recreation-association*, and *vocational*. A thought-provoking finding in this analysis of semantic similarity is the detection of *value* and *civilisation* in the same lexical space of the 2001–2020 interval. Examination of concordances[93] of the word civilisation (see Table 7) reveals that European penology ('*our idea about human dignity*', '*progress of civilisation in sectors of suffering*', '*civilisation and legal system*') is closely associated with civilisational values of Europe.

Left (6 lemmas)	Concordance	Right (6 lemmas)
the preservation of human society and	***civilisation***	*, as well as its devotion to*
done much for the progress of	***civilisation***	*in sectors of suffering, an ideal*
workers have in the values of	***civilisation***	*, which are a sure foundation for*
in our time, without standard of	***civilisation***	*and our idea about human dignity*
decent life within the national culture,	***civilisation***	*and legal system and to pecuniary*
or punishment is a value of	***civilisation***	*closely bound up with respect for*
It is also a value of	***civilisation***	*closely bound up with respect for*
it is "[i]ndeed … a vale of	***civilisation***	*closely bound up with respect for*
or punishment is a value of	***civilisation***	*closely bound up with respect for*
It is also a value of	***civilisation***	*closely bound up with respect for*

[93] Examples of lemma usage within a corpus.

Table 7. Concordances of lemma *civilisation*.

Analysis of the last four concordances led to the identification of citation pattern in the ECtHR jurisprudence. The sentence "I*ndeed the prohibition of torture and inhuman or degrading treatment or punishment is a value of civilisation closely bound up with respect for human dignity*.", in which European civilisation, human dignity, and the prohibition of torture are intertwined, was originally coined in the Court's judgement *Bouyid vs. Belgium* (2015, No. 23380/09). This sentence was cited across 13 different cases,[94] including two cases which incorrectly cited the source of this sentence as *Khlaifia and others vs. Italy* (these cases are *Ilias and Ahmed vs. Hungary*, and *Z. A. and others vs. Russia*) and one case with no reference at all (*Cantaragiu vs. the Republic of Moldova*). This is a vivid example of how an idea and framing can be constructed within an institution later on to turn into an important part of its normative arsenal. Notably, the last case that used this sentence as a justification for upholding the ideals enshrined in Article 3, either by mistake or willingly, did not cite the source, taking this information as given.

Conclusion

European penology is in constant making. Ideas and jargons continually change their meanings under different influences. The process of knowledge production and meaning-making within this

[94] *R. vs. Russia*, No. 11916/15; *Mursic vs. Croatia*, No. 7334/13; *Khlaifia and others vs. Italy*, No. 16483/12; *Thuo vs. Cyprus*, No. 3869/07; *M. F. vs. Hungary*, No. 45855/12; *V. C. vs. Italy*, No. 54227/14; *Nait-Liman vs. Switzerland*, No. 51357/07; *Khani Kabbara vs. Cyprus*, No. 24459/12; *Nikitin and others vs. Estonia*, No. 23226/16; 43059/16; 57738/16; 59152/16; 60178/16; 63211/16; 75362/16; *Korban vs. Ukraine*, No. 26744/16; *Ilias and Ahmed vs. Hungary*, No. 47287/15; *Z. A. and others vs. Russia*, No. 61411/15; 61420/15; 61427/15; 3028/16; *Cantaragiu vs. the Republic of Moldova*, No. 13013/11.

particular domain reflects the peculiarities of the European penological regime. Unlike generalisations made by numerous studies on the neoliberal shift in Western governance practises, the current paper concludes that things are not that black and white: empirical analysis of the European penological regime identified influences in three directions.

First, European penology remains highly influenced by the region's human rights discourse. This is due to the framework within which European penology functions - the European Convention on Human Rights. Jurisprudence of the ECtHR, CPT standards and other institutions function within the borders of this document. As concordance analysis has shown, European institutions see penology being interpreted within the human rights framework as a civilisational achievement of the region.

Second, European penology is highly influenced by the knowledge and norms produced on the global level, i.e. the UN. Similarity measurement exercise identified that European definition of torture has acquired a lot from its global counterpart. Namely the *non-refoulement* definition of torture codified in UNCAT, although not explicitly mentioned in the ECHR, was employed by the European Court in its jurisprudence.

Thirdly, diachronic analysis of semantic change did unearth neoliberal trends in European penology. Indeed, the shift from welfarist ideology in prison governance into risk-management mentality with limited state involvement can be observed in this knowledge space as well. Eye-catching discovery was medicalisation of certain penological terms. On top of the individualisation of deviancy which can be corrected with medical involvement, European penology was prone to statistical

calculations, such as prediction of recidivism rates - an actuarial practice.

Linguistic approach to locate shift in penological governance regime in Europe is just one of many lenses to be utilised. Although it proved itself strong in identifying neoliberal trends in European penology, the limits of linguistics require other disciplinary approaches. Regardless of these limitations, the participation of various actors, the impacts of globally codified norms, inventions on a regional and global level, and actuarial logic are identified as the drivers of changes in European penology.

References

Beck, U. & Grande, E. (2007). *Cosmopolitan Europe*. Cambridge, Polity Press.

Bentham, J. & McHugh, J. (2009). The rationale of punishment. Amherst, N.Y: Prometheus Books.

Boleda, G., & Herbelot, A. (2016). Formal distributional semantics: Introduction to the special issue. *Computational Linguistics*, 42 (4), 619–635.

Box, S., C. Hale, and G. Andrews. (1988). "Explaining Fear of Crime". *British Journal of Criminology* 28: 340 – 56.

Braithwaite, J. (2000). The new regulatory state and the transformation of criminology. *British journal of criminology*, 40(2), 222-238.

Brezina, V., McEnery, T., & Wattam, S. (2015). Collocations in context: A new perspective on collocation networks. *International Journal of Corpus Linguistics*, 20 (2), 139–173.

Brien, M. & Yar, M. (2008). *Criminology : the key concepts*. London New York: Routledge.

Buonanno, L., Zablotney, S., & Keefer, R. (2001). Politics versus science in the making of a new regulatory regime for food in Europe. *European Integration online Papers* (EIoP), 5(12).

Cheliotis, L. K. (2006). How iron is the iron cage of new penology?: The role of human agency in the implementation of criminal justice policy. *Punishment & Society*, 8(3), 313–340.

Cliquennois, G., & Snacken, S. (2018). European and United Nations monitoring of penal and prison policies as a source of an inverted panopticon? *Crime, Law and Social Change*, 70(1), 1-18.

Council for Penological Co-operation. (2020). "Prisons and community, sanctions and measures". https://www.coe.int/en/web/prison/council-forpenologicalco-operation

Daems, T. (2013). Punishment and the question of Europe. In Daems, T., van Zyl Smit, D., & Snacken, S. (eds). *European penology?*. Bloomsbury Publishing.

Daems, T., & Robert, L. (2017). Introduction: From prisons in Europe to Europe in prisons. In *Europe in prisons*. Springer.

Delanty, G. (2003). *The making of a post-western Europe: a civilizational analysis*. Thesis Eleven, 72, 8-25.

Fairclough, N. (2013). *Critical discourse analysis: The critical study of language*. Routledge.

Fairclough, N., & Wodak, R. (1997). Critical discourse analysis. *Discourse studies: A multidisciplinary introduction*, 2, 258–284.

Feeley, M. M., & Simon, J. (1992). The new penology: Notes on the emerging strategy of corrections and its implications. *Criminology*, 30 (4), 449–474.

Fine, R. (2006). Cosmopolitanism. A social science research agenda. In Delanty, G. (ed). *Handbook of Contemporary European Social Theory*. London, Routledge.

Firth, J. R. (1957). A synopsis of linguistic theory, 1930-1955. *Studies in linguistic analysis*.

Foucault, M. (1979). *Discipline and punish: The birth of the prison.* New York: Vintage Books.

Foucault, M. (1991). Governmentality. In G. Burchell & C. Gordon, (eds). *The Foucault Effect: Studies in governmentality*. London: Harvester Wheatsheaf, pp. 87–104.

Garland, David. (2001). *The Culture of Control: Crime and Social Order in Contemporary Society*. New York: Oxford University Press.

Giandomenico, M. (1994) The rise of the regulatory state in Europe, *West European Politics*, 17:3, 77-101.

Goldthau, A., & Sitter, N. (2019). Regulatory or market power Europe? EU leadership models for international energy governance. *In New political economy of energy in Europe* (pp. 27-47). Palgrave Macmillan, Cham.

Gornitzka, Å., & Stensaker, B. (2014). The dynamics of European regulatory regimes in higher education–Challenged

prerogatives and evolutionary change. *Policy and Society*, 33(3), 177-188.

Hamilton, W. L., Leskovec, J., & Jurafsky, D. (2016). Diachronic word embeddings reveal statistical laws of semantic change. *arXiv preprint* arXiv:1605.09096.

Harris, Z. S. (1954). Distributional structure. *Word*, 10 (2-3), 146–162.

Levi-Faur, D. (2011). Regulatory networks and regulatory agencification: towards a Single European Regulatory Space. *Journal of European public policy*, 18(6), 810-829.

Levinas, E. (2006/1972). *Humanism of the other* (N. Poller, Trans.). University of Illinois Press.

Lynch, M. (1998). Waste Managers? The New Penology, Crime Fighting, and Parole Agent Identity. *Law & Society Review*, Vol. 32., No. 4: 839-870.

McEnery, T., & Hardie, A. (2012). *Corpus linguistics: Method, theory and practice.* Cambridge University Press.

Mikolov, T., Sutskever, I., Chen, K., Corrado, G. S., & Dean, J. (2013). Distributed representations of words and phrases and their compositionality, In *Advances in neural information processing systems.*

Nicholson, F. (2006). Challenges to Forging a Common European Asylum System in Line with International Obligations. In *EU Immigration and Asylum Law* (pp. 505-537). Brill Nijhoff.

O'Malley, P. A. T. (1999). Volatile and contradictory punishment. *Theoretical criminology*, 3(2), 175-196.

Osgood, C. E., Suci, G. J., & Tannenbaum, P. H. (1957). *The measurement of meaning*. University of Illinois Press.

Pantel, P. (2005). Inducing ontological co-occurrence vectors, In *Proceedings of the 43rd annual meeting on association for computational linguistics*. Association for Computational Linguistics.

Pratt, J. (2002). *Punishment and Civilization: Penal Tolerance and Intolerance in Modern Society*. London: Sage.

Ross, J. (2013). Introduction. In Ross, J. & Wacquant. (eds). *The globalization of supermax prisons.* New Brunswick, New Jersey: Rutgers University Press.

Ross, J. & Wacquant. (2013). *The globalization of supermax prisons.* New Brunswick, New Jersey: Rutgers University Press.

Rubenstein, H., & Goodenough, J. B. (1965). Contextual correlates of synonymy. *Communications of the ACM*, 8 (10), 627–633.

Rusche, G. (1933). Arbeitsmarkt und Strafvollzug: Gedanken zur Soziologie der Strafjustiz. *Zeitschrift für Sozialforschung*, 2(1), 63-78.

Schütze, H., & Pedersen, J. O. (1995). Information retrieval based on word senses. In *Proceedings of the 4th Annual Symposium on Document Analysis and Information Retrieval* (pp. 161–175).

Sturm, R., Muller, M. M., & Dieringer, J. (2000). Economic transformation in Central and Eastern Europe: towards a new regulatory regime?. *Journal of European Public Policy*, 7(4), 650-662.

Sudbury, J. (2004). A World Without Prisons: Resisting Militarism, Globalized Punishment, and Empire. *Social Justice*, Vol. 31, No ½: 9-30.

Sutton, J. R. (2013). The Transformation of Prison Regimes in Late Capitalist Societies. *American Journal of Sociology*, Vol. 119, No. 3 (November): 715-746.

van Dijk, T. A. (1993). Principles of critical discourse analysis. *Discourse & Society*, 4 (2), 249–283.

van Zyl Smit, D. (2010). Regulation of prison conditions. *Crime and Justice*, 39(1), 503-563.

van Zyl Smit, D. & Dünkel, F. (2001). *Imprisonment today and tomorrow. International Perspectives on Prisoners' Rights and Prison Conditions.* Boston: Kluwer Law and Taxation Publishers.

Wacquant, L. (1999). How Penal Common Sense Comes to Europeans. *European Societies*, 1:3, 319-352.

Wacquant, L. (2009). *Punishing the Poor: The Neoliberal Government of Social Insecurity*. Durham, N.C.: Duke University Press.

Wacquant, L. (2013). Foreword: Probing the Meta-Prison. In Ross, J. & Wacquant. (eds.). *The globalization of supermax prisons*. New Brunswick, New Jersey: Rutgers University Press.

Whitman, J. Q. (2003). *Harsh Justice. Criminal Punishment and the Widening Divide between America and Europe*. New York, Oxford University Press.

Williams, G. (2001). Mediating between lexis and texts: Collocational networks in specialised corpora. *ASp. la revue du GERAS*, (31-33), 63–76.

Essay four
Locating participants of European penology: beyond the conventional actors.

Introduction

Europe is increasingly post-Western (Delanty 2003). As a political aggregate inhabited by the most powerful organisations, the European Union (EU) and the Council of Europe (CoE), it penetrated all aspects of socio-political sphere. Penal arrangements in sovereign states of Europe were not overlooked: importance of justice to politics expanded European institutions' presence in penal matters (Daems et al 2013). The new field was titled *European penology*, an intersection and interaction of scientific knowledge production, national penal policies, and European regional norms.

However, nearly all studies on European penology, if not all, have extensively focused on the so-called conventional penal actors[95] (*see* Coyle 2006; Daems & Robert 2017) occupying primarily CoE space: the Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), the European Court of Human Rights (ECtHR), the Committee of Ministers (CoM), and the Parliamentary Assembly of CoE (PACE). Interestingly enough, the Council for Penological Co-operation (PC-CP) established in 1985 as an advisory body is almost non-existent in academic studies.

[95] The key author and pioneer of many studies on European penology, Daems, when studying transfer/diffusion of norms with respect the treatment of detainees with European context, challenged stat-centric approach and moved the focus from conventional actors to pressure and transnational advocacy groups. See Daems, T. (2017). European penology and policy transfer. In *American Society of Criminology Conference, Date: 2017/11/15-2017/11/18, Location: Philadelphia, PA, USA.*

Unlike Snacken and Van Zyl Smit (2013) who call to focus on the CoE and EU to understand European penology, the current paper aims to go beyond the European borders and its traditional actors. These organisations and their penal-related institutions might be the principal bodies of political Europe managing the penitentiary systems across the continent, nonetheless, the process of norm production in the penal sphere cannot be limited to a few.

Thus, the current paper's objective is to locate those actors that had some sort of influence over the making of European penology. In doing so, it tries to contextualise the penal norms of the continent within a bigger framework that entails actors of various characteristics: global, regional, non-governmental, and even non-human/social objects, such as norms.

To follow the above-mentioned objectives, the essay will start off with a brief assessment of literature on European penology, complement it with short theoretical and methodological considerations, and offer specialised method to conduct the research. Discussion on findings and a succinct conclusion with main arguments will be presented.

Literature review

European penology was/is scrutinised predominantly from legal and policy perspectives: This is due to their human-rights-centric approach where penology was rather a subject of construction within European human rights discourse. Such a limited inquiry and framework overlooked/s other potential topics and narrowed/s the overall understanding of this particular field.

For instance, when it comes to exploration of other potential variables participating in the making and/or influencing European penology, number of studies were focusing on the following: fluctuating prison population rates due to migration and terrorism (Dünkel 2017), human agency resisting the currents of *actuarial justice*[96] sweeping across the globe (Cheliotis 2006; Lynch 1998), and penal exceptionalism forcing to take given states in a different direction (Brangan 2020).

It is almost a given fact that European criminal justice system is a distinct structure with a special focus on human rights and normative creations (Tonry 2015). With reference to penology, some studies suggested that European penology learned a great deal from its global counterpart (Cliqeunnois & Snacken 2018; Coyle 2006), the United Nations (UN). UN's *Standard Minimum Rules for the Treatment of Prisoners* (or Mandela Rules) impacted European regional normative architecture – in 1973 the CoM adopted a *Resolution (73) 5,* titled *European Standard Minimum Rules for the Treatment of Prisoners*. This seminal document in turn instigated an avalanche of other institutional and normative productions.

Without going into the details of main institutions forming European penological system, the current paper recognises lack of academic attention on other actors bringing either empirical evidence to deliberate on new penal norms within the continent or

[96] A trend in criminal justice that employs methods and concepts from mathematical science to calculate risks, increase efficiency of institution management, and predict potential shortcomings based on carefully categorised variables. This trend affected the penology as well. For an account of actuarial influence in penology see Feeley, M. M., & Simon, J. (1992). The new penology: Notes on the emerging strategy of corrections and its implications. *Criminology*, 30 (4), 449–474.

simply influence judicio-political decision-making taking place in the halls of the CoE.

Theoretical and methodological considerations

Influence of actors might differ. Yet, the very fact of their existence and activities of various intensity means some sort of participation. In a dynamic where even a knowledge production can be considered as a political act, inclusion of actors even with the minimal political significance into the analysis is of fundamental necessity. With a poststructural view of *flat ontology* and for the purposes of *flattening* vertical political relationships, the current paper utilises a corpus-driven approach. Only through text one can straighten political scales, locate actors, and identify their level of participation in a given context.

With this in mind and aware of the capacity of *text as data* approach, the research before you follows a descriptive logic. To flatten the voices of conventional actors participating in the making of European penology, the research, having no hypothesis in mind, aims to analyse institutional discursive practices and identify other actors and/or important documents that might have a strong influence, thus, a level of participation in co-construction of European prison norms.

Data

A specialised corpus was constructed for the above-mentioned purposes. The *European Penological Corpus* (EPC) was a result of a compilation of texts coming from main institutions of European penology (see Table 1). Apart from texts produced by well-known institutions of the CoE, penitentiary-related publications (CoE

publications) and legal texts - knowledge base for European penology- were established as a separate category for a better detection of the trends in EPC.

Institution	Number of documents	Number of words*
ECtHR	2,027	23,661,664
CPT	769	14,307,683
PACE	353	552,487
PC-CP	74	424,178
CoM	49	282,610
CoE publications	29	847,157
Other legal texts	11	65,104
Conference of INGOs	1	816
Total	3,313	40,141,699

Table 1. Frequency of documents and words per institution.
* Number of words were calculated based on the raw/unprocessed corpus and excluding non-alphanumeric symbols.

Methods

To identify actors within the EPC, the aim is to benefit from the latest techniques in the information retrieval field, a sub-task of natural language processing. For this particular reason, the paper is using *named-entity recognition* (NER) techniques to locate and classify named entities in an unstructured body of text. This task was originally defined at a scientific conference in 1996 (Grishman & Sundheim 1996)) and has been under scrutiny ever since

NER advanced with a combination of linguistic knowledge and computer science: The ultimate goal of NER is to sequence label every word within a text/corpus with parts of speech (also known as Parts-of-Speech Tagging) and on the basis of these findings define the location and type of an entity (Alonso et al 2021). Such powerful syntactic analysis, a subfield within linguistics, was operationalised in computer science, especially within its machine learning dimension, to such an extent that many industries started to use and contribute to its development. The current paper uses an industry made open-source software library to apply NER on EPC.

Having run NER on EPC, the paper is looking at the following statistical dimensions:

- Frequency of categories within each section of corpus;
- The most frequent entities;
- The most frequently used entities in three categories: *organisations* (ORG), *geopolitical entities* (GEP), and *legal documents/references* (LAW).

Descriptive analysis of the EPC: categories and trends

Simple frequency analysis of entities across sub-corpora revealed that EPC is in favour of five categories (see Figure 1): *organisations* (ORG, such as companies, agencies, institutions, states), *geopolitical entities* (GPE; for instance countries, cities), *persons/individuals* (PERSON), *dates* (DATE), and *cardinal numbers* (CARDINAL). Considering objectives of the paper, CARDINAL and DATE can be considered as *noisy data* within EPC. Thus, to look deeper into the differences and similarities among sub-corpora, one should focus on GPE, ORG, and PERSON.

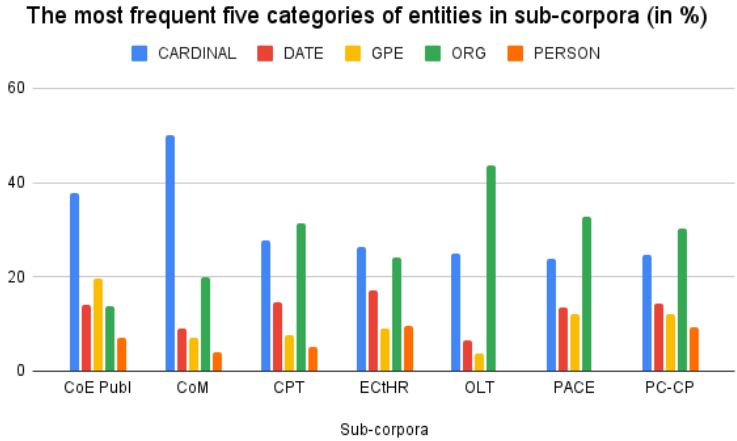

Figure 1. The most frequent five categories in each of sub-corpora

ORG category, except for CoE publications corpus, seems to be the overall most favourite entity type in EPC. This is rather an understandable occurrence given these institutions' connectivity and collaboration with various (non-)governmental organisations. However, ORG is relatively higher in the corpora of OLT. Legal texts in this corpus depict strong allegiance to different organisational entities in comparison with GPE. It can be assumed that the legal documents are assigning responsibilities and roles to different organisations rather than discussing penitentiary-related rules and regulations. Moreso, entities of the person/individual category are almost non-existent. As would be expected from legal documents, OLT does not refer to specific people in its jargon.

CoE publications, on the other hand, are keen on geopolitical entities. As later analysis will show, sub-corpus on publications of the EPC aim to learn and analyse examples coming from different spatial contexts: These are mainly European country names and,

assumingly, their prison system, best practises, and/or detections of severe human rights violations.

Furthermore, the category distribution in CPT's corpus is rather captivating: frequency of organisation is drastically higher than GPE. One, when thinking about CPT's preventive role of human rights violations in penitentiary, can assume that the corpus should be heavily focusing on member-states of the Convention. Yet the presence of ORG gives a strong ground to argue that the CPT is highly referential to institutions in its jargon: It refers to specific authorities/bodies instead of generalising prison monitoring findings to the whole state.

Unlike drastic variations taking place in sub-corpora, the corpus of ECtHR tries to hold categories in an equal level. Thus, although governments of states are held accountable for their (in)actions in violations of human rights norms, a generalisation is made to the geopolitical entities and, at times, persons.

Moving further to explore the most frequently used entities, regardless of their category, one can note how certain actors and items heavily participate in the making/construction of its vision of European penology (see Table 2).

ECtHR	CPT	CoM	PC-CP	PACE	CoE Publ	OLT
Court	CPT	European	CPT	Assembly	France	State
State	Committee	the Committee of Ministers	European	the Council of Europe	Sweden	Frontex
RUSSIA	the Ministry of Justice	CPT	The Council of Europe	Council of Europe	Switzerland	OMS
Convention	Turkish	the Council of Europe	Ministry of Justice	European	Turkey	PMS
Article 3 of the Convention	Greek	State	Strasbourg	Turkey	Norway	Convention
Russia	Convention	States	Netherlands	Europe	Spain	the Council of Europe
Article 3	State	ECtHR	Germany	the Committee of Ministers	Italy	States
Turkey	Ukrainian	the European Prison Rules	Europe	Ukraine	Wales	JRO
Government	the European Committee for the Prevention of Torture and	The Committee of Ministers	the Committee of Ministers	Strasbourg Cedex	Portugal	the European Union
Russian	Turkey	Rule	CDPC	the European Convention on Human Rights	Finland	Framework Decision

Table 2. The most frequent ten entities in EPC.

ECtHR is clear in its GPE - *Russia* and *Turkey*. Indeed, authorities of these two countries have been brought before the Court numerous times for the allegations of torture, inhuman and degrading treatment of prisoners/detainees. Thus, it only makes sense to see the names of these states among the most frequent ten entities. Moreover, among ORG, the Strasbourg Court identifies *government* as its primary organisational structure of concern. In terms of normative reference, ECtHR refers to the *convention* and *article 3*, meaning *the European Convention on Human Rights* (ECHR) and its *Article 3 on Prohibition of Torture*: the general framework within which the Court imposes its judicial power.

The corpus of CPT, with its monitoring and preventive characteristics, establishes *Turkey*, *Greece*, and *Ukraine* the contexts of utmost importance. However, unlike ECtHR with its generalised authority *government*, CPT identifies a specific national institution with whom it communicates - *the Ministry of Justice*. Pursuant to its obligations, the CPT's corpus pinpoints *convention* which can refer to the ECHR or *the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment* adopted in 1987.

The frequency analysis of CoM entities is noteworthy for its reference to the *CPT* and *ECtHR*. These bodies of the CoE seem to be the main counterpart of the Committee of Ministers in tackling problems within the European prison system. Having in mind that the CoM is an executive body, reliance on judicial and preventive agencies of Europe is an indication that the Committee is armouring itself with Court decisions and refers to specific instances of human rights violations to devise new norms or impose member-states to abide by the existing ones. In comparison with other sub-corpora, CoM refers to *the European Prison Rules* as a normative entity.

Similar to the Committee of Ministers, the sub-corpus of EPC, PC-CP, identifies *CPT* as an entity of paramount importance: the preventive body of the CoE was predominantly used among identified entities. Moreover, the Committee for Penological Cooperation names the *Ministry of Justice* as a national institution with whom it is in dialogue, and the European Committee on Crime Problems, *CDPC*, another CoE agency tasked to oversee and coordinate the field of crime prevention and control. The latter is also the body which established PC-CP.

As per the political institution of the CoE, the Parliamentary Assembly, the corpus analysis discloses *Turkey* and *Ukraine* as important geopolitical entities and *the European Convention on Human Rights* as a normative document to which it refers in its adopted texts. The Assembly's aim and scope of activities is to detect human rights violations and challenge states that stay complicit with those practises. Following other CoE bodies, PACE takes on the above-mentioned countries' violations in penitentiary.

Anticipated from previous category distribution analysis, the most frequent entities in CoE publications are exclusively GPEs majority of which belong to economically developed European countries. *France*, *Sweden*, *Switzerland*, *Turkey* and *Norway* are critical contexts from which it derives its knowledge.

OLT, unlike other sub-corpora, exhibits strong allegiance to the EU and its specific institution - the European Border and Coast Guard Agency, *Frontex*. Words such as *OMS* (organising member state), *PMS* (participating member state), and *JRO* (joint return operation) hints at the transportation aspect of offenders.

In conclusion, simple frequency test of entities participating in the making of European penology revealed actors on three levels:

A. *geopolitical* - Turkey, Russian, Ukraine were mentioned across the sub-corpora of EPC, presumably, for their repetitive violations of prisoners'/detainees' rights;
B. *institutional* - e.g. CPT, Ministry of Justice, CDPC, EU, Frontex;
C. *normative* - depending on the sub-corpora entities varied from *the European Convention on Human Rights* to *the European Prison Rules* and *EU Framework Decisions*.

Participants of European penology: beyond the conventional actors.

Having considered three levels of actors from previous simple frequency tests of EPC, this section is dedicated to a more in depth analysis of geopolitical, institutional, and normative entities of European penology. Not to reiterate on previously mentioned findings, the purpose hereunder is to find the most peculiar actors that appeared in NER analysis.

Organisations

ECtHR, alongside to the usual suspects of the European penology, namely *state*, *CPT*, *Commission*, and *government*, mentions the Central Intelligence Agency (*CIA*) of the United States. The unexpected presence of this civilian foreign intelligence agency functioning outside of the European perimeter raised a lot of questions as to what extent it can affect the making of the European penological system. Having looked deeper into the case law of the Court, it becomes obvious that the CIA appeared due to its secret

detention facilities operated in EU member states right after the September 11, 2001 terrorist attacks. The so-called *High-Value Detainee Programme* launched on an undefined date and operated until 2008 in different sites so far out of which detention facilities in Romania, Lithuania, and Poland are known (Marty 2007). Authorities of respective European countries being complicit with the CIA's torture, inhuman and degrading acts on people suspected of terrorist activities and links to the September 11 attacks, have established a precedent for the Strasbourg Court to take on the matter of foreign-led detention and torture practises within the European jurisdiction.

Another unusual influencer of European penology is the *Home Office* of the United Kingdom. It is a ministerial department responsible for security, immigration, law and order. The presence of this actor in the CoE publications sub-corpus hints at the study of Home Office's practises in detention and penitentiary matters. Being the fourth most frequent organisation in the sub-corpus alongside CPT and the Council of Europe, although having no context-specific information, only reassures the significance of the Home Office in European penological knowledge production.

National Preventive Mechanisms, or *NPM*s, although widely known in the sphere of prevention of torture and other forms of punishment, was singled out as an important actor within the CPT sub-corpus. It should be noted that establishment of NPMs are rather of encouragement coming from the global level, namely the UN. Namely the necessity to create a national body within sovereign jurisdictions is established with *the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* (adopted in 2002 and in force since 2006). Presence of NPM among the most frequent

organisations of importance to the CPT depicts the dynamic communication taking place among the global, regional, and national levels.

On PC-CP level, the frequency test of sub-corpus' organisations discovered the Confederation of European Probation, or *CEP*. Like its counterpart, the Committee for the Penological Co-operation, CEP is a rich platform that can qualify for an *epistemic community*. The Confederation established in 1981 is active in penological knowledge production, specialising in probation, community sanctions and measures: It (i) contributes into pan-European cooperation and communication in the field for academics, stakeholders, and practitioners, (ii) organises conferences, workshops and trainings, and (iii) publishes reports and digital newsletters to circulate knowledge among the institutions across the political Europe.

Geopolitical entities

PACE attracts quite an attention with specific sovereign states in its jargon: There is an intense attention on Turkey and the post-Soviet space (e.g. *Armenia*, *Azerbaijan*, *Georgia*, *Russia* and one of its constituent entities *the Checen Republic*, and *Ukraine*). A recent study (Huseynov 2021) brought attention into the South Caucasian participation in the making and bolstering of European prison norms through case law analysis of the ECtHR. The Parliamentary Assembly, one of the oldest international assemblies in Europe, also proved to play an important role within the CoE that managed to influence the above-mentioned region of concern: Understand the limits of human treatment in a detention setting and reinforce European norms. Assembly's achievements, among various human

rights, democracy, and rule of law accomplishments, entail some penological successes in Turkey and the post-Soviet countries:

- Imposing abolition of death penalty on member states based on the ECHR;
- Assist newly independent states in the Eastern Europe to incorporate, devise, and enact European legal norms in their jurisdictions;
- Take on human rights abuses in penitentiary institutions and challenge their structural persistence.

When looking broadly at the referred geopolitical entities in sub-corpora, one can easily locate the constancy of *Turkey* and *Russia* in European penology. Such a presence can be speculated in diverse directions, yet all of them can be narrowed down to the following: (i) Turkey and Russia, as spatial contexts, are abundant with violations of prisoner's rights; (ii) both countries are an important empirical source for the European penology ecosystem to deliberate on the boundaries and applications of human rights norms in penitentiary settings; and (iii) Turkey and Russia are either politically or structurally resisting to European novelties with their enduring historical legacies.

There is a visible distinction between the sub-corpora of institutions directly dealing with national authorities on the ground (CPT, ECtHR, PACE, and CoM) and sub-corpora deliberating on findings coming from counterparts' activities (PC-CP, CoE, and OLT). The former constantly refers to the spatial contexts where violations take place, the latter, on the other hand, processes it and provides *replicable good practises* from politically more evolved countries.

Legal entities: documents, articles, and codes

Analogous to other categories, this section focuses on entities within sub-corpora that are not commonly referred to by the studies on European penology.

For instance, along to widely cited *Article 3 of ECHR* on Prohibition of Torture and numerous detention-related *Recommendations* of CoM, the PC-CP keeps *the European Code of Ethics for Prison Staff* among its the most frequent three legal documents. One might infer that the topic of code of ethics among the staff in prison settings is of concern for the Committee on Penological Co-operation in its communication with various (inter)national institutions.

Moreso, the Committee of Ministers brings another global instrument into the European penological system, t*he United Nations' Convention on Rights of the Child*. In the same spirit, the Parliamentary Assembly introduces *the Criminal Law Convention on Corruption* and *the European Charter on Self-Government*. OLT's reference to t*he Treaty on European Union* is of the same emphasis. All these documents, perhaps having no clear connection with penitentiary whatsoever, are important entities within the European penological knowledge system.

Conclusion

This paper tried to contextualise the making of European penology beyond the realms within which it is/was studied. While recognising main institutions of CoE and their direct participation in making of European punishment system, the paper attempted to locate actors highly cited by these respective bodies.

The research unearthed organisations of different levels and character that influenced norm making in the European continent. For instance, it located *CIA*-run detention facilities in Poland, Romania, and Lithuania, grave breaches of human rights on the European territory by a foreign agency with whom the local authorities were in full complicity. The research also identified *National Preventive Mechanisms* as local institutions of utmost importance in circulating, deliberating, and exchanging global, regional, and local knowledge on penitentiary matters. Additionally, special attention to the *Confederation of European Probation* can be considered as another finding how non-governmental organisations influence norm making in European penological system.

More careful analysis of the geopolitical entities to whom conventional actors of European penology refer revealed that specific countries and regions, namely Turkey and the post-Soviet space are a crucial context from which it learns a lot. In fact, sovereign states mentioned in EPC can be categorised into the countries where bad practices are identified (e.g., Turkey, Russia, Ukraine) and states with good practices in prison matters (e.g., Norway, Sweden).

All in all, modern tools such as NER, although highly limited in its capacity, offer ways to employ and understand socio-political dynamics. Application of such logic came handy in locating important actors who could/managed to influence certain elements of European penology.

References

Alonso, M. A., Gómez-Rodríguez, and C., Vilares, J. (2021). On the Use of Parsing for Named Entity *Recognition. Appl. Sci*. 11: 1090.

Brangan, L. (2020). Exceptional states: The political geography of comparative penology. *Punishment & Society*, 22(5), 596-616.

Cheliotis, L. K. (2006). How iron is the iron cage of new penology?: The role of human agency in the implementation of criminal justice policy. *Punishment & Society*, 8(3), 313–340.

Cliquennois, G., & Snacken, S. (2018). European and United Nations monitoring of penal and prison policies as a source of an inverted panopticon? *Crime, Law and Social Change,* 70(1), 1-18.

Coyle, A. (2006). Revision of the European Prison Rules, a contextual report. In *European prison rules*. Council of Europe Publishing.

Daems, T., & Robert, L. (2017). Introduction: From prisons in Europe to Europe in prisons. In *Europe in prisons*. Springer.

Daems, T., Snacken, S. & Smit, D. (2013). *European penology*. Oxford: Hart Publishing.

Delanty, G. (2003). *The making of a post-western Europe: a civilizational analysis*. Thesis Eleven, 72, 8-25.

Dünkel, F. (2017). European penology: The rise and fall of prison population rates in Europe in times of migrant crises and terrorism. *European Journal of Criminology*, 14(6), 629-653.

Feeley, M. M., & Simon, J. (1992). The new penology: Notes on the emerging strategy of corrections and its implications. *Criminology*, 30 (4), 449–474.

Grishman, R. & Sundheim, B. (1996) Message understanding conference- 6: A brief history. In *Proceedings of the 16th International Conference on Computational Linguistics, COLING 1996*, Center for Sprogteknologi, Copenhagen, Denmark, 5–9 August 1996; Association for Computational Linguistics (ACL): Stroudsburg, PA, USA, pp. 466–471.

Haas, P. M. (1992). Introduction: Epistemic communities and international policy coordination. *International Organization*, 46(1), 1–35.

Huseynov, S. (2021). European prison norms and the South Caucasus: A general introduction. In Reisner, O., Turkes-Kilic, S., and Gabrichidze, G. (eds). *Experiencing Europeanization in the Black Sea and South Caucasus: Inter-Regionalism, Norm Diffusion, Legal Approximation, and Contestation.* Ibidem Press.

Lynch, M. (1998). Waste Managers? The New Penology, Crime Fighting, and Parole Agent Identity. *Law & Society Review*, Vol. 32., No. 4: 839-870.

Marty, D. (2007). Secret detentions and illegal transfers of detainees involving Council of Europe member states: Second report. *Doc 11302*, 19 June.

Snacken, S. and Van Zyl Smit, D. (2013). European penology and penal policy-making. In: Daems, T., Van Zyl Smit, D. and Snacken, S. (eds). *European Penology?* Oxford: Hart Publishing.

Tonry, M. (2015) European criminology and the ESC – Continental cures for American ailments. *ESC Newsletter* 14(2): 2–3.

Concluding remarks

Discourses see no boundaries. They evolve, circulate and endure regardless of temporal restraints only to end up and/or construct a knowledge space. In the example of European penology, this thesis tried to show how discursive practices coming from various levels of governance have shaped disciplinary institutions in the European continent. From inception of norms to the modern changes in governance mentality, from definitions of penology to agendas of its modification - European penology exposed its influences coming from various socio-political spaces.

The thesis assumes contributions in two dimensions: Methodological experimentation and thematic input. First, with regards to methodology, discourse analysis has been the central theme for the current research project in all its manifestations. Additionally to conventional methods in this very thesis, such as document study and corpus-linguistic investigation, the research explored two novel approaches to study discourse: Semantic change and entity participation. The project, noteworthily the third essay, demonstrated that it is possible to understand and analyse the discourse and trends of politics through scrutiny of diachronic changes in semantic content of critical words in a given corpus. Even more, as depicted in the fourth essay, the discourse can reveal more and open new prospects for further analysis should one look at the entities, including their nature, mentioned in compiled texts.

Second, thematically speaking, the project before you pursues to be a complementary research to a strand of literature on European penology. As discussed throughout the thesis, penology in this part of the world differs in many ways from other philosophies of punishment. Thus, to provide an alternative, principally a linguistic, view on the matter of European penology and its making, the

research tried to offer a critique both in terms of approach and evaluation.

Equally important, the research project benefitted from inductive reasoning. The thesis was led by general research objectives set to explore a corpus/data which was collected from principal institutions constructing the European penological system. Having understood the limits of inductive logic in the research process and potential biassed conclusions it might raise, the thesis considers application of inductive reasoning as the vital mentality to study a discourse. To emphasise, discourses are subjective by nature, thus, to avoid *self-reflexivity* and study *subjectivities* of people, institutions, and entities one needs to be guided by their utterances/ textual production. Based on this approach and findings thereof, the thesis hypothesises the following:

- *European penology is highly dependent on the empirical occurrences of human rights abuses in the continent* - unlike popular believe that Europe has its preexisting norms to be disseminated across the world, the thesis argued that the majority of penological norms are a result of negotiated/debated boundaries of (in)human treatment in a detention context;

- *Human rights framework, laid by the European Convention of Human Rights, sets the tone of the continent's penology* - although there are various discursive practices impacting European penology, the discourse of human rights is almost persistent at all levels of penitentiary governance;

- *European penology has been influenced by the neoliberal agenda/discourse forcing it to shift from welfare provision to management of the delinquents* - European knowledge

space regulating punishment in the continent has changed since the 1980s towards a more distanced state, medicalisation of delinquency, and management techniques;

- *The penology of Europe is a co-construction going beyond the conventional European institutions* - in contrast to prevalent assumptions, the penology of Europe is an assemblage of knowledge coming from various sources and tiers of national and global governance.

Considering the above mentioned hypotheses, one can reassert a poststructural postulate: *Structures are not stable*. Human rights discourse of European institutions pursued and imposed vis-a-vis penology affairs are just a fragment of multiple discursive practices penetrating this knowledge space: National Preventive Mechanisms, local authorities, NGOs, IOs, neoliberal techniques of governance introduced through institutions and people, even CIA's illegal acts on the European soil - all have added into the construction of European penology that we know of today.

Needless to say, the thesis is also aware of its limitations. It identifies shortcomings on two aspects: the data and methods. In terms of data limitations, although the vast majority of institutions producing these texts are anglophone in nature, the data could not capture tendencies taking place in the francophone part of Europe. All assessment reports of CPT, for instance, describing conditions of penitentiary in France, Luxembourg, Brussels and such are in French. Thus, the data stands short with regards to information coming from a monitoring, and quite an essential body of the European penological ecosystem, the CPT inspecting these spaces.

Moreover, the research project made use of industry produced programmes to carry out semantic analysis and entity recognition in the corpus. As a thumb rule, almost all algorithms fed into these programmes are following the same logic, yet with slightly different tuning. Thus, the thesis recognises that, although the industry might have more sophisticated programmes that could have performed better on the corpus and reveal critical elements, the most basic programmes were favoured over the experimental ones. Admittedly, the project could have discussed and identified the most applicable programmes based on merits of algorithms, however, this would have exceeded the scope and objectives of the current thesis.

In terms of future research agenda, the project, having based its stance on the findings of the thesis, considers exploration of the following penological topics:

- *NGO participation in penological norm-making* - a topic that has been studied in one way or another requires a closer look at the penological trends set by these institutions, identification of influential NGOs, and the extent it can affect the decision-making process in judicial, monitoring and executive bodies of Europe. In a state-centric world which favours IOs over other organisations, agency of NGOs needs to be explicitly argued;
- *Mapping citation network of ECtHR cases* - separate case-studies, both from a legal and socio-political dimension, have shed some light on the penological norm-making process. However, mapping a network of cases brought before the Court, finding cross-citation trends within this institution, and spotting influential decisions might reveal new details.

Bibliography

Action Document for "Support for the Implementation of the EU-Georgia Association Agreement". (2018). Annex 3. ENI/2018/041-415. https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/eni_2018_041415_support_for_the_implementation_of_the_eu-georgia.pdf

Adler, E., & Haas, P. M. (1992). "Conclusion: Epistemic communities, world order, and the creation of a reflective research program." *International Organization*, *46*(1), 367–390.

Alonso, M. A., Gómez-Rodríguez, and C., Vilares, J. (2021). On the Use of Parsing for Named Entity *Recognition. Appl. Sci*. 11: 1090.

Arrigo, B. & Milovanovic, D. (2009). *Revolution in penology : rethinking the society of captives*. Lanham: Rowman & Littlefield Publishers.

Baker, P. (2006). *Using Corpora in Discourse Analysis*. London: Continuum.

Baker, P., Gabrielatos, C. and McEnery, T. (2008). 'Using Collocational Profiling to Investigate the Construction of Refugees, Asylum Seekers and Immigrants in the UK Press', paper given at the 7th conference of the *American Association for Corpus Linguistics*, Brigham Young University, Provo, UT, 13–15 March 2008.

Barnes, H.E. (1972). *The story of punishment : a record of man's inhumanity to man*. Montclair, N.J: Patterson Smith.

Barnett, M., & Duvall, R. (2005). "Power in international politics." *International Organization*, *59*(1), 39–75.

Bartl, M., & Irion, K. (2017). *The Japan EU Economic Partnership Agreement: Flows of Personal Data to the Land of the Rising Sun*. Available at SSRN 3099390.

Beck, U. & Grande, E. (2007). *Cosmopolitan Europe*. Cambridge, Polity Press.

Bentham, J. & McHugh, J. (2009). *The rationale of punishment*. Amherst, N.Y: Prometheus Books.

Bentham, J. & McHugh, J. (2009). The rationale of punishment. Amherst, N.Y: Prometheus Books.

Boleda, G., & Herbelot, A. (2016). Formal distributional semantics: Introduction to the special issue. *Computational Linguistics*, 42 (4), 619–635.

Bondi, M. (2007). 'Key-words and Emotions: A Case Study of the Bloody Sunday Enquiry',in N. Fairclough, G. Cortese and P. Ardizzone (eds) *Discourse and Contemporary Social Change*, pp. 407–32. Bern: Peter Lang.

Box, S., C. Hale, and G. Andrews. (1988). "Explaining Fear of Crime". *British Journal of Criminology* 28: 340 – 56.

Braithwaite, J. (2000). The new regulatory state and the transformation of criminology. *British journal of criminology*, 40(2), 222-238.

Brangan, L. (2020). Exceptional states: The political geography of comparative penology. *Punishment & Society*, 22(5), 596-616.

Brezina, V., McEnery, T., & Wattam, S. (2015). Collocations in context: A new perspective on collocation networks. *International Journal of Corpus Linguistics*, 20 (2), 139–173.

Brien, M. & Yar, M. (2008). *Criminology : the key concepts*. London New York: Routledge.

Brooks, H. (1965). "Scientific concepts and cultural change." *Daedalus*, 66–83.

Broome, A., & Quirk, J. (2015). "Governing the world at a distance: The practice of global benchmarking." *Review of International Studies*, *41*(5), 819–841.

Buonanno, L., Zablotney, S., & Keefer, R. (2001). Politics versus science in the making of a new regulatory regime for food in Europe. *European Integration online Papers* (EIoP), 5(12).

Carlen, P and Worrall, A (2004). *Analysing Women's Imprisonment*, Cullompton: Willan.

Carlen, P. (1983). *Women's Imprisonment: A Study in Social Control*, London: Routledge.

Carr, E. H., & Cox, M. (2001/1939). *The twenty years' crisis, 1919-1939: An introduction to the study of international relations* (reissued with a new introduction and additional material). Palgrave.

Cheliotis, L. K. (2006). How iron is the iron cage of new penology?: The role of human agency in the implementation of criminal justice policy. *Punishment & Society*, 8(3), 313–340.

Cliquennois, G., & Snacken, S. (2018). European and United Nations monitoring of penal and prison policies as a source of an inverted panopticon? *Crime, Law and Social Change*, 70(1), 1-18.

Council for Penological Co-operation. (2020). "Prisons and community, sanctions and measures." https://www.coe.int/en/web/prison/council-for-penologicalco-operation

Council for Penological Co-operation. (2020). "Draft terms of reference (valid from january 2020 until december 2021)." https://rm.coe.int/090000168093c77d

Council of Europe. (2020). "Kazakhstan becomes GRECOs 50th Member State. Group of States against Corruption." https://www.coe.int/en/web/greco/ home/newsroom/-/asset publisher/sCeIUhEJG5bw/content/kazakhstanbecomes-greco-s-50th-member-state

Coyle, A. (2006). Revision of the European Prison Rules, a contextual report. In *European prison rules*. Council of Europe Publishing.

Daems, T. (2013). Punishment and the question of Europe. In Daems, T., van Zyl Smit, D., & Snacken, S. (eds). *European penology?*. Bloomsbury Publishing.

Daems, T., & Robert, L. (2017). Introduction: From prisons in Europe to Europe in prisons. In *Europe in prisons*. Springer.

Daems, T., Snacken, S. & Smit, D. (2013). *European penology*. Oxford: Hart Publishing.

De Schutter, O. (2007). "The two Europes of human rights: The emerging division of tasks between the Council of Europe and the European Union in promoting human rights in Europe." *Columbia Journal of European Law*, *14*, 509.

Delanty, G. (2003). *The making of a post-western Europe: a civilizational analysis*. Thesis Eleven, 72, 8-25.

Deleuze, G., & Guattari, F. (1987). *Capitalism and schizophrenia: A thousand plateaus.* Trans. Brian Massumi. Minneapolis: University of Minnesota Press.

Diez, T. (2005). "Constructing the Self and Changing Others: Reconsidering Normative Power Europe." *Millennium*, *33*(3), 613–636.

Dünkel, F. (2017). European penology: The rise and fall of prison population rates in Europe in times of migrant crises and terrorism. *European Journal of Criminology*, 14(6), 629-653.

Eilstrup-Sangiovanni, M., & Hofmann, S. C. (2019). "Of the contemporary global order, crisis, and change." *Journal of European Public Policy*, 1–13.

Eller, J. (2022). *Introducing anthropology of religion : culture to the ultimate.* Abingdon, Oxon New York, NY: Routledge.

Espeland, W. N., & Stevens, M. L. (2008). "A sociology of quantification." *European Journal of Sociology/Archives Européennes de Sociologie*, *49*(3), 401–436.

EU Strategic Agenda for 2019-2024. (2019). https://www.consilium.europa.eu/en/eu-strategic-agenda-2019-2024/

European Commission. (2019). "Questions & Answers on the Japan adequacy decision. MEMO/19/422." https://ec.europa.eu/commission/presscorner/ detail/en/MEMO 19 _422

Fairclough, N. (2013). *Critical discourse analysis: The critical study of language*. Routledge.

Fairclough, N., & Wodak, R. (1997). Critical discourse analysis. *Discourse studies: A multidisciplinary introduction*, 2, 258–284.

Fairclough, N., Cortese, G. and Ardizzone, P. (eds) (2007). *Discourse and Contemporary Social Change*. Bern: Peter Lang.

Feeley, M. M., & Simon, J. (1992). The new penology: Notes on the emerging strategy of corrections and its implications. *Criminology*, 30 (4), 449–474.

Feminist Jurisprudence — or Women-Wise Penology? (1989). *Probation Journal*, 36(3), 110–114.

Fine, R. (2006). Cosmopolitanism. A social science research agenda. In Delanty, G. (ed). *Handbook of Contemporary European Social Theory*. London, Routledge.

Finnemore, M., & Sikkink, K. (1998). "International norm dynamics and political change." *International Organization*, *52*(4), 887–917.

Firth, J. R. (1957). A synopsis of linguistic theory, 1930-1955. *Studies in linguistic analysis*.

Foucault, M. (1979). *Discipline and punish: The birth of the prison.* New York: Vintage Books.

Foucault, M. (1991). Governmentality. In G. Burchell & C. Gordon, (eds). *The Foucault Effect: Studies in governmentality*. London: Harvester Wheatsheaf, pp. 87–104.

Garland, David. (2001). *The Culture of Control: Crime and Social Order in Contemporary Society*. New York: Oxford University Press.

Giandomenico, M. (1994) The rise of the regulatory state in Europe, *West European Politics*, 17:3, 77-101.

Giddens, A. (1976). *New Rules of Sociological Method: A Positive Critique of Interpretive Sociologies*, London: Hutchinson.

Goldthau, A., & Sitter, N. (2019). Regulatory or market power Europe? EU leadership models for international energy governance. *In New political economy of energy in Europe* (pp. 27-47). Palgrave Macmillan, Cham.

Gornitzka, Å., & Stensaker, B. (2014). The dynamics of European regulatory regimes in higher education–Challenged prerogatives and evolutionary change. *Policy and Society*, 33(3), 177-188.

Grabbe, H. (2002). "European union conditionality and the acquis communautaire." *International Political Science Review*, *23*(3), 249–268.

Grishman, R. & Sundheim, B. (1996) Message understanding conference- 6: A brief history. In *Proceedings of the 16th International Conference on Computational Linguistics, COLING 1996*, Center for Sprogteknologi, Copenhagen, Denmark, 5–9 August 1996; Association

for Computational Linguistics (ACL): Stroudsburg, PA, USA, pp. 466–471.
Haas, E. B. (1982). "Words can hurt you; or, who said what to whom about regimes." *International Organization*, *36*(2), 207–243.
Haas, P. M. (1992). Introduction: Epistemic communities and international policy coordination. *International Organization*, 46(1), 1–35.
Haggard, S., & Simmons, B. A. (1987). "Theories of international regimes." *International Organization*, *41*(3), 491–517.
Hamilton, W. L., Leskovec, J., & Jurafsky, D. (2016). Diachronic word embeddings reveal statistical laws of semantic change. *arXiv preprint* arXiv:1605.09096.
Hardt-Mautner, G. (1995). Only Connect. Critical Discourse Analysis and Corpus Linguistics. *UCREL Technical Paper 6*. Lancaster, UK: Lancaster University. Available at: http://ucrel.lancs.ac.uk/papers/techpaper/vol6.pdf
Harris, Z. S. (1954). Distributional structure. *Word*, 10 (2-3), 146–162.
Haukkala, H. (2008). "The European Union as a regional normative hegemon: the case of European neighbourhood policy". *Europe-Asia Studies*, vol. 60, no. 9, 1601-1602.
Heidensohn, F (1985) *Women and Crime*, London: Macmillan.
Hertig, G. (2000). Regulatory competition for EU financial services. *Journal of International Economic Law*, 3(2), 349-375.
Huseynov, S. (2021). European prison norms and the South Caucasus: A general introduction. In Reisner, O., Turkes-Kilic, S., and Gabrichidze, G. (eds). *Experiencing Europeanization in the Black Sea and South Caucasus: Inter-Regionalism, Norm Diffusion, Legal Approximation, and Contestation.* Ibidem Press.
Hyde-Price, A. (2006). "'Normative' power Europe: a realist critique." *Journal of European Public Policy*, *13*(2), 217–234.

Ikenberry, G. J. (2011). *Liberal Leviathan: The origins, crisis, and transformation of the American world order*. Princeton University Press.

Keohane, R. O. (1984). *After hegemony: Cooperation and discord in the world political economy*. Princeton University Press.

Keohane, R. O., & Nye, J. S. (1973). "Power and interdependence." *Survival*, *15*(4), 158–165.

Krasner, S. D. (1982). "Structural causes and regime consequences: Regimes as intervening variables." *International Organization*, *36*(2), 185–205.

Krishnamurthy, R. (1996). 'Ethnic, Racial and Tribal: The Language of Racism?', in C. R. Caldas-Coulthard and M. Coulthard (eds) *Texts and Practices: Readings in Critical Discourse Analysis*, pp. 129–49. London: Routledge.

Lave, J., Wenger, E. Et al. (1991). *Situated learning: Legitimate peripheral participation*. Cambridge University Press.

Lavenex, S. (2014). "The power of functionalist extension: how EU rules travel." *Journal of European Public Policy*, *21*(6), 885–903.

Levi-Faur, D. (2011). Regulatory networks and regulatory agencification: towards a Single European Regulatory Space. *Journal of European public policy*, 18(6), 810-829.

Levinas, E. (2006/1972). *Humanism of the other* (N. Poller, Trans.). University of Illinois Press.

Lynch, M. (1998). Waste Managers? The New Penology, Crime Fighting, and Parole Agent Identity. *Law & Society Review*, Vol. 32., No. 4: 839-870.

Madsen, M. R. (2007). "From Cold War instrument to supreme European court: The European Court of Human Rights at the crossroads of international and national law and politics." *Law & Social Inquiry*, *32*(1), 137–159.

Manners, I. (2002). "Normative power Europe: a contradiction in terms?" *Journal of Common Market Studies*, *40*(2), 235–258.

Manners, I. (2006). "Normative power Europe reconsidered: beyond the crossroads." *Journal of European Public Policy*, *13*(2), 182–199.

Marty, D. (2007). Secret detentions and illegal transfers of detainees involving Council of Europe member states: Second report. *Doc 11302*, 19 June.

McEnery, T., & Hardie, A. (2012). *Corpus linguistics: Method, theory and practice*. Cambridge University Press.

Mearsheimer, J. J. (1994). "The false promise of international institutions." *International Security*, *19*(3), 5–49.

Merrills, J. G., & Robertson, A. H. (2001). *Human rights in Europe: A study of the European Convention on Human Rights*. Manchester University Press.

Middle East Eye. (2020). "Saudi Arabia courts abolish flogging as punishment." http: //www.middleeasteye.net/news/saudi-arabia-abolish-flogging-lashes-court

Mikolov, T., Sutskever, I., Chen, K., Corrado, G. S., & Dean, J. (2013). Distributed representations of words and phrases and their compositionality, In *Advances in neural information processing systems.*

Morgenthau, H. J., & Thompson, K. W. (1993/1948). *Politics among nations: The struggle for power and peace*. McGraw-Hill.

Murdoch, J. (2006). *The treatment of prisoners: European standards*. Council of Europe.

Mutua, M. (2016). *Human rights standards: Hegemony, law, and politics*. SUNY Press.

Nicholson, F. (2006). Challenges to Forging a Common European Asylum System in Line with International Obligations. In *EU Immigration and Asylum Law* (pp. 505-537). Brill Nijhoff.

Nye, J. S. (1990). "Soft power." *Foreign Policy*, (80), 153–171.

O'Malley, P. A. T. (1999). Volatile and contradictory punishment. *Theoretical criminology*, 3(2), 175-196.

Osgood, C. E., Suci, G. J., & Tannenbaum, P. H. (1957). *The measurement of meaning*. University of Illinois Press.

Pantel, P. (2005). Inducing ontological co-occurrence vectors, In *Proceedings of the 43rd annual meeting on association for computational linguistics*. Association for Computational Linguistics.

Pierson, P. (1996). "The path to European integration: a historical institutionalist analysis." *Comparative Political Studies, 29*(2), 123–163.

Popke, E. J. (2003). "Poststructuralist ethics: Subjectivity, responsibility and the space of community." *Progress in Human Geography, 27*(3), 298–316.

Power, M. (1997). *The audit society: Rituals of verification*. Oxford University Press.

Power, M. (2003). "Evaluating the audit explosion." *Law & Policy, 25*(3), 185–202.

Pratchett, L., Lowndes, V. et al. (2004). *Developing democracy in Europe: an analytical summary of the Council of Europe's acquis* (Vol. 489). Council of Europe.

Pratt, J. (2002). *Punishment and Civilization: Penal Tolerance and Intolerance in Modern Society*. London: Sage.

Robertson, S., & Dale, R. (2008). "Researching education in a globalising era: Beyond methodological nationalism, methodological statism, methodological educationism and spatial fetishism". In *The production of educational knowledge in the global era*. Brill Sense.

Ross, J. (2013). Introduction. In Ross, J. & Wacquant. (eds). *The globalization of supermax prisons.* New Brunswick, New Jersey: Rutgers University Press.

Ross, J. & Wacquant. (2013). *The globalization of supermax prisons.* New Brunswick, New Jersey: Rutgers University Press.

Rubenstein, H., & Goodenough, J. B. (1965). Contextual correlates of synonymy. *Communications of the ACM*, 8 (10), 627–633.

Rusche, G. (1933). Arbeitsmarkt und Strafvollzug: Gedanken zur Soziologie der Strafjustiz. *Zeitschrift für Sozialforschung*, 2(1), 63-78.

Rusche, G., Kirchheimer, O. & Melossi, D. (2003). *Punishment and social structure*. New Brunswick, NJ: Transaction Publishers.

Saleilles, R., Tarde, G. & Jastrow, R. (1911/2008). *The individualization of punishment*. S.l: Kessinger Publishing's Rare Reprints.

Schegloff, E. A. (1997). Whose Text? Whose Context? *Discourse & Society*, 8(2), 165–187.

Schimmelfennig, F., & Sedelmeier, U. (2002). "Theorizing EU enlargement: research focus, hypotheses, and the state of research." *Journal of European Public Policy*, *9*(4), 500–528.

Schütze, H., & Pedersen, J. O. (1995). Information retrieval based on word senses. In *Proceedings of the 4th Annual Symposium on Document Analysis and Information Retrieval* (pp. 161–175).

Scott, D. & Flynn, N. (2014). *Prisons & punishment : the essentials.* Los Angeles: SAGE.

Selznick, P. (1985). Focusing organizational research on regulation. In Roger Noll (ed). *Regulatory Policy and the Social Sciences* (pp. 363-367). Berkeley: University of California Press.

Semino, E. and Short, M.H. (2004). *Corpus Stylistics*. London: Routledge.

Sinclair, J. (2004). *Trust the Text: Language, Corpus and Discourse*. London: Routledge.

Sjursen, H. (2006). "The EU as a 'normative'power: how can this be?" *Journal of European Public Policy*, *13*(2), 235–251.

Slaughter, A.-M. (2005). *A new world order*. Princeton University Press.

Smith, K. (2005). The Outsiders: The European Neighbourhood Policy. *International Affairs* (Royal Institute of International Affairs 1944-), 81(4), 757-773.

Snacken, S. and Van Zyl Smit, D. (2013). European penology and penal policy-making. In: Daems, T., Van Zyl Smit, D. and Snacken, S. (eds). *European Penology?* Oxford: Hart Publishing.

Stubbs, M. (1994). Grammar, Text, and Ideology: Computer-assisted Methods in the Linguistics of Representation. *Applied Linguistics*, 15(2): 201–23.

Sturm, R., Muller, M. M., & Dieringer, J. (2000). Economic transformation in Central and Eastern Europe: towards a new regulatory regime?. *Journal of European Public Policy*, 7(4), 650-662.

Sudbury, J. (2004). A World Without Prisons: Resisting Militarism, Globalized Punishment, and Empire. *Social Justice*, Vol. 31, No ½: 9-30.

Sutton, J. R. (2013). The Transformation of Prison Regimes in Late Capitalist Societies. *American Journal of Sociology*, Vol. 119, No. 3 (November): 715-746.

Taylor, I., Walton, P. and Young, J. (1973). *The New Criminology: For a Social Theory of Deviance*. London: Routledge and Kegan Paul.

Teubert, W. (2007). Parole-linguistics and the diachronic dimension of the discourse. In M. Hoey, M. Mahlberg, M. Stubbs and W. Teubert (eds.) *Text, Discourse and Corpora: Theory and Analysis*, pp. 57–88. London: Continuum.

Tonry, M. (2015) European criminology and the ESC – Continental cures for American ailments. *ESC Newsletter* 14(2): 2–3.

Van Dijk, T. (1997). Analysing Discourse Analysis. *Discourse and Society*, 8 (1): 5-6.

van Dijk, T. A. (1993). Principles of critical discourse analysis. *Discourse & Society*, 4 (2), 249–283.

van Zyl Smit, D. (2010). Regulation of prison conditions. *Crime and Justice*, 39(1), 503-563.

van Zyl Smit, D. & Dünkel, F. (2001). *Imprisonment today and tomorrow. International Perspectives on Prisoners' Rights and Prison Conditions.* Boston: Kluwer Law and Taxation Publishers.

Wacquant, L. (1999). How Penal Common Sense Comes to Europeans. *European Societies*, 1:3, 319-352.

Wacquant, L. (2009). *Punishing the Poor: The Neoliberal Government of Social Insecurity*. Durham, N.C.: Duke University Press.

Wacquant, L. (2013). Foreword: Probing the Meta-Prison. In Ross, J. & Wacquant. (eds.). *The globalization of supermax prisons*. New Brunswick, New Jersey: Rutgers University Press.

Wendt, A. E. (1987). "The agent-structure problem in international relations theory." *International Organization, 41*(3), 335–370.

Wetherell, M. (1998). Positioning and interpretative repertoires: Conversation analysis and poststructuralism in dialogue. *Discourse and Society*, 9(3), pp. 387–412.

Whitman, J. Q. (2003). *Harsh Justice. Criminal Punishment and the Widening Divide between America and Europe*. New York, Oxford University Press.

Williams, G. (2001). Mediating between lexis and texts: Collocational networks in specialised corpora. *ASp. la revue du GERAS*, (31-33), 63–76.

Wimmer, A., & Glick Schiller, N. (2002). Methodological nationalism and beyond: Nation–state building, migration and the social sciences. *Global Networks, 2*(4), 301–334.