SORTUZ

THE CONTROL OF «NEW DANGEROUS CLASSES»

Giuseppe Campesi

I. INTRODUCTION

Far from conceiving itself as a country of immigration, Italy still continues to look at immigrants as if they were simply invaders not requested by its demographic decline and want of young unskilled workforce (Melossi 1999). Hordes of miserable knock at our door coming in even without our assent. Every new government, since the first immigration law that dates 1990, tries to rewrite the rules complying with the mass hysteria that often characterizes debates on immigration (Balbo, Manconi 1992; Cotesta 1992 y 1995; Maneri 1998; Dal Lago 1999; D'Elia 1999; Faso 2000; Naldi 2000; Rivera 2003; Calavita 2005). Common perception describes immigrants as importers of social disorder, as the cause of all kind of criminality, the main responsible of the increasing insecurity that pervades our cities. In some way, during the last decade, immigration became a general metaphor of deviance, a perfect catalyst for all anxieties and fears (Dal Lago 1999: 85). Official figures seem to justify these social concerns, showing immigrants, especially illegal immigrants, as responsible of the most crimes recorded and the main customers of our penitentiary system (Tonry 1997; Lynch, Simon 1999; Conti 2001; Barbagli 2002; Scalia, 2005).

Despite this apparently unquestionable equation between immigration, disorder and crime, we will try to provide a different interpretation. In our opinion the relationship between immigration and crime should be radically reconsidered, one could not limit him or herself to point out that the lack of social and economic integration *explains* the high rates of crimes committed by immigrants and commands more police control over illegal immigration (Barbagli 2002). Such idea is radically contradicted by all the analysis over the Italian labour market, which continues to show a strong want of unskilled workforce (Reyneri, E. Minardi, G. Scidà, a cura di 1997; Ambrosini 1999). Moreover; which is the worst, it theoretically legitimizes the obsessive image of immigrants as miserable invaders that during the lasts years impeded Italy to plan an unbiased migratory policy. Such a simplistic use of the mertonian theoretical model typical of all the *orthodox* approaches to crime (Box, Hale 1982; 1986), works as a sort or scientific justification for the common idea that poor, marginal and deprived people have a particular predisposition to crime. This contributes to transform the social

question, which actually in Italy is largely the question of social and economic integration of immigrants, into a criminal question with its emphasis over *public security* and *social defense*.
The current interpretation of the relationship between immigration and crime grounds on an unquestioned lecture of official figures about crime. One, indeed, cannot derive from them any *objective* quantification about immigrant's criminality, statistics provide only a general idea about the direction and intensity of social control process. They do not represent any reality that pre-exists independently from the agencies of control, but do largely reflect the outcome of a *social construction* (Berger and Luckmann 1966) produced during all the phases that constitute the penal procedure and eventually drive to conviction. Moreover, penal procedure can be regarded as one of the most complex and formalized institutional instrument *to produce reality*, that is the *procedural* and *formal truth* synthesized by final sentence, and as such it was widely analysed both from a theoretical (Ferrajoli 1990) and empirical point of view. Thus we believe the relation between crime and immigration worth to be studied empirically as the product of a process of social construction to which agencies of social control actively contribute.

II. THE RESEARCH

Empirical research on *sentencing* has a long tradition (Treves 1987) and could be divided in two main trends regarding the different theoretical models adopted: on one side there are all the researches developed within the framework of *symbolic interactionism* and *ethnomethodology* which, using mostly qualitative methods, tried to investigate the criminalization process tracing the symbolic resources and the practical knowledge by which each agency of social control identifies deviance and selects deviants (Sudnow 1965; Cicourel 1968; Rossett and Cressey 1976; Bernstein, Kelly and Doyle 1977; Gibson 1978; Maynard 1984; Palidda 1999; Quassoli 1999); on the other side there are all the researches developed within the framework of the so called conflict theory which, using mostly quantitative methods, tried to evaluate the role played on sentencing by some defendants' personal features such as race, class, gender (Hagan 1974; Clarke and Koch 1976; Lizotte 1978; Chiricos and Waldo 1975; Jankovic 1977 and 1978; Aa. Vv. 1977; Bridges and Crutchfield 1987; Sampson and Laub 1993; Chiricos and Bales 1991).
Despite these different approaches, researchers agreed in concluding that generally it is not the fact, the crime charged, to increase the eventuality to be convicted and the severity of the final sentence, but rather a whole of circumstances and variables related with personal characteristics of defendants. In particular, the quantitative analysis developed during years of research have clearly demonstrated at least the *empirical plausibility* (Chiricos and Bales 1991; Chiricos and Delone 1992) of the idea that working class young male and ethnic minorities suffer imprisonment more than others and that this selectivity is not related with the crime charged. Even so, we believe a qualitative analysis more suitable to explain *how* the penal system is able to practice

and justify such a degree of selectivity. Researches developed within the framework of conflict theory, indeed, often showed a particular epistemological weakness. Trying to reveal the selectivity of penal system, researchers usually identified in abstract terms some variables testing their statistical incidence *on* sentencing. In doing so they were able to indicate some variables that strongly affect the criminalization process, but left unsolved the question about *how* these factors usually work *within* the penal procedure. What remained unexplained was, briefly, how this high degree of selectivity could have been justifiable under the principles of *rule of law*. A crucial question which often found a quite superficial answer. The implicit assumption was indeed that because power and access to power are distributed unequally in society, courts become an instrument of the powerful for maintaining their power and discriminate unprivileged.

To address such a question we will try to identify the *practical knowledge* (Garfinkel 1967; Jedlowski 1994) that actors use along the criminalization process, in order to verify to what extent it enters the penal procedure interacting with the juridical models that should lead judges, prosecutors and lawyers. We aim at identifying the *accounts* that actors use during their daily work, in particular those *typifications* by which they identify and deal with immigrants' criminality. These symbolic structures constitute a sort of *professional subculture* that judges, prosecutors and lawyers share, a whole of "*professional theories about the kind of person who commit crimes, why they commit them, and how such persons should be appropriately treated*" (Maynard 1984: 159). They, far from being an objective representation of realty, are crucial constitutive elements of that objective world which every typification pretends to describe. Well-structured cognitive expectations about criminals and criminality, what David Sudnow defined "*normal crimes*" (1983), constitute a set of presumptive elements that could shape deeply the criminalization process. We will try to evaluate to what extent this practical knowledge corresponds with the social knowledge and the common assumptions about the relationship between immigration and crime, increasing the selectivity of the penal system. We will try, briefly, to show how the widespread image of immigrants as importers of disorder and crime could enter the penal procedure, becoming a strong symbolic structure shared by procedural actors that allow to take, and justify, juridical decisions (Quassoli 2002: 199).

Despite their theoretical merits, even the researches inspired by symbolic interationism and ethnomethodology showed some epistemological weakness, they often undervalued the role of the criminal procedure as an institutional instrument to produce truth with its epistemological structure (Ferrajoli 1990; Resta 1997). This is a serious weakness because implies the idea that different juridical and procedural models, and the corresponding juridical culture, do not influence the quality of juridical reasoning. Penal systems can indeed assume different characteristics and different function. Sometimes they could drive agencies of control toward the *individuation*, *treatment* and *neutralization* of social and personal dangerousness, rather than constraining their action to the *definition*, *verification* and *repression* of criminal acts. Such a model of penal system, more than being intended to repress the breaches of criminal law, is explicitly called to deal with a variegate complex of

conducts, ways of life, personal attitudes and characteristics that concern agencies of control more as symptoms of potential dangerousness, than as an actual criminal offence. According to this model penal systems are conceived as an institutional complex structurally directed to select and treat differently individuals regarding their supposed degree of dangerousness (Foucault 1978 and 1999).
The Italian penal system has always assumed this function of an administrative agency called to govern social and individual dangerousness, developing along its history a set of juridical and institutional instruments that allowed the agencies of control to deal with supposed emergence of danger even independently from any concrete criminal offence. Because of their power to deal with dangers, these set of juridical and institutional instruments are strictly associated with the function of *public security* and the activity of police forces as constituting a sort of *police penal sub-system* explicitly called to govern dangerousness (Ferrajoli 1990: 795ss.). Such a *sub-system* empties the cognitive function associated with the penal procedure, or rather distorts its epistemological foundation, transforming an apparatus conceived by classical reformers to ascertain facts and their correspondence with the criminal laws, into an instrument to asses and treat consequently dangerous individuals.
Our empirical research aimed at evaluating to what extent these characteristics of the Italian penal systems increase the influence of common assumptions about the relationship between immigrants and criminality over the criminalization process. Freed from the necessity to ascertain any criminal offence, agencies of social control are explicitly called to govern dangerous individuals and dangerous classes, their action is structurally oriented to select who in a given social context embodies images of dangerousness, catalysing anxiety and fear.
We analyzed a particular segment of our penal procedure, the activity of the lower courts called to deal with street crimes. This institutional segment is particularly relevant to our purpose not only because illegal immigrants are mostly involved in illegal street economy, but even because it represents one of the better examples of the *police penal sub-system* mentioned above. Control over street crimes clearly involves police activities, but we will try to sow how the activities of the lower courts called to sanction the police powers over personal liberties and to try summarily the subject arrested create a particular institutional dispositive that becomes crucial in governing the new dangerous classes. Our research was developed observing the daily activities of the lower court of a mid-sized Italian city, Bologna, reading the trial records and carrying out about twenty interviews with procedural actors observed at work. What we present here is clearly a selection of the qualitative documents collected, their extensive reproduction would have caused a pedantic repetition of something that often few lines can express more successfully.

III. RUBBISH

Our interwievees have a quite clear image of the criminal universe which they dialy deal with, *"normally, in my experience, they (the defendants) belongs to a shabby*

criminal universe, usually they're rubbish" [Lawyer]. Petty criminals, sure, but nonetheless figures that during last years, as widely known, started to worry the public opinion, calling for a strict control over the social universe that survives exploiting the possibilities given by the informal/illegal street economy (Wacquant 1999). In consonance with this repressive tightening over street crime, most of the work of the agencies of social control studied deal with petty peddler, pickpockets, shoplifters, and petty thieves. Public prosecutors can even trace out a more detailed picture

> *well, usually the petty peddler is the Mghrebi immigrant, Tunisian, Algerian, and so forth, who survives by this (...) secondly the typical petty thief or shoplifter is always the addicted, who normally try to find the little to buy his drug* [Prosecutor].

We have therefore since the beginning a clear divide: on one side there is the petty peddler, on the other side there is the petty thief, two categories that seems to show, according to our interviewees, different social characteristics. The petty peddler is, indeed, usually an illegal immigrant, whose juridical condition shows his intention to escape all kind of social controls and to live at the margins. Thus illegal immigration becomes the symptoms of a conscious choice to survive in the grey area between informal and illegal economy, even if not a crime in itself it is perceived as synonymous of criminality

> *Algerines, Tunisians, Moroccans, they survive by this, they stay sometimes in prison, came out and start again, this is their life...In my opinion they live by this, as a far as I know...Those who work do not do this, so what arrives here is a selection of immigrants, they're the illegal immigrants those who survive by crime, maybe they do not have any other source of income or they do not want it* [Prosecutor].

The typical petty thief is a bit shiftier. Even if the main figure seems to be the addicted, there is not an univocal description among interviewees. Undoubtedly they refer to a miserable social universe, tracing the profile of people invariably at the margins. Surely there could be some references to an *exceptional crime*

> *it is quite uncommon to find the person...well there could be, I mean, there could be even the one who commits a shoplift and is a "regular" person, with a work, someone who do not need to commit a thief, but committed it anyway* [Lawyer].

However, a part from these exceptional cases with *regular person*, the agencies of control are called to deal with that universe of people who tries to survive at the margins of our opulent society, *"absolutely the social typology is that of a subject who survives in precarious economic condition"* [Lawyer].
The words of our interviewees outline quite clearly the profile of the *new dangerous class*, a social universe were miserable coming from abroad joined our *rabble*, making more variegated landscapes of our cities. In fact they are not charged with a specific crime, but with their general life style that forces them to survive by illegal means. This

social universe should be made responsible for its indigence, for its unprootedness, for all those conditions that make it a threat to public security. The assumption here is the classic liberal idea that people are responsible for their social and economic marginality, which, if not an explicit choice, is at least the symptom of a moral weakness that authorities should compensate (Morris 1999; Dean 1991). As will see is this image of a dangerous social universe that drive and legitimize the extreme selectivity of our agencies of social control.

IV. ROUNDUP

Police is explicitly called to deal with this social universe. During the last years Italian public opinion showed an increasing concern for street crimes and, with the outbreak of the debate over *fear of crime* and *insecurity*, even State authorities started to give an unprecedented consideration to petty criminals. Police activity, then, complies with these new concerns, modelling his practical knowledge upon the socially widespread notions about crime and criminals (Palidda 1999 and 2000). Patrols and arrests are thus guided by the increasing social concern over petty crimes and this is clearly showed by arrests' records, with their continuous reference to fear of crime

> *Given the flagrancy of the crime of theft; the social dangerousness of the subject; the grave concern caused within our jurisdiction by petty crimes, we proceeded to arrest the subject* [Police record].

These words show quite clearly how fear of crime became a useful symbolic element in the very few lines by which police justifies his acts to judges. Moreover, with their reference to *social dangerousness*, they allow us to sense how selective police action is. But it is not a question of pure discrimination. In accordance with the Italian penal procedure, which regulates police powers over personal liberties, administrative agencies have a general duty to arrests flagrant criminals, a power which becomes facultative in case of petty crimes or suspects captured in temporal and spatial proximity with the crime. Vanished the old reference to the *moral qualities of the subject*, which traces back to the nineteenth-century, our procedural code now calls police authorities to asses *the dangerousness of the subject deduced from his personality*.
Therefore, when administrative authorities patrols, their actions are not directed against criminality in general term, but explicitly against those street crimes supposed to increase the sense of insecurity. Moreover, it tends to select, among the universe of petty criminals, those who, by their personal characteristics, appear to survive by crime. Given the discretional power accorded to police, only the *normal* peddler or the *normal* thief will be removed from sight

> *It's hard to find arrested for street peddling an identified subject (Italian citizen or legal immigrant), without criminal records, without police records, with a work, who, briefly, commits a mistake for the first time…I would say that it's hardly to find him arrested* [Prosecutor].

Police activities is then directed against the dangerous classes and, more specifically, against that particular category of individuals represented by illegal immigrants. Their simple presence is associated with urban decay and criminality, so that the war against petty crimes is completely confused with the war against illegal immigration and patrolling is transformed in a daily roundup called to remove *anyway* those individuals

> *Police, and courts consequently, are not necessarily concerned with the most dangerous subjects, but with the easier to arrest. It is not true that they increase social insecurity and fear of crime, because every reasonable person could understand where the real danger came from…So the easier to arrest and those, let's say, more visible, therefore more inconvenient. To remove from sight some homeless North Africans who bivouac down in the street could improve the image of the city more than removing from sight someone else, even an addicted, which probably has a place to sleep* [Lawyer].

Judges, who are called to confirm within forty-eight ours all the arrests, seems to share the practical knowledge used by police during its activities in the streets. Normally, indeed, they approve the criminal policy that moves the administrative agencies, reversing only those arrests when clearly appear that the *social and moral qualities of the subject* do not justify a similar measure

> *I did not approve an arrest when there was an Italian without records, charged with attempted theft. The arrest was facultative and there weren't the conditions to justify it. When the arrest is facultative you have a discretionary power, you can do it or not, you must arrest only when the measure is justified by personal characteristics, in that case there weren't the conditions to arrest and so I did not approve it. But it's quite uncommon because the characteristics of these persons implies always some degree of danger, these people live in the street, they do not have any legitimate activity but the life down in the street to survive* [Judge].

Judges, by their juridical check over police powers, could exert a strong pressure directing administrative agencies in their action down in the street. What emerges from our interviews is a general consensus among procedural actors over the subjects that should be arrested; judges exert their controls guaranteeing an accurate selection. Arrest is the first step, it triggers an institutional machine that drive immediately, within few hours, to preventive detention and summary procedure. The roundup should select the more likely to be detainee and the more easily to be processed within that short lapse of time. Arrests and preventive detention are thus strictly linked, they constitute the institutional dispositive by means of which dangerousness is selected and

regular people are, as much as possible, kept away from penal procedure. This is a typical *power/knowledge* dispositive (Foucault 1994), a complex that grounds on a whole of practical knowledge and on a set of institutional instruments that imply the power of someone to take decisions over others' personal liberties. Those liberties that preventive detention directly treats.

V. THE ARREST-PREVENTIVE DETENTION DISPOSITIVE

By now conceived as mere caution to protect the integrity of proofs during the preliminary inquiry or to guarantee from flight the effectiveness of the eventual conviction, preventive detention has always had some sinister traits tracing back to the ancient inquisitorial systems. For these reason, for being an institutional instrument extremely invasive of personal liberties, it was strictly regulated as a measure called to reduce objective risks affecting the efficaciousness of juridical action. Thus, since the code written during the nineteenth century, Italian penal procedure asked as its prerequisite the concrete risk of tampering with evidence and of flight. Anyway these *objective* conditions are not the only prerequisite that could lead to preventive detention. Our penal procedure has always accorded to judges the possibility to use this institutional instrument when personal characteristics of defendants suggest that he could eventually commit other crimes. This *subjective* condition turns preventive detention into a police measure intended to govern dangerousness and as such our interviewees seem to conceive it

> *the exigence that we always stress (asking for preventive detention) is that of reiteration of crime, the dangerousness, this because of the characteristics of defendants we daily deal with. Again: they're mostly illegal immigrants, lacking any source of income or any sign that they have some licit activity to survive, the way they peddle, and so forth, everything suggests that crime is their only source of income and, thus, their dangerousness. Similarly, regarding petty thieves, we mostly deal with, again, illegal immigrants, homeless, with all the same characteristics mentioned above; or, when we find an Italian citizen, even if he has documents, usually is homeless, but above all he always has several criminal records, because otherwise...police do not arrests someone who has his documents, domicile, without criminal records, but simply denounces him* [Prosecutor].

Preventive detention is then clearly used as police instrument, but these words allow us to sense even the general function that the institutional sequence of *arrest-preventive detention* assumes. This institutional dispositive, based on the ground work made by police and its juridical ratification provided by lower courts, is explicitly directed to select the social dangerousness, the rabble that is supposed to survive by crime, and remove it as rapidly as possible from sight. To the others, the *regular* that commit a mistake, *normal* people with documents, a domicile, a work, a different procedural

route is reserved: a simple denounce and a likely, given the workload that burdens our criminal system, prescription of the *notitia criminis*

> *Normally, because of the filter that police operates when uses its powers, arresting only those who in some way had entered the penal circuit, the exigence that we consider pronouncing in favour of preventive detention is always related with dangerousness, because they are always subjects that...for their way of life, for the kind of crime committed, and so forth...they are subjects that probably would commit other crimes* [Judge].

The arrest-preventive detention dispositive synthesizes in itself all the functions that in the United States the *jail* seems to have: more than guaranteeing the efficaciousness of the strict repressive action, it tends to neutralize the complex of concerns and dangers related with certain categories of people: the hustler, namely the young unemployed, or underemployed, who spends most of his time down in the street; the vagrant, homeless, addicted and destitute person who lives in the street; the illegal immigrants; a whole of figures that because of their social condition and their way of life are extremely visible and fatally exposed to police actions (Irwin 1985). What this dispositive is called to deal with is not a simply *individual* dangerousness, but a *social dangerousness*, it has to manage dangers related with an entire social universe, that of social marginality, illegal immigration, vagrancy and so forth (Feeley and Simon 1992 y 1994)

> *personal characteristics should not count, because how can you say that someone should be detainee simply because he is an illegal immigrants, without a work...of course they count, but these characteristic do not individuate...They do not qualify a personal character, they do not indicate someone as a dangerous individual, they individuate a whole category of persons that potentially could commit crimes, but do not show that someone in these social conditions is more inclined to commit crime than another in different social conditions* [Lawyer].

The core exigence here is, then, *"to remove from sight those who habitually commit crimes"* [Prosecutor], to neutralize their potential of dangerousness. And even if our procedural law defines preventive detention as an *extrema ratio* to which have recourse only when the other instruments, such as house arrest or police surveillance, are impracticable, someone more than others seems to need this special treatment. Illegal immigrants, indeed, seems to represent a potential of dangerousness that only detention could cope, *"these people do not have a name, do not have a document, freed they would start again"* [Prosecutor]. Even when charged with risible crimes their social condition implies the recourse to detention

> *very often, even when they have some criminal records, it is hard to send them to jail because they committed a risible crime, but even setting them free is...fill us*

> *with disgust because the figure...the subject...I mean...we have a certain degree of dangerousness* [Judge].

Grounding its functioning on social characteristics of defendants, the Italian arrest-preventive detention dispositive can anticipate the eventual future conviction, obtaining a double effect: neutralizing what is intended to be a high potential of dangerousness and creating an agile and extremely efficacious mechanism of control, which do not requires any expense in terms investigative resources. Especially for illegal immigrants, those *non-persons* (Dal Lago 1999) that seems to escape every controls or, using the terms of our interviewees, cross our territory as *"volatile subjects"* [Prosecutor], detention precedes even the formal opening of the *due process*. They usually wait their conviction as detainee and could even serve it entirely being in jail

> *in the case of illegal immigrants I notice that very often they stay in preventive detention until they have served entirely their sentence...this because of their way of life and the absence of alternatives to detention, often we arrive at the definitive sentence with the defendant detainee since the beginning. Therefore, in fact, they are often removed from sight for long times* [Judge].

This helps us to realize to what extent the cognitive function that penal procedure should perform was emptied in Italy (Ferrajoli 1990; Fiore 1998; Ferrua 1998). The arrest-preventive detention dispositive allows controlling the dangerous classes, entrusting them to the penitentiary circuit, even without a final decision, even before the formally opening of the due process. The system can deal with social dangerousness independently from the need to proof any fact, to trigger the arrest-preventive detention dispositive suspects are enough. This dispositive denounces, therefore, a pronounced degeneration of our penal system: coping with street crimes and social marginality it assumed the traits of pure instrument of public security called to govern social dangerousness (Neocleous 2000; Campesi 2007). Increasing social anxiety over street crimes normalized those exceptional instruments conceived as means to be used against serious crimes (Moccia 1997), allowing lower courts to use daily an institutional dispositive extremely invasive for personal liberties.
This authoritarian degeneration is anyway an on going process, which still has not completely reverted our Constitution into a Police State. Formally our system continues to requires the production of a procedural truth over a *fact* to ground a final sentence, but schemes of transactions introduced with recent reforms allows to comply with the work pace imposed by the daily roundup. Defendants are, indeed, pushed toward summary procedure where all guarantees of due process are not required, so their case can be closed within few minutes grounding only on police records. Sure they are not explicitly forced to renounce to their rights, but as researches on *plea bargain* have widely shown "*the structure of negotiation puts a priority on the here-and-now, informal, resolution of case*" (1983 197). Negotiation, for someone who enters the procedure as a subject strongly stigmatized, becomes a constrictive instrument to induce the defendant to give up due process (Feeley, 1977a and 1977b; Brunk 1977).

Summary procedures allow closing the case without any further probatory activities; judges are called to write their sentences using only police records and the limited cognitive support they offer. Their practical knowledge about *normal crimes* fills the cognitive gap and the lack of evidence, so that the case could be decided deriving from criminal prognosis, the assessment of subject' dangerousness, assumptions about his past actions. As Foucault would have put it, to close the case judges are called to evaluate how much defendants resemble their crime (Foucault 1999).

VI. CONCLUSION

What our research seems to tell us is that figures on immigrants' criminality and detention do not constitute the statistical evidence of the immigrants' contribution to crime and disorder. They are mostly the sign that even in Italy, as in other western countries, a wide process of criminalization of social marginality started during lasts twenty years (Irwin 1985; Massey 1990; Matthews and Francis, ed., 1996; Wacquant 1999 and 2004). As shown, our *police penal sub-system*, and in particular the segment constituted by the arrest-preventive detention dispositive, assumes a crucial role in this process. It allows, indeed, to govern those social strata confined at the margins by a blunt migratory policy that accord to immigrants only a *subordinate inclusion*, a truly *underclass* which survives in that grey social area where unemployment, underemployment, informal and illegal works constitute a stable existential prospective for many (Wilson 1987; Morris 1999: 80 ss.; Ruggiero 2000).

The institutional dispositive studied works to manage the huge costs in terms of social insecurity, deprivation and marginalization that a restrictive migratory policy has, treating these costs as matters of public security. The more a stigmatising image of poverty and social marginality spreads, the more it will constitute a useful symbolic resource available to social control agencies as they account for their action (Box and Hale 1986). The eversive potential that a marked social stratification could have can thus be reduced to a politically innocuous dimension by compelling it within the semantic sphere of concepts such as *delinquency* and *dangerousness*. This structures a strong symbolic construction, which we identified by the idea of *new dangerous classes*, that plays a relevant role over the criminalization process, allowing to govern the social boundaries by means of the dispositive of public security studied.

What connects the institutional dispositive studied to police activity is indeed the extreme relevance of personal characteristics over the entire procedural mechanism. From the street activity played by police, to the strictly procedural action of lower courts, the entire dispositive is conceived to *"neutralize anyway a difficult person who creates problems"* [Judge], no matters if the crime charged is risible or needs more evidence. What this dispositive is called to deal with is not a breach of the criminal law, but a complex of social conditions, ways of life, personal traits. Defendants are charged with the danger they represent for public security, more than with some specific criminal acts. They pay more for crimes that could eventually commit in the future, than for crime committed in the past.

VII.- REFERENCES

AA. VV. (1977) "Class and Crime", special issue of: American Sociological Review, 42(5).

Ambrosini, M. (1999) Utili invasori: l'inserimento dei migranti nel mercato del lavoro italiano. Milano: FrancoAngeli.

Berger P. and Luckmann T. (1966) *The social construction of reality. A treatise in the sociology of knowledge*. New York: Garden City.

Bernstein I., Kelly W. and Doyle P. (1977) "Societal reaction to deviants: the case of criminal defendants". *American Sociological Review, 42(5)*, pp. 743-755.

Box S., Hale C. (1982) "Economic crisis and the rising prisoner population in England and Wales". *Crime and Social Justice, 17(2)*, pp. 20-35.

Box S., Hale C. (1986) "Unemployment, crime and imprisonment", in Matthews R. Young J. (eds.) *Confronting crime*. Sage Publications: London, pp. 72-96.

Bridges G.S., Crutchfield R.D. (1987) "Crime, social structure and criminal punishment: white nonwhites' rates of imprisonment". *Social Problems, 34(4)*, pp. 345-360.

Brunk C.G. (1977) "The problem of voluntariness and coercion in the negotiated plea". *Law and Society Review, 13(1)*, pp. 527-546.

Calavita K. (2005) *Immigrants at the Margins: Law, Race, and Exclusion in Southern Europe*. Cambridge University Press: Cambridge.

Campesi G. (2007) *Genealogia della Pubblica Sicurezza. Dottorato di Ricerca in Fiolosofia del Diritto* (XIX Ciclo), Università di Milano: Milano.

Chiricos T.G., Waldo G.P. (1975) "Socioeconomic status and criminal sentencing: an empirical assessment of a conflict proposition". *American Sociological Review, 40(6)*, pp. 753-772.

Chiricos T.G., Bales W.D. (1991) "Unemployment and punishment: an empirical assessment". *Criminology, 29(4)*, pp. 701-724.

Chiricos T.G., Delone M.A. (1992) "Labour surplus and punishment: a review and assessment of theory and evidence". *Social Problems, 39(4)*, pp. 421-446.

Cicourel A.V. (1968) *The organisation of Juvenile Justice*. J. Wiley & Sons: New York.

Clarke S.H., Koch G.G. (1976) "The influence of income and other factors on whether criminal defendants go to prison". *Law and Society Review, 11(1)*, pp. 57-92.

Conti C. (2001) "Immigrazione e devianza", in Zincone G. (eds.) *Secondo rapporto sull'integrazione degli immigrati in Italia*. Il Mulino: Bologna, pp. 279-308.

Cotesta V. (1995) *Noi e loro: Immigrazione e nuovi conflitti metropolitani*. Rubettino: Soveria Mannelli.

Dal Lago A. (1999) *Non-persone: L'esclusione dei migranti in una società globale*. Feltrinelli: Milano.

Dean M. (1991) *The constitution of poverty: toward a genealogy of liberal governance*. London: Routledge.

D'elia A. (1999) "La devianza dell'immigrato straniero nei media: i risultati di una ricerca nel Salento". *Dei Delitti e delle Pene, 4(3)*, pp. 77-113.

Faso G. (2000) "La riproduzione del razzismo: i mass media e la costruzione dell'emergenza immigrazione", in Billi F. (eds.) *Saggi sulla comunicazione politica contemporanea*. Edizioni Punto Rosso: Milano, pp. 11-39.

Feeley M. (1977a) "Perspective in plea bargaining". *Law and Society Review, 13(2)*, pp. 199-210.

Feeley M. (1977b) "Pleading guilty in lower courts". *Law and Society Review, 13(2)*, pp. 461-525.

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

Feeley M., Simon J. (1994) "Actuarial justice: the emerging new criminal law", in Nelken D. (eds.) *The futures of criminology*. Sage Publications: London, pp. 172-201.

Ferrajoli L. (1990) Diritto e ragione: teoria del garantismo penale. Editori Laterza: Roma/Bari.

Ferrua P. (1998) "La giustizia negoziata nella crisi della funzione cognitiva del processo penale", in Moccia S. (eds.) *La giustizia contrattata*. Edizioni Scientifiche: Napoli, pp. 49-82.

Fiore S. (1998) "Verso una «degiurisdizionalizzazione» del sistema penale", in Moccia S. (eds.) *La giustizia contrattata*. Edizioni Scientifiche: Napoli, pp. 185-190.

Foucault M. (1978) "About the concept of the «Dangerous Individual» in 19th Century Legal Psychiatry". *Journal of Law & Psichiatry, 1(1)*, pp. 1-18.

Foucault M. (1994) "Le jeu de Michel Foucault", in M. Foucault, *Dits et écrits: III*, 1976-1979. Paris: Gallimard.

Foucualt M. (1999) *Les anormaux: cours au Collège de France 1974-1975*. Paris: Éditions Gallimard.

Garfinkel H.(1967) *Studies in Ethnomethodology*. Englewood Cliffs: Prentice Hall.

Gibson J.L. (1978) "Race as a determinant of criminal sentencing". *Law and Society Review, 12(13)*, pp. 455-478.

Hagan J. (1974) "Extra legal attributes and sentencing: an assessment of a sociological viewpoint". *Law and Society Review, 8(3)*, pp. 357-384.

Irwin J. (1985) *The jail: managing the underclass in American society*. University California Press: Berkeley.

Jankovic I. (1977) "Labour market and imprisonment". *Crime and Social Justice, 9(2)*, pp. 17-31.

Jankovic I. (1978) "Social class and criminal sentencing". *Crime and Social Justice, 10(1)*, pp. 9-16.

Jedlowski P. (1994) "«Quello che tutti sanno»: per una discussione sul concetto di senso comune". *Rassegna Italiana di Sociologia, 35(1)*, pp. 49-78.

Lizotte A.J. (1978) "Extra legal factors in Chicago's criminal courts: testing the conflict model of criminal model of criminal justice". *Social Problems, 25*, pp. 564-584.

Lynch J.P., Simon R.J. (1999) "Saggio comparativo sul coinvolgimento criminale di immigrati e autoctoni in sette nazioni". *Dei Delitti e delle Pene, 4(3)*, pp. 13-35.

Massey D.S. (1990) "American apartheid: segregation and the making of the underclass". *American Journal of Sociology, 96(2)*, pp. 329-357.

Matthews R. Francis P. (eds.) (1996) *Prison 2000: An international perspective on the current state and future of imprisonment*. Macmillan: London.

Maynard D.V. (1984) *Inside the plea bargaining: the language of negotiation.* Plenum Press: New York/London.

Melossi D. (1999) "Immigrazione e insicurezza: un'introduzione". *Dei Delitti e delle Pene, 4(3)*, pp. 5-11.

Moccia S. (1997) *La perenne emergenza: tendenze autoritarie del sistema penale*. Edizioni Scientifiche: Napoli.

Morris L. (1999) *Dangerous class: the underclass and social citizenship*. Routledge: London.

Naldi A. (2000) "«Clandestini» e «criminali»? La costruzione giornalistica dell'allarme sociale attorno alla figura dell'immigrato straniero in Italia", in Scidà G. (eds.) *I sociologi italiani e le dinamiche dei processi migratori*. Franco Angeli: Milano, pp. 143-153.

Neocleous M. (2000) *The fabrication of social order: a critical theory of police power*. London: Pluto Press.

Palidda S. (1999) Polizia ed immigrati, un'analisi etnografica. *Rassegna Italiana di Sociologia, 15(1)*, pp. 77-113.

Palidda S. (2000) *Polizia postmoderna: etnografia del nuovo controllo sociale.* Feltrinelli: Milano.

Quassoli F. (1999) *Immigrazione uguale criminalità: rappresentazioni di senso comune e pratiche organizzative degli operatori del diritto.* Rassegna Italiana di Sociologia, 15(1), pp. 44-75.

Quassoli F. (2002) "Il sapere dei magistrati: un approccio etnografico allo studio delle pratiche giudiziarie", in Dal lago A., De Biasi R. (eds.) Un certo sguardo. Introduzione all'etnografia sociale. Editori Laterza: Roma/Bari, pp. 196-217.

Resta E. (1997) "La secolarizzazione della colpa: note sugli autori del reato, in AA. VV. *Storia d'Italia, Annale n. 12, La criminalità*. Einaudi: Torino, pp. 121-155.

Reyneri E., Minardi E., Scidà G. (eds.)(1997) *Immigrati e lavoro in Italia*. FrancoAngeli: Milano.

Rivera A. (2003) *Estranei e nemici*. DeriveApprodi: Roma.

Rossett A., Cressey D.R. (1976) *Justice by consent: plea bargain in the American courthouse*. J. B. Lippincott: Philadelphia.

Ruggiero V. (2000) *Movimenti nella città: gruppi in conflitto nella metropoli europea*. Bollati Boringhieri: Torino.

Sampson R.J., Laub J.H. (1993) "Structural variation in juvenile court processing: inequality, the underclass and social control". *Law and Society Review, 27(2)*, pp. 285-311.

Scalia V. (2005) *Migranti, devianti e cittadini*. Franco Angeli: Milano.

Sudnow D. (1965) *Normal crimes: sociological Features of the Penal Code*. Social Problems, 12(3), pp. 255-276.

Treves R. (1987) *Sociologia del diritto: origini, ricerche, problemi*. Einaudi: Torino.

Tonry M. (eds.) (1997) *Ethnicity, crime and immigration: comparative and cross-national perspectives*. The University of Chicago Press: Chicago.

Wacquant L. (1999) *Les prisons de la misère*. Raisons d'agir: Paris.

Wacquant L. (2004) *Punir les pauvres: le nouveau gouvernement de l'insécurité sociale*. Editions Dupuytren: Paris.

Wilson W.J. (1987) *The truly disadvantaged: the inner City, the underclass and public policy*. University of Chicago Press: Chicago.