

On Prison: America's Increasingly Peculiar Institution

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Introduction

Despite practically stable crime rates for the past twenty years, the number of inmates in U.S. prisons has tripled from approximately 500,000 to 1.63 million in this same period. Researchers have found little evidence that "crime itself" is responsible for this intensification of social control through incarceration. Indeed, not only are crime *rates* an insignificant explanation but so to does severity of crime fail to explain the incidence of incarceration. Studies have consistently found that since 1980 fewer than fifteen percent of U.S. prisoners are detained for violent offense and that less than five percent of all victims experienced injury as a result of a criminal act (Irwin and Austin, 1997; Donziger, 1996). Indeed, "there is much evidence that the increase in number of people behind bars in recent years is a consequence of harsher criminal justice policies of the past decades, rather than a direct consequence of rising crime" (Mauer 1991: 7). How do we explain the incongruent relationship between criminal justice policy and reality? Industrial development offers one possible answer.

There is considerable evidence to suggest that crime control and specifically prison development is America's newest growth industry (Donziger, 1996; Bloomer, 1997). Cities and towns which just recently would have sued the government to keep prisons out of their "backyards" are now aggressively bidding for public and private prison contracts. Impacted by military base closures, corporate downsizing and other important shifts in the post-industrial political economy, city officials and residents have looked to the emergent "prison industrial-complex" for new jobs, tax-revenues, and other development opportunities. This complex not only consists of the "iron triangle" between government bureaucracy, large private industry, and politicians, but also the various small correctional products and services providers which support the industry at large and compete for its revenue. What is common to each of the various "industrial-complex" elements is the raw material they exploit: prisoners (Donziger, 1996; Davis, 1995; Christie, 1993).

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These economic and political trends deserve the attention of social scientist for several reasons. First, there is evidence that many states are transferring substantial portions of their budgetary resources from educational development to prison development. Additionally, with the advent of prison privatization and return to prison labor utilization, corrections in the U.S. are becoming as much a profit-venture as a social control mechanism. Also, prison conditions appear to be increasingly inhumane and show no sign of improving soon. Frankly, there is reason to be concerned that this nation is descending into the barbaric system of chattel slavery it had supposedly escaped.

Education

Spending on corrections has increased faster than any other category of state level public spending and has done so largely at the expense of educational funding. According to a Justice Policy Institute report entitled *From Classrooms to Cellblocks: A National Perspective* (1995), "from 1987 to 1995, state prison expenditures increased by thirty percent while higher education expenditures fell by eighteen percent." In 1995, the most recent year for which data is available, there was almost a dollar for dollar tradeoff in construction funds between the competing state departments of higher education and corrections, with construction funds for education dropping by \$954 million and prison construction funds increasing by \$926 million.

The state of California boasts the largest prison system of any state and has been particularly active in shifting its fiscal priorities from education to incarceration. Since 1984 the state has funded the construction of twenty-one new prisons while only one university and currently spends \$4.1 billion per year on prison operations and construction (Donziger 1996, 47-8). Mike Davis has observed that the city of Compton, California devotes fully seventy percent of its general fund revenue to “public safety” efforts (mostly policing, probation and jails) despite having the highest school dropout rate in the state and a school district “singled out by the National Education Association as ‘horrible’” (Davis, 1994). While educational quality and access continues to decline in parts of the U.S., these fiscal policies coupled with legislation allowing for juveniles to spend longer sentences in adult prisons suggest that filling the cells of new prisons has become our new national priority. Even worse, as schools are insufficiently funded and fail to provide youth with the career skills demanded by the post-industrial labor market, it is unlikely the “prison industrial-complex” will suffer a scarcity of resources.

Privatization

In her discussion of “America’s newest growth industry,” Kristin Bloomer (1997) explains that “with incarceration rates soaring, it was only a matter of time before [private prison] entrepreneurs sniffed out a new business opportunity.” Today private prisons hold, collectively, a minority share of available U.S. inmate stock (about 50,000 prisoners), however, as increasing proportions of prison spending go to private corrections companies, they are projected to become major players in the corrections industry as the twenty-first century approaches. According to experts, private prisons are growing at four times the rate of public prisons and should have revenues surpassing the \$1 billion mark by the year 2000 (Silverstein, 1997; Rosenblatt, 1996).

It is not unreasonable to draw an analogy between chattel slavery and our modern prison “industrial complex.” We should recall that immediately following emancipation (ca. 1865) several state legislatures passed a series of acts known generically as “Black Codes” which contained vagrancy laws and other “free Negro” specific crimes such as “insulting gestures” and “cruelty to animals.” As David Oshinsky (1996) explains, these codes were collectively designed to “drive ex-slaves back to their home plantations” and thereby secure labor for desperate southern planters. In the immediate post-bellum period the criminal justice system which had formerly left “corrections” to slave-holders and their overseers would become, “a dragnet for the Negro.” Indeed, “the local jails and state prisons in the south “would grow darker by the year” and before long a “convict leasing” system was installed to properly exploit this “Black gold” once again (Oshinsky 1996, 28).

The thirteenth amendment to the U.S. Constitution does not forbid slavery all together, in fact, article one specifies that, “Neither slavery nor involuntary servitude except as punishment for a crime whereof the party shall have been duly convicted, shall exist in the United States”. Thus, while the vehement anti-black racism of the antebellum period was certainly useful to the developers of the convict-lease system, it was not enough. It had become necessary to “duly convict” the formerly enslaved and legislative changes were swiftly enacted to ensure the availability of such convicts with lengthy prison/plantation sentences in hand. In 1876 the Mississippi legislature passed a crime bill known as the Pig Law which redefined grand larceny, a crime punishable by up to five years in prison, to include the theft of a farm animal or any property worth at least ten dollars. Given the hunger associated with extreme poverty and the “affinity of ‘our Brother in Black’ for fresh pork,” as one official enthusiastically put it, supporters of this crime bill and investors in the lease system would watch the prison population swell from 272 in 1874 to 1,072 in just the first year after the Pig Law took effect (Oshinsky 1996, 40).

Many have argued that both de facto and de jure black codes are central to the modern criminal justice system as well. General policing policies and the so-called “cracklaw-blacklaw” for example clearly

target African-American communities for more intense and punitive criminal justice treatment (Chambliss, 1994). Indeed, many argue that the “War on Crime” is actually a war on African Americans and the poor and unemployed. (Rosenblatt, 1996; Donziger, 1996; Reiman, 1995). As new crime bills are passed providing longer sentences for non-violent or serious offenses, and the U.S. returns to a system of leasing its convicts to competitive private interests, we cannot neglect the historical record and frightening possibility that the trade in human chattel has come back on the auction block.

Labor

With the privatization of prisons, convicts are increasingly becoming the property of corrections bosses who are, in the words of a Texas Department of Corrections spokesperson, “scot-free to do whatever they please” (Bloomer 1997, 17). Not only does this have implications for prison laborers and inmates in general but, indeed, the working public and their families overall. The Lockhart Renaissance and Work Facility, a private prison owned by Lockhart Technologies Incorporated, provides a useful example. LTI employed 150 workers in Austin, TX to build air-conditioner parts and circuit boards until deciding to lay them off and transfer those positions to their new factory “behind bars.” These jobs are now minimum wage, do not require benefits or vacations, and the workers are under intense supervisory and physical control. A former president of LCI praised the utility of what he called, “a captive work force,” claiming that, “they’re rarely ill...they don’t have family problems...[and] they’re delightful to work with” (Ibid, 16). What is perhaps most delightful, aside from the absence of strict government supervision, is the fact that the average wage for prison labor in this country is between \$.23 and \$1.15 per hour (Lichtenstein and Kroll 1996, 30).

The issue of prison labor is complex and, except in the case of inmates not “duly convicted” and sentenced (perhaps thousands), work in prison cannot immediately be equated with labor exploitation. In fact, some inmates and their advocates have supported prison industries arguing that they provide activity and valuable services (i.e. job skill training) that might not exist otherwise. However, we must remain sensitive to the possibility that these programs will veil unfair labor practices and an assault on organized labor in general within the cloak of crime and punishment rhetoric. Lichtenstein and Kroll (1996) suggest that prison industries and their eight-hour workdays “contradict the goals of rehabilitation” as profit-maximization interests encourage prison officials to “minimize programming interruptions by suspending treatment, educational, and vocational activities.” Though the question of prison labor exploitation is complex it certainly demands careful scrutiny. As the number of prisoners in the U.S. continues to rise we must not lose sight of this population’s humanity and, irregardless of their “debts to society,” we must insist on the protection of their human and civil rights.

Human Rights

As was the case with slave labor, there are political and economic incentives to degrading prison labor and relations of production to the point that, as Frederick Douglass once said, “Civilization is shut out.” In short, once prisoners have no rights which humanity is obligated to respect, the prison industrial-complex can more efficiently exploit its raw material and extract super-profits (i.e. through lower safety standards, reduction of services, and other cost-cutting measures). Rosenblatt (1996) provides extensive evidence that “the brutality and severe medical neglect...endemic throughout the U.S. prison system” constitutes a clear and disastrous human rights violation (79-99).

The recent invention of the “stun-belt” device illustrates the increasing inhumanity of criminal justice approaches. These belts, designed to discharge a 50,00 volt shock upon their occupant at the touch of a remote button, are the latest in “prison-industrial complex” hardware. Praised by corrections officials as a social-control breakthrough enabling for example, “chainless chain-gangs,” prisoners-rights advocates fear these electrocution devices will be used to torture and otherwise manipulate inmates (Kilborn,

1997). Their concern is well grounded, particularly in light of the autonomy private prisons presently enjoy in the dispensing of corrections and the general ambivalence the public has toward prisoners rights.

These very rights remain under consistent attack by reactionary forces demanding harsher conditions while insisting that prisoners somehow “have it too easy.” In Tennessee, the House of Representatives recently passed a resolution (HJR 22) that proposes the deletion of Article 1, section 32 from that state’s constitution. The article at stake requires that: “the erection of safe and comfortable prisons, the inspection of prisons, and the humane treatment of prisoners, shall be provided for” (Finn1996). The ongoing assault on the humanity of U.S. prisoners is particularly disturbing when we recall that a similar attack was waged on the human rights of African-Americans during the antebellum period, culminating in the institutionalization of wanton brutality, the reduction of this population to “three-fifths human” status and, ultimately, the legitimatization of chattel slavery itself (see Jordan, 1968 and Stamp, 1956).

Conclusion: What is to be Done?

While structural forces such as labor market shifts and electoral outcomes are certainly critical to our understanding of these trends (see Wilson, 1996; Oshinsky, 1996; Hagan and Peterson, 1995; Myers, 1988), we must also consider how ideological and cultural factors have contributed to the contemporary incarceration boom and particularly its vengeful edge. The “moral panics” concept has proven useful in interpreting the later of these sociological dimensions to our “imprisonment binge” and particularly how ideology enables social policy to transcend social reality (see Chambliss, 1995; Goode and Ben-Yehuda, 1994; Hall et. al., 1978). If we intend to curb the tide of prison expansion and human warehousing we must elaborate how this nation has arrived at such a level of “development.” What is the relationship between labor market dislocation and incarceration among urban youth? How has the “national will” been shaped such that today many encourage massive incarceration, the use of tax-payer dollars to fund prison expansion, and “three-strikes your out” laws? Who is winning the “War on Crime,” who are its prisoners of war, and who might be guilty of “war crimes” when the destruction has ended?

These are just a few of the complex questions deserving the continued and careful attention of concerned scholars and activists alike; indeed, there are several more. Until we can untangle the web of pathology beneath and within the modern “prison-industrial complex” we cannot accurately outline an effective response. As more Americans become aware of this peculiar institution, if not entangled in its nets, we will most likely witness a “crisis of hegemony” where corrections officials, industry, and government bureaucrats are forced to retool their trade. The intensity and insight of our work on these questions will partially determine to what degree these changes actually approach humanity or descend again into corrections policies practically “Worse Than Slavery.”

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